



**Study Session Agenda
City of Council Bluffs, Iowa
October 8, 2018, 3:45 PM
Council Chambers, 2nd Floor, City Hall
209 Pearl Street**

STUDY SESSION AGENDA

A. Review Agenda



**Council Agenda, City of Council Bluffs, Iowa
Regular Meeting October 8, 2018, 7:00 PM
Council Chambers, 2nd Floor, City Hall
209 Pearl Street**

AGENDA

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

3. CONSENT AGENDA

- A. Approval of Agenda & tape recordings of these proceedings to be incorporated into the official minutes.
- B. Reading, correction and approval of the September 24, 2018 City Council Meeting Minutes.
- C. Resolution 18-281
Resolution of intent to dispose of City property and setting Public Hearing for October 22, 2018 at 7:00 p.m legally described as Lot 8, Block 14, Pierce's Subdivision. Location: Formerly addressed as 1813 8th Avenue. OTB-18-026
- D. Resolution 18-282
Resolution of necessity and intent to establish the South Pointe Revitalization Area and setting Public Hearing for November 26, 2018 legally described as Lots 1, 2, 4 and 5, South Pointe Subdivision; Lots 2-5, South Pointe Subdivision, Replat 1; Lot 1, South Pointe Subdivision, Replat 2; and all of South Pointe Subdivision, Phase 2. Location: South 19th Street from Veteran's Memorial Highway to Gifford Road. URV-18-007
- E. Resolution 18-283
Resolution accepting the work of Hawkins Construction Co. as complete and authorizing release of retainage after 30 days if no claims are filed in connection with the 9th and 10th Street Bridges over Indian Creek. Project # FY15-19.
- F. Resolution 18-284
Resolution accepting the work of Neuvirth Construction, Inc. as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the Levee Certification Project, Geotechnical MR_2. Project # PW16-06A.

G. Resolution 18-285

Resolution of necessity and intent to establish the Arbor Creek Revitalization Area and setting Public Hearing for November 26, 2018 legally described as proposed Lot 2 of Arbor Creek Subdivision.

Location: Immediately north of the intersection of Railroad Avenue and College Road. URV-18-008

H. Mayor's Appointments

- 1) Citizen/Police Advisory Board
- 2) Historic Preservation Commission
- 3) Zoning Board of Adjustment

I. Claims

4. PUBLIC HEARINGS

A. Ordinance 6349

Ordinance to amend the zoning map as adopted by reference in Section 15.02.070 by rezoning property legally described as being part of Lot 2, Auditor's Subdivision of the SE1/4 SW1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE1/4 NW1/4 of Section 32-75-43, from R-3/Low Density Multifamily Residential District to C-2/Commercial District defined in Chapter 15.15. Location: 1600 McPherson Avenue. ZC-18-012

B. Resolution 18-286

Resolution to vacate and dispose of that 66' by 252' Section of 26th Avenue right-of-way extending from the West of the westerly right-of-way line of the South 13th Street, and located between Blocks 54 and 59, Railroad Addition. Location: South of property addressed at 2532 South 13th Street. SAV-18-013

C. Resolution 18-287

Resolution granting final plat approval of a 31 lot residential subdivision to be known as East Fox Run Subdivision. Location: East of Council Point Road, and being an extension of Carriage Road. SUB-18-016

D. Resolution 18-288

Resolution to dispose of City property described as the southeast corner of Lot 13, Ross's Place; more particularly described as in Council Packet. Location: Property former addressed as 907 ½ North 8th Street. OTB-18-027

E. Resolution 18-289

Resolution approving the plans and specifications for the Steven Road East Construction. Project # PW18-16A.

5. ORDINANCES ON 1ST READING

A. Ordinances 6351 - 6370

Ordinances 6351 - 6370 Ordinances to amend, add and/or remove sections previously in Title 4 "Public Health & Sanitation" in accordance with the removal of the City Health Department.

1) Ordinance 6351 to amend Title 9 "Traffic" by adding "Chapter 9.70 - causing dust and debris to cross private property lines and to be brought upon the streets and or highways within the council bluffs city limits."

2) Ordinance 6352 to amend Title 4 "Health and Sanitation" by amending Chapter 4.12 - Solid Waste Collection and Disposal.

3) Ordinance 6353 to amend Chapter 4.02 "Air Pollution Control" by repealing existing Sections 4.02.010 through 4.02.080.

4) Ordinance 6354 to amend Chapter 4.05 "Tattoo and Body Piercing Regulations" by repealing existing sections 4.05.010 through 4.05.080.

5) Ordinance 6355 to amend Title 4 "Health and Sanitation" by amending Chapter 4.15 "Abandoned and Junk Vehicles, Machinery, Trailers and Parts."

6) Ordinance 6356 to amend Title 4 "Health and Sanitation" by amending Chapter 4.19 "Weed Nuisances."

7) Ordinance 6357 to amend Title 4 "Health and Sanitation" by amending Chapter 4.20 "Animal Control."

8) Ordinance 6358 to amend Title 4 "Health and Sanitation" by amending Chapter 4.21.020(b)(2) "Hunting Regulations" and 4.21.025(c) "Feeding Prohibited."

9) Ordinance 6359 to amend Chapter 4.22 "Food Code" by repealing existing Sections 4.22.010 through 4.22.030.

10) Ordinance 6360 to amend Chapter 4.26 "Swimming Pools and Spas" by repealing Sections 4.26.010 through 4.26.030.

11) Ordinance 6361 to amend Chapter 4.32 "Private Sewage Disposal Systems" by repealing existing Sections 4.32.010 through 4.32.170.

12) Ordinance 6362 to amend Chapter 4.33 "Private Wells" by repealing existing Sections 4.33.010 through 4.33.040.

13) Ordinance 6363 to amend Title 4 "Health and Sanitation" by amending Chapter 4.50 "Noise Control."

14) Ordinance 6364 to amend Chapter 4.70 "High-Risk Sexual Conduct" by repealing existing Sections 4.70.010 through 4.70.050.

15) Ordinance 6365 to amend Chapter 4.60 "Hazardous Substances" by repealing existing Sections 4.60.010 through 4.60.080.

16) Ordinance 6366 to amend Chapter 4.80 "Minimum Requirements for Tanning" by repealing existing Sections 4.80.010 through 4.80.070.

17) Ordinance 6367 to amend Chapter 4.90 "Quarantine" by repealing Sections 4.90.010 through 4.90.020.

18) Ordinance 6368 to amend Chapter 13.12 "Plumbing Code" by adding Section 13.12.13 "Application for Permit-Issuance or Denial."

19) Ordinance 6369 to amend Chapter 12.02 "Miscellaneous Provisions" by adding Section 12.02.056 "Open Burning Prohibited."

20) Ordinance 6370 to amend Title 12 "Council Bluffs Fire Code" by adding Section 12.05 "Hazardous Substances."

6. ORDINANCES ON 2ND READING

A. Ordinance 6350

Ordinance to amend Chapter 3.56 "Soliciting Gifts" by repealing existing Section 3.56.010 and Section 3.56.020.

7. RESOLUTIONS

A. Resolution 18-290

Resolution officially designating the City Council Meeting dates for the City of Council Bluffs during the 2019 calendar year.

B. Resolution 18-291

Resolution authorizing the Mayor to execute the assignment of agreement for private development with the Pottawattamie County Development Corporation d/b/a The 712 Initiative, an Iowa non-profit corporation.

C. Resolution 18-292

Resolution authorizing the use of eminent domain for the East Beltway Project.

D. Resolution 18-293

Resolution granting a modification of an approved temporary use permit to allow concrete crushing to occur on-site for the Highway 6 construction project and an extension of time of operation for the temporary portable concrete batch plant. Location: Six acres of undeveloped land located at the southeast intersection of U.S. Highway 6 (East Kaneshville Boulevard) and College Road across from Iowa Western Community College. TU-18-006(M)

E. Resolution 18-294

Resolution endorsing an application for RISE Program Funding to reconstruct portions of 192nd Street for the development of an industrial subdivision.

F. Resolution 18-295

Resolution rejecting all bids for the Levee Certification Project, Geotechnical MR_4 and MR_5. Project # FY15-06C.

8. APPLICATIONS FOR PERMITS AND CANCELLATIONS

A. Liquor Licenses

- 1) Aldi, 3135 Manawa Center Drive
- 2) Brewski's Beverage, 728 Creek Top
- 3) Casey's General Store, 510 23rd Avenue
- 4) Do Rock, 1200 7th Avenue
- 5) Fareway, 310 McKenzie Ave
- 6) Fast Break Sports, 5 Arena Way (New App)
- 7) Rustic Cuts, 501 Veterans Memorial Hwy (New App)
- 8) Texas Roadhouse, 3231 South 24th Street

B. Veteran's Day Parade

9. OTHER BUSINESS

10. CITIZENS REQUEST TO BE HEARD

11. ADJOURNMENT

DISCLAIMER:

If you plan on attending this meeting and require assistance please notify the City Clerk's office at (712) 890-5261, by 5:00 p.m., three days prior to the meeting.



City Council Meeting Minutes September 24, 2018

CALL TO ORDER

A regular meeting was called to order by Mayor Matthew J. Walsh on Monday September 24, 2018 at 7:00 p.m.

Council Member Present: Melissa Head, Roger Sandau, Nate Watson, Sharon White and Mike Wolf.

Staff Present: Jodi Quakenbush and Richard Wade.

CONSENT AGENDA

Approval of Agenda & tape recordings of these proceedings to be incorporated into the official minutes.

Reading, correction and approval of the September 10, 2018 City Council Meeting Minutes.

Ordinance 6349, Ordinance to amend the zoning map as adopted by reference in Section 15.02.070 and setting a Public Hearing for October 8, 2018 at 7:00 p.m., for rezoning property legally described as being part of Lot 2, Auditor's Subdivision of the SE1/4 SW1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE1/4 NW1/4 of Section 32-75-43, from R-3/Low Density Multifamily Residential District to C-2/Commercial District defined in Chapter 15.15. Location: 1600 McPherson Avenue. ZC-18-012

Resolution 18-267, Resolution of intent and setting Public Hearing for October 8, 2018 at 7:00 p.m. to vacate that 66' by 252' section of 26th Avenue right-of-way extending from the West right-of-way line of the South 13th Street, and abutting Blocks 54 and 59, Railroad Addition. Location: South of property addressed at 2532 South 13th Street. SAV-18-013

Resolution 18-268, Resolution setting a public hearing for 7:00 p.m. on October 8, 2018 for the Steven Road East Construction. Project # PW18-16A

Resolution 18-269, Resolution of intent to dispose City property and setting Public Hearing for October 8, 2018 at 7:00 p.m. described as the Southeast corner of Lot 13, Ross's Place; more particularly described in Council Packet. Location: formerly 907 1/2 North 8th Street. OTB-18-027

August 2018 Financial Reports, Mayor's Appointments, Offers to Buy & Claims

Sharon White and Nate Watson moved and seconded approval of Consent Agenda. Unanimous, 5-0 vote.

PUBLIC HEARINGS

Resolution 18-270

Resolution to dispose of certain property interest located on part of Lot 2, Block 3, River's Edge Subdivision Replat 2 and Block 4, River's Edge Subdivision, by granting an easement for the benefit of MidAmerican Energy Company. Location: South of the intersection of Avenue 'B' and North 40th Street within the River's Edge Development. MIS-18-004

Roger Sandau and Nate Watson moved and seconded approval of Resolution 18-270. Unanimous, 5-0 vote.

Resolution 18-271

Resolution approving the plans and specifications for the Mosquito Creek West Bank Floodplain Improvements. Project # PW18-16C.

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-271. Unanimous, 5-0 vote.

Resolution 18-272

Resolution granting final plat approval of a Five-Lot Industrial Subdivision to be known as South Pointe Subdivision, Phase 2. Location: A southerly extension of South Pointe Subdivision from South 19th Street at Gifford Road. SUB-18-014

Heard from Matt O'Reilly, 312 E. Ferndale Avenue, on behalf of the CB Industrial Foundation, objecting to the requirements of sidewalk for the industrial area.

Sharon White and Melissa Head moved and seconded approval of Resolution 18-272 as recommended with an exception of removing the sidewalk requirements. Unanimous, 5-0 vote.

Resolution 18-273

Resolution granting final plat approval of a three-lot minor subdivision to be known as Arbor Creek, legally described as being a part of NE $\frac{1}{4}$ of Section 29-75-43. Location: Immediately north of the intersection of Railroad Avenue and College Road. SUB-18-015

Heard from the following opposing the Resolution:

- 1) Deborah Peterson, 215 S. Main Street on behalf of the Midlands Humane Society
- 2) Bruce Kelly, 864 McKenzie Avenue
- 3) Ron Wolf, 536 College Road
- 4) Keith Skinner, 1123 College Road
- 5) John Shull, 813 College Road
- 6) Lynn Shull, 813 College Road

Sharon White and Nate Watson moved and seconded approval of Resolution 18-273, subject to Items A through F as listed in the staff report recommendation. Unanimous, 5-0 vote.

ORDINANCES ON 1ST READING

Ordinance 6350

Ordinance to amend Chapter 3.56 "Soliciting Gifts" by repealing existing Section 3.56.010 and Section 3.56.020.

Sharon White and Nate Watson moved and seconded approval of First consideration of Ordinance 6350, Second Consideration is scheduled for October 8, 2018 at 7:00 p.m.. Unanimous, 5-0 vote.

RESOLUTIONS

Resolution 18-274

Resolution assessing unpaid costs of solid waste abatement against listed properties.

Melissa Head and Nate Watson moved and seconded approval of Resolution 18-274. Unanimous, 5-0 vote.

Resolution 18-275

Resolution assessing unpaid costs of weed abatement against listed properties.

Roger Sandau and Nate Watson moved and seconded approval of Resolution 18-275. Unanimous, 5-0 vote.

Resolution 18-276

Resolution authorizing the Mayor to submit a IDOT Federal Recreational Trails Funding application and execute any related contracts with IDOT upon award of funds.

Sharon White and Melissa Head moved and seconded approval of Resolution 18-276. Unanimous, 5-0 vote.

Resolution 18-277

Resolution committing to maintain the First Avenue Trail for a minimum of 20 years.

Mike Wolf and Sharon White moved and seconded approval of Resolution 18-277. Unanimous, 5-0 vote.

Resolution 18-278

Resolution authorizing the Mayor and City Clerk to execute an agreement with Anderson Excavating for the 2nd Avenue Sites Demolition and Restoration Project.

Mike Wolf and Melissa Head moved and seconded approval of Resolution 18-278. Unanimous, 5-0 vote.

Resolution 18-279

Resolution certifying the FY2018 Water, Sewer and Refuse Collection lien schedule for nonpayment to the County Treasurer to be assessed against the owner's property.

Roger Sandau and Melissa Head moved and seconded approval of Resolution 18-279. Unanimous, 5-0 vote.

Resolution 18-280

Resolution dedicating right-of-way along the relocated 29th Avenue (Alleyway) from South 13th Street east to South 7th Street, north of I-80/I-29.

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-280. Unanimous, 5-0 vote.

APPLICATIONS FOR PERMITS AND CANCELLATIONS

Liquor Licenses: 1) Bertha's, 1322 North 16th Street, 2) CB Quick Stop, 3500 Avenue A, 3) Goldmine Bar & Grill, 1601 Harry Langdon Blvd, 4) Kwik Shop, 1749 W Broadway, 5) Super Quick Stop, 2800 Twin City Drive
Cigarette Permit: 1) Alohma, LLC, 3134 Manawa Center Drive

Roger Sandau and Nate Watson moved and seconded approval of Applications for Permits and Cancellations, Items 7A 1-5 & 7B. Unanimous, 5-0 vote.

CITIZENS REQUEST TO BE HEARD

Heard from Bruce Kelly, 864 McKenzie Avenue, regarding bike trail on McKenzie and an additional lane on Kanesville near McKenzie.

ADJOURNMENT

Mayor Walsh adjourned the meeting at 8:17 p.m.

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the City Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Matthew J. Walsh, Mayor

Attest: Jodi Quakenbush, City Clerk

Council Communication

Department: Community

Development

Case/Project No.: OTB-18-026

Resolution 18-281

Council Action: 10/8/2018

Submitted by: Chris Meeks,

Planner

Description

Resolution of intent to dispose of City property and setting Public Hearing for October 22, 2018 at 7:00 p.m legally described as Lot 8, Block 14, Pierce's Subdivision. Location: Formerly addressed as 1813 8th Avenue. OTB-18-026

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
OTB-18-026 Jones PH Notice	Other	9/27/2018
OTB-18-026 Jones Reso Of Intent Staff Report Including Attach	Other	9/27/2018
Resolution 18-281	Resolution	9/28/2018

**NOTICE OF PUBLIC HEARING
ON INTENT TO DISPOSE AND CONVEY CITY PROPERTY**

TO WHOM IT MAY CONCERN:

You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing on a request to dispose of property legally described as Lot 8, Block 14, Pierce's Addition, City of Council Bluffs, Pottawattamie County, Iowa.

You are further notified that a public hearing on said matter will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 22nd Day of October, 2018, in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard.

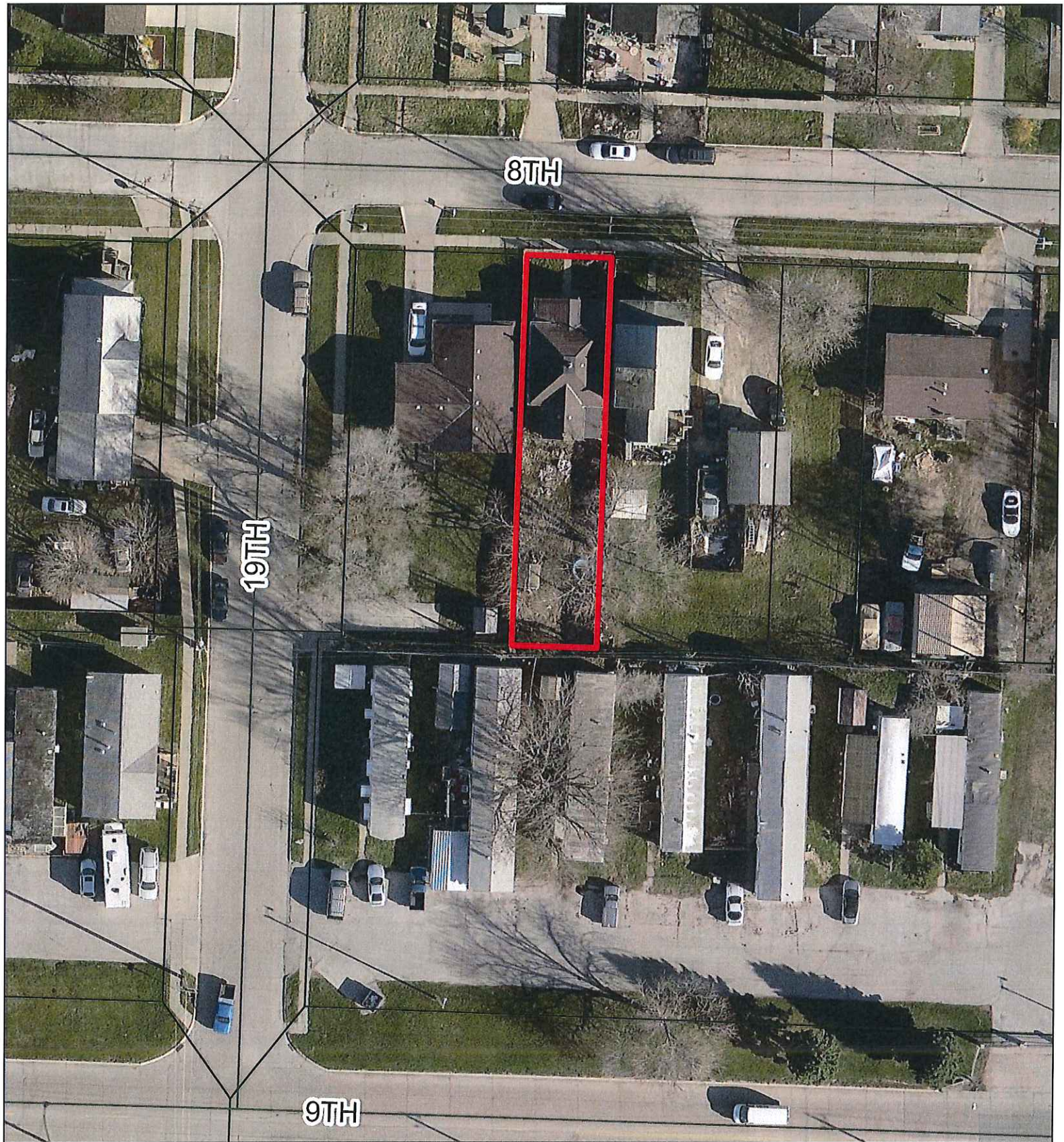
Jodi Quakenbush

City Clerk

CWM

Council Communication

Department: Community Development CASE #OTB-18-026 Applicant: Joseph Jones 1813 8 th Avenue Council Bluffs, IA 51501	Resolution of Intent No. _____ Resolution to Dispose No. _____	Set Public Hearing: 10/8/2018 Public Hearing: 10/22/2018
Subject/Title		
Request of Joseph Jones, to purchase property legally described as Lot 8, Block 14, Pierce's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa. The property was formerly addressed as 1813 8 th Avenue.		
Background/Discussion		
<p>The City has received an offer to purchase the property described above. The property is classified as 'transitional dispose' and 'non-buildable'. According to the adopted policy of April 23, 2018, the property should be priced at the value established by the most recent fee schedule for street/alley vacations, which is \$624.00. The applicant has offered \$624.00 to be paid within 60 days of the final approval of the City Council to purchase the property.</p> <p>The Legal Department of the City of Council Bluffs indicated this property was acquired through the 657a process, with legal fees exceeding the \$624.00 value for the property. The Permits and Inspections Division stated they have no comments regarding the proposal.</p> <p>The applicant intends to acquire the parcel to have additional side-yard space, and has no plans for construction on the parcel at this time.</p>		
Recommendation		
The Community Development Department recommends setting a public hearing on the disposal of the property legally described as Lot 8, Block 14, Pierce's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, on the October 22, 2018 City Council meeting.		
Attachment: Location map Prepared By: Chris Meeks, Planner, Community Development Department		



105 0 10 20 30 feet



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 890-5261

RESOLUTION NO. 18-281

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY LEGALLY DESCRIBED AS LOT 8, BLOCK 14, PIERCE’S SUBDIVISION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, the City has received an offer from Joseph Jones to purchase the City owned property legally described as Lot 8, Block 14, Pierce’s Subdivision, City of Council Bluffs, Pottawattamie County, Iowa.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby express its intent to dispose of City owned property legally as described Lot 8, Block 14, Pierce’s Subdivision, City of Council Bluffs, Pottawattamie County, Iowa; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for October 22, 2018.

ADOPTED
AND
APPROVED:

October 8, 2018

Matthew J. Walsh Mayor

ATTEST: _____
Jodi Quakenbush City Clerk

Council Communication

Department: Community

Development

Case/Project No.: URV-18-007

Resolution 18-282

Council Action: 10/8/2018

Submitted by: Brenda Carrico,

Program Coordinator

Description

Resolution of necessity and intent to establish the South Pointe Revitalization Area and setting Public Hearing for November 26, 2018 legally described as Lots 1, 2, 4 and 5, South Pointe Subdivision; Lots 2-5, South Pointe Subdivision, Replat 1; Lot 1, South Pointe Subdivision, Replat 2; and all of South Pointe Subdivision, Phase 2. Location: South 19th Street from Veteran's Memorial Highway to Gifford Road. URV-18-007

Background/Discussion

See attached.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
CC staff report - reso of intent - South Pointe	Other	9/27/2018
NOTICE OF PUBLIC HEARING - South Pointe URV	Other	9/27/2018
South Pointe Urban Revitalization Plan	Other	9/27/2018
Resolution 18-282	Resolution	9/28/2018

Council Communication

Department: Community Development Case No.: URV-18-007 Applicant: Community Development Department	Resolution No.: 18- Ordinance No.:	Resolution of Intent: 10-8-18 Planning Commission: 11-13-2018 Public Hearing & First Reading: 11-26-18 Second Reading: 12-17-18 Third Reading: 1-14-19 (est.)
Subject/Title		
Establishment of the South Pointe Urban Revitalization Plan and Area		
Location		
South 19 th Street from Veteran's Memorial Highway to Gifford Road		
Background/Discussion		
<p><u>Background</u></p> <p>The Council Bluffs Industrial Foundation and the City of Council Bluffs have been working on the development of industrial ground near South 19th Street and Veteran's Memorial Highway for the past fifteen years. A recent subdivision (South Pointe Subdivision Phase 2) expanded the available land appropriate for economic development by 95.83 acres. A previous industrial subdivision (South Pointe Subdivision) contained 80.09 acres. Not all of this land has been developed yet.</p> <p>A request to designate the area as an urban revitalization area has been submitted by the Advance Southwest Iowa Corporation. As confirmed in their request, the urban revitalization program enhances the attractiveness of this area for economic development by providing eligible businesses tax exemptions on approved projects.</p> <p><u>Discussion</u></p> <p>Chapter 404 of the Iowa Code authorizes a City to designate an area as an urban revitalization area. Improvements to qualified real estate within designated areas may then be eligible to receive a total or partial exemption from property taxes for a specified number of years. The exemptions are intended to stimulate private investment by reducing the tax increase that would normally result from making improvements to real estate property.</p> <p>In order to establish an urban revitalization area one of the five conditions outlined in Section 404.1 must be met. For this area, staff believes a finding would be consistent under 404.1.4. Section 404.1.4 discusses an area which is appropriate as an economic development area as defined in section 403.17. Section 403.17 states an economic development area means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises.</p> <p>Urban revitalization tax abatement incentives can apply to residential, commercial and industrial development. Both new construction on vacant or unimproved land and rehabilitation of existing structures are eligible for tax abatement.</p>		

Council Communication

Staff has prepared a resolution of intent to establish this area as an urban revitalization area. The resolution directs staff to develop an urban revitalization plan as required by the Iowa Code, notify property owners and occupants and set November 26, 2018 as a public hearing date. Concurrent with the adoption of an urban revitalization plan, an ordinance establishing the urban revitalization area can be considered. Upon adoption of the area, the City is permitted to grant tax abatement to qualified projects.

Recommendation

The Community Development Department recommends City Council adopt a resolution of necessity and intent to establish the South Pointe Urban Revitalization Plan and Area.

Attachments

- 1) Draft of South Pointe Urban Revitalization Plan
- 2) Resolution
- 3) Public Hearing Notice

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department

Approved by: Brandon Garrett, Director, Community Development Department

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PERSONS, GROUPS AND AGENCIES:

THE CITY OF COUNCIL BLUFFS, IOWA proposes to exercise the authority conferred upon it by the Urban Revitalization Act by designating an urban revitalization area that is generally located on 136.90 acres of land lying east and west of South 19th Street, south of Veteran's Memorial Highway and south and east of Gifford Road.

This area is legally described as Lots 1, 2, 4, and 5, South Pointe Subdivision; Lots 2 through 5, South Pointe Subdivision, Replat 1; Lot 1, South Pointe Subdivision, Replat 2; and of proposed South Pointe Subdivision, Phase 2, all in the City of Council Bluffs, Pottawattamie County, Iowa.

The Urban Revitalization Act authorizes cities to make available property tax exemptions for eligible improvements made in the area. A proposed plan for the Arbor Creek Urban Revitalization Area has been prepared by the City of Council Bluffs, Iowa, which more fully describes the proposed activities and includes information as required under the Urban Revitalization Act. This proposed plan is on file and is available for public examination at the office of the City Clerk, 209 Pearl Street, Council Bluffs, Iowa from 8:00 a.m. to 5:00 p.m., Monday through Friday.

A public hearing before the City Council has been set on this matter for Monday, November 26, 2018 at 7:00 p.m. in the Council Chambers in City Hall, 209 Pearl Street, Council Bluffs, Iowa.

All persons, groups, agencies interested in this matter are invited to submit written comments to the City Clerk on or before the public hearing or may appeal in person at the public hearing.

Jodi Quakenbush, City Clerk
Council Bluffs, Iowa

South Pointe Urban Revitalization Plan



Prepared by

Community Development Department
City of Council Bluffs, Iowa

Adopted by

City Council on _____, 2018

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INTRODUCTION

The Urban Revitalization Act empowers a municipality to designate an area appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multifamily housing.

The City of Council Bluffs wishes to utilize property tax abatement incentives under the Urban Revitalization act to facilitate the development of new commercial and industrial land uses. The preparation and subsequent adoption of an Urban Revitalization Plan is required by the Iowa Code prior to the provision of property tax abatement.

Section 404.1 of the Iowa Code stipulates that the Council may, by ordinance, designate an area of the City as the revitalization area, if that area is classified as any of the following:

1. An area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, the existence of conditions which endanger life or property by fire and other causes or a combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and which is detrimental to the public health, safety or welfare.
2. An area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, incompatible land use relationships, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the actual value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or a combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety or welfare in its present condition and use.
3. An area in which there is a predominance of buildings or improvements which by reason of age, history, architecture or significance should be preserved or restored to productive use.
4. An area which is appropriate as an economic development area as defined in Section 403.17(10) of the Iowa Code which states “an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multifamily housing.”

5. An area designated as appropriate for public improvements related to housing and residential development, or construction of housing and residential development, including single or multifamily housing.

The City of Council Bluffs concluded that the South Pointe Urban Revitalization Area meets the criteria of element 4. Consequently, on October 8, 2018, the City Council adopted **Resolution No. 18-000**, which directed staff to prepare a plan for the proposed revitalization area. Illustration 1 is the City Council Resolution.

South Pointe Urban Revitalization Plan
Illustration 1 – Resolution

LEGAL DESCRIPTION

The South Pointe Urban Revitalization Area is a tract of land containing the following legally described parcels:

Lots 1, 2, 4, and 5, South Pointe Subdivision; Lots 2 through 5, South Pointe Subdivision, Replat 1; Lot 1, South Pointe Subdivision, Replat 2; and of proposed South Pointe Subdivision, Phase 2, all in the City of Council Bluffs, Pottawattamie County, Iowa.

Illustration 2 shows the location and the boundary of the South Pointe Urban Revitalization Area. The area is approximately 136.90 acres in size.

South Pointe Road Urban Revitalization Plan

Illustration 2 – Boundary



PROPERTY OWNERS AND ASSESSED VALUES

The South Pointe Urban Revitalization Area contains 13 parcels of land that total 136.90 acres in size. The total valuation (\$) for all land, dwellings, and buildings in this urban revitalization area are as follows:

Land Valuation: \$4,988,100.00

Dwelling Valuation: \$0

Building Valuation: \$9,318,500.00

Total Valuation: \$14,306,600.00

A complete listing of these parcels, ownership, land/dwelling/building valuation, and acreage information is outlined in the attachment titled *Attachment A – South Pointe Urban Revitalization Area Plan – Property Owners List*. The information stated in this attachment was obtained from records in the Pottawattamie County Assessor's Office.

On November 22, 2004, the Council Bluffs City Council adopted Ordinance No. 5823, which established the South 19th Urban Revitalization Area. This revitalization area consisted of eight parcels of land that were located west of Indian Creek, south of Veterans Memorial Highway (US 275/92) and east of Gifford Road and totaled 80.09 acres in size. The plan was valid for 10 years from the date of City Council adoption and helped attract new economic development projects in the South Pointe Industrial Park and along Gifford Road. The proposed South Pointe Urban Revitalization Area will include land that was located in the former South 19th Street Urban Revitalization Area.

EXISTING ZONING AND PROPOSED LAND USE

The South Pointe Urban Revitalization Area is currently zoned I-2/General Industrial District and is partially located within a designated Recreational-Tourism Overlay (RO) (see Illustrations 3 and 4). The I-2/General Industrial District is intended to provide for the development of general manufacturing and industrial areas. This district is designed to accommodate industrial uses with moderate external effects. The Recreation-Tourism Overlay (RO) is intended to maintain and enhance the aesthetic quality of areas around the National Historic Trails Center and land based and riverboat gaming facilities. This Overlay is intended to mitigate and negative impact associated with these facilities.

Surrounding zoning in the general vicinity of the South Pointe Urban Revitalization area includes: I-2/General Industrial District and I-1/Light Industrial District to the north; I-2/General Industrial District, A-2/Parks, Estates, and Agricultural District, C-2/Commercial District, R-1/Single Family Residential District, and R-3/Low Density Multi-Family Residential District to the east; A-2/Parks, Estates, and Agricultural District to the south; along with I-2/General Industrial District and A-2/Parks, Estates, and Agricultural District to the west.

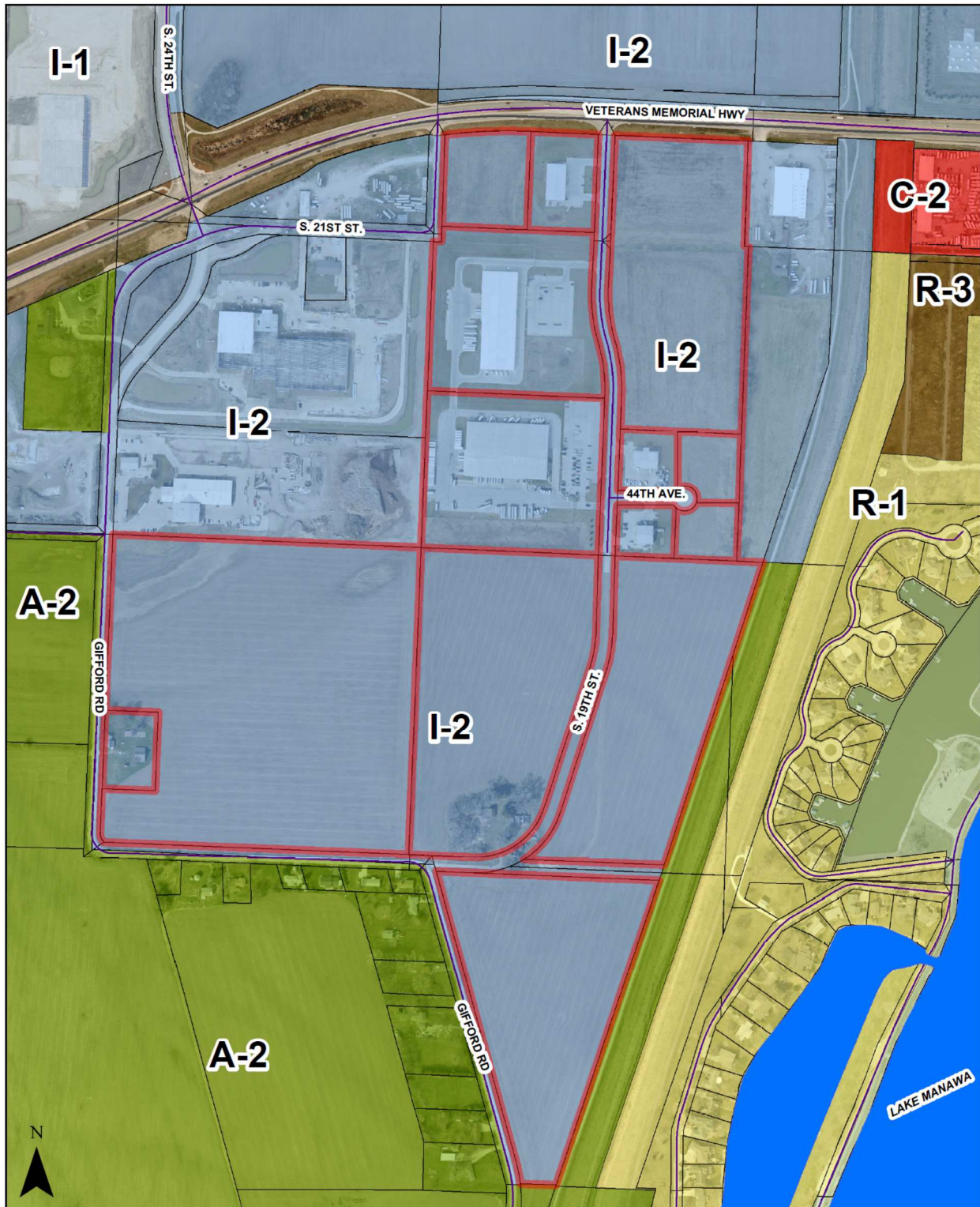
The South Pointe Urban Revitalization Area contains a mixture of industrial, undeveloped, and agricultural land uses. Existing businesses within this urban revitalization area include the following:

1. Matheson Tri-Gas – 4106 South 19th Street (PIN #744411377004)
2. Fremont Contract Carriers (FCC) – 4303 South 19th Street (PIN #744411379001)
3. FedEx Freight – 4306 South 19th Street (PIN #744414126003)
4. FedEx Freight – 4406 South 19th Street (PIN #744414126002)
5. Pro-Tech Sales – 4343 South 19th Street (PIN #74414127003)
6. TEQ Supply Inc. – 4405 South 19th Street (PIN #744414127005)

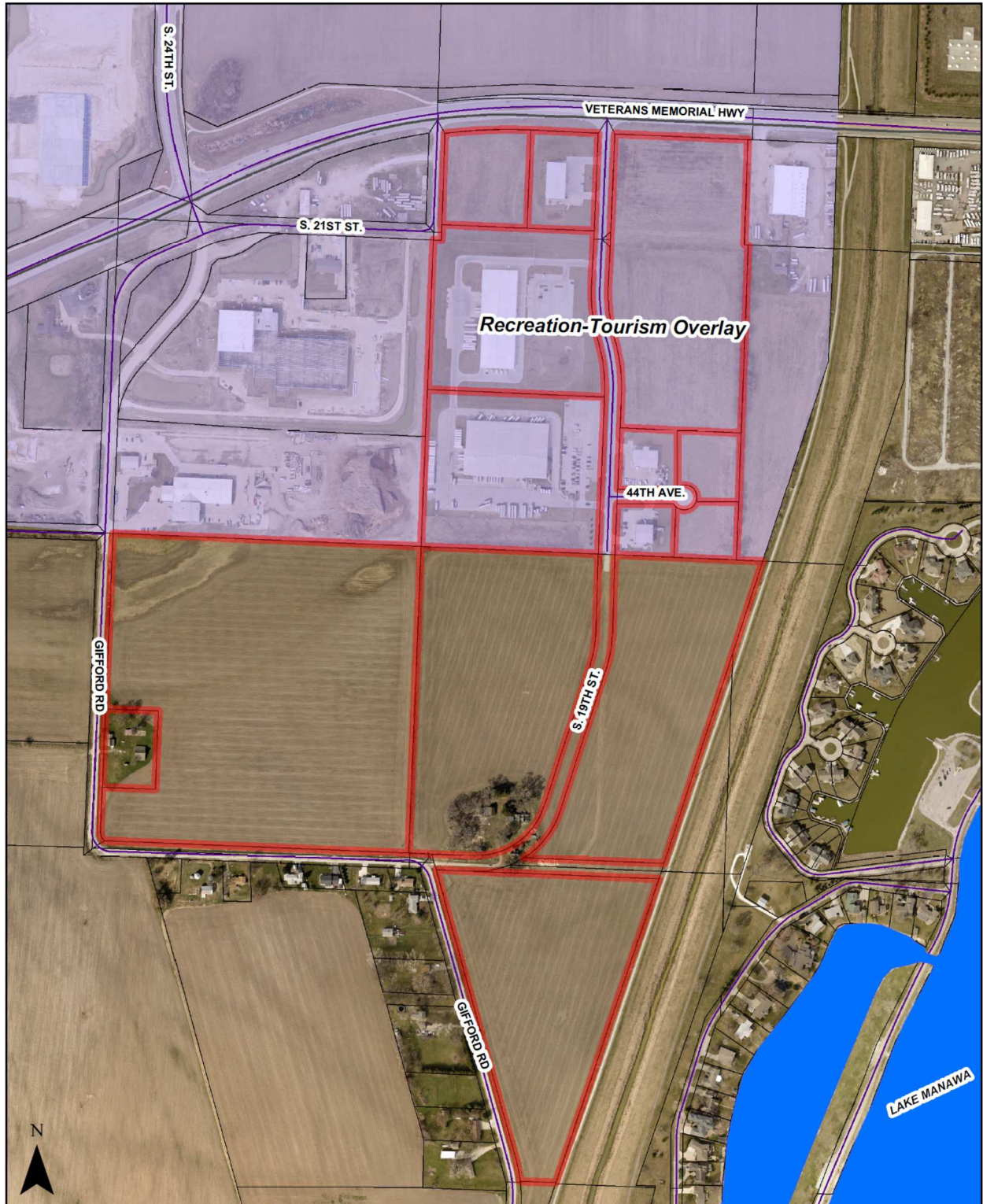
The remaining properties in the proposed South Pointe Urban Revitalization Area are undeveloped. The Council Bluffs Industrial Foundation has proposed to replat 95.83 acres of said urban revitalization area into a new five-lot industrial subdivision to be known as South Pointe Subdivision, Phase 2 (see Illustration 5). This subdivision is located immediately south of the South Pointe Subdivision and includes an extension of South 19th Street and improvements to Gifford Road. The Council Bluffs Industrial Foundation and the Advance Southwest Iowa Corporation intend to market and sell each lot in the subdivision for new economic development projects in the City. A letter of support from Paula Hazelwood, Executive Director of the Advance Southwest Iowa Corporation, for the South Pointe Urban Revitalization Area is included as Attachment B.

All land uses in the proposed South Pointe Urban Revitalization Area will be commercial or industrial.

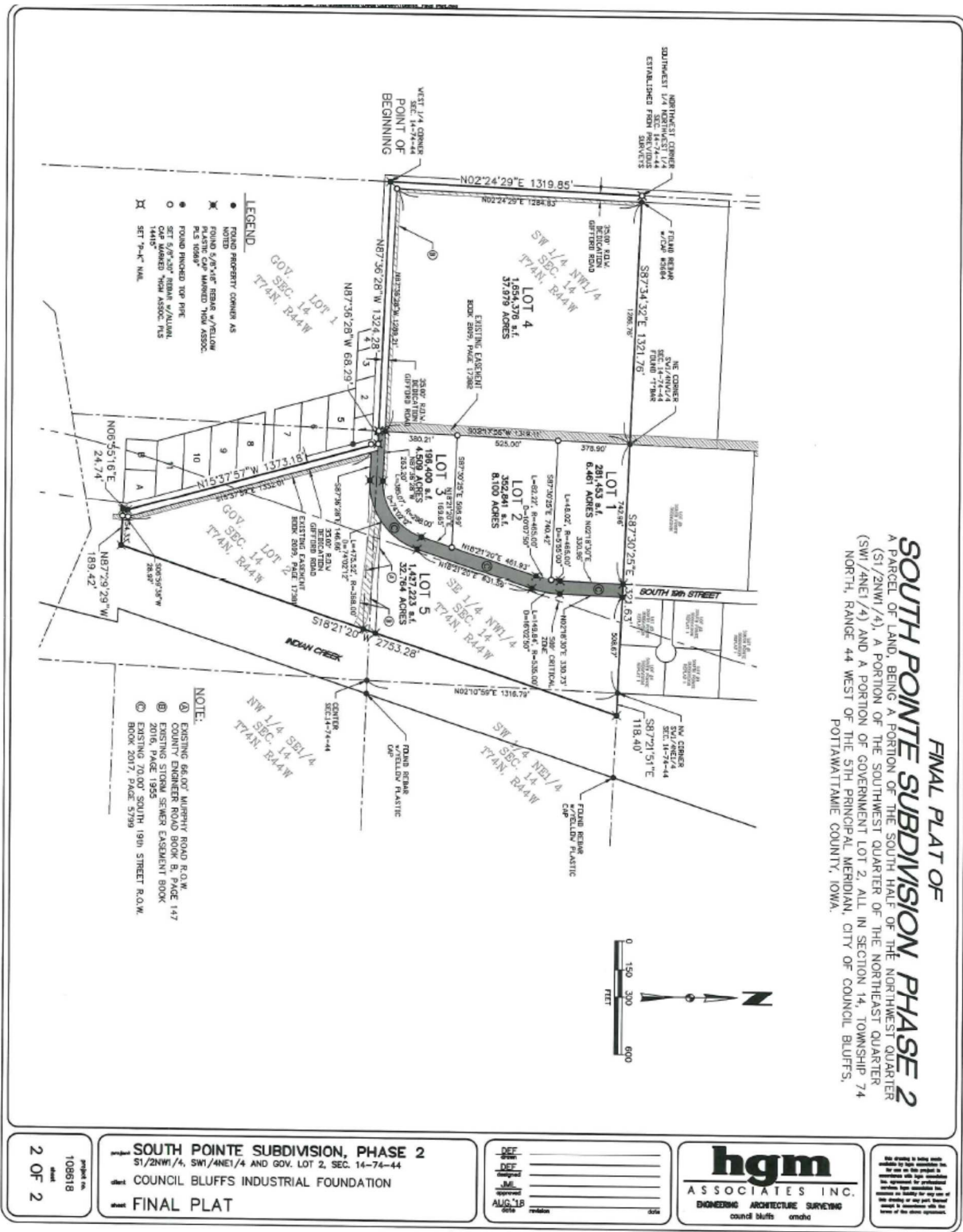
South Pointe Urban Revitalization Plan
Illustration 3 – Zoning



South Pointe Urban Revitalization Plan
Illustration 4 – Recreation-Tourism Overlay



South Pointe Urban Revitalization Plan
Illustration 5 – South Pointe Subdivision, Phase 2 Final Plat



PROPOSALS FOR IMPROVING OR EXPANDING CITY SERVICES

The proposed South Pointe Urban Revitalization Area is served with all municipal utilities (sanitary sewer, water and storm sewer) as well as electricity and gas. The area is accessible by five public roadways, as follows: Veterans Memorial Highway (US 275/92), South 21st Street, South 19th Street, 44th Avenue, and Gifford Road. In the last five years the City and/or other private entities have reconstructed portions of Gifford Road, South 21st Street, and South 19th Street to meet current City standards. There is a segment of Gifford Road that abuts the west/southwest boundary of this urban revitalization area that is not built to current City standards. It is anticipated that this segment of roadway will be reconstructed in coming years as new development occurs in the South Pointe Subdivision, Phase 2. All said roadways operate at a level of service (LOS) that can adequately handle additional traffic generated by new projects in this proposed urban revitalization area. There are no proposals to expand City services at this time.

RELOCATION PROVISIONS

Relocation is not anticipated with the implementation of this plan. However, if either a residential or non-residential tenant relocation occurs as a result of actions taken by a developer qualifying for the benefits under the Urban Revitalization Act, the tenant shall receive compensation from the developer of one months rent and actual moving expenses, provided that the tenant has occupied the same unit continuously for a one year period prior to the adoption of this plan.

OTHER PUBLIC ASSISTANCE

The City anticipates the use of other public assistance may be necessary for development of this area. This assistance may include:

1. Property tax exemption
2. Continued use of Capital Improvement Program funds for the improvement or reconstruction of streets, sanitary sewer, storm sewer systems, and railroad crossings.
3. Funding from the State of Iowa (Economic Development Authority, Finance Authority, and Department of Transportation) to provide assistance to qualified businesses locating or expanding in the area or to cause the construction of infrastructure to support economic development projects.
4. Funding from the U.S. Government (Department of Housing and Urban Development, Economic Development Administration, and Federal Highway Administration) to acquire and prepare for private redevelopment or to cause the construction of infrastructure to support economic development projects.

APPLICABILITY AND TAX EXEMPTION SCHEDULE

1. Eligibility - The South Pointe Urban Revitalization Plan will apply to commercial and industrial land uses.

Both new construction and rehabilitation of existing structures will be eligible for tax abatement under the plan. Rehabilitation may include renovation of a structure to bring it to code standards, remodeling and expansion.

2. Term - The term of this Plan shall be until December 31, 2038 or as amended by City Council.

3. Commercial and Industrial

Ten Year - All eligible commercial and industrial real estate is eligible to receive a partial exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten years. The amount of the partial exemption is equal to a percent of the actual value added by the improvements, determined as follows:

- a. For the first year, eighty percent.
- b. For the second year, seventy percent.
- c. For the third year, sixty percent.
- d. For the fourth year, fifty percent.
- e. For the fifth year, forty percent.
- f. For the sixth year, forty percent.
- g. For the seventh year, thirty percent.
- h. For the eighth year, thirty percent.
- i. For the ninth year, twenty percent.
- j. For the tenth year, twenty percent.

-OR-

Three Year - All eligible commercial and industrial real estate is eligible to receive a one hundred percent exemption from taxation on the actual value added by the improvements. The exemption is for a period of three years.

6. Improvements - Improvements shall include commercial and industrial rehabilitation and additions to existing structures as well as new construction on vacant land or on land with existing structures

- For non-residential property, improvements must increase the actual value of the structure by at least 15%. If more than one building is located on the property, the 15% increase requirement applies only to the structure or structures upon which the improvements were made.
- If no structures were located on the property prior to the improvements, any improvements may qualify.

7. Actual Value - Actual value added by the improvements means the actual value added as of the first year for which the exemption was received. However, if such construction was begun one year prior to the adoption by the City of a Plan of Urban Revitalization pursuant to Chapter 404 of the Iowa Code, the value added by such construction, shall not constitute an increase in value for purposes of qualifying for the exemptions listed in this section.

APPLICATION AND REVIEW PROCESS

Upon completion of all improvements made within the assessment year for which the exemption is first claimed, the owner shall use the following procedure to secure the tax exemption.

1. The applicant requests a conference with the Community Development Department to discuss applicability of the request to established policy and review the application process.
2. The applicant completes the required forms and submits them along with all required data by February 1st to the Community Development Department. As part of the acceptance procedure, the Community Development Department shall review the submission for completeness. If there is a deficiency, the Department shall notify the applicant within seven (7) days.
3. The Department shall review the application according to the following criteria: 1) conformance with the Urban Revitalization Plan; 2) a finding that the site is within a designated area; 3) a finding that the work has been completed within the time required to qualify for abatement in the assessment year; 4) a finding that the application is consistent with Chapter 404 of the Iowa Code; and 5) a finding that the application is consistent with all applicable city codes and ordinances.
4. Upon review of the application, the Community Development Department will prepare a recommendation and schedule the proposal for City Council consideration.
5. By resolution, the City Council will accept the application and improvements as consistent with the intent of this plan and state law.
6. The City Council will then direct the Community Development Department to transmit a copy of the case file to the Assessor's Office by March 1st as required by Chapter 404 of the Iowa Code.

Attachment A - South Pointe Urban Revitalization Area Plan - Property Owners List

Parcel Number	Owner & Tax Address	Land Valuation	Dwelling Valuation	Building Valuation	Total Valuation	Acreage
744411377007	Council Bluffs Industrial Foundation PO Box 1565, Council Bluffs, IA 51502	\$290,200.00	\$0	\$0	\$290,200.00	3.28
744411377004	R A H Council Bluffs LLC c/o Matheson Tri Gas Inc. 155 Allen Road, Suite 302 Basking Ridge, NJ 07920	\$263,000.00	\$0	\$489,200.00	\$752,200.00	2.63
744411379001	J A K Investments LLC 865 Bud Boulevard Fremont, NE 68025	\$1,474,000.00	\$0	\$3,704,600.00	\$5,178,600.00	14.74
744414126003	ARC Fechnia001 LLC c/o American Realty Capital 200 Dryden Road, Suite 1100 Dresher, PA 19025	\$1,101,000.00	\$0	\$1,394,800.00	\$2,495,800.00	11.01
744414126002	McAllen Properties Omaha 3950 Commercial Avenue Madison, WI 53714	\$1,123,000.00	\$0	\$2,905,400.00	\$4,028,400.00	11.23
744414127003	Glenn, Bernard L Trust 18045 Bent Tree Ridge Council Bluffs, IA 51503	\$150,000.00	\$0	\$420,800.00	\$570,800.00	1.50
744414127004	Glenn, Ross B-Patricia E 4343 S 19th Street Council Bluffs, IA 51501	\$144,000.00	\$0	\$0.00	\$144,000.00	1.60
744414127005	TEQ Properties, LLC c/o Greg Petersen 11664 Pierce Street Omaha, NE 68144	\$124,000.00	\$0	\$403,700.00	\$527,700.00	1.24
744414127006	Council Bluffs Industrial Foundation PO Box 1565, Council Bluffs, IA 51502	\$121,500.00	\$0	\$0	\$121,500.00	1.35
744414176001	Council Bluffs Industrial Foundation PO Box 1565, Council Bluffs, IA 51502	\$75,700.00	\$0	\$0	\$75,700.00	34.42
744414151002	Council Bluffs Industrial Foundation PO Box 1565, Council Bluffs, IA 51502	\$70,100.00	\$0	\$0	\$70,100.00	36.24
744414151001	Council Bluffs Industrial Foundation PO Box 1565, Council Bluffs, IA 51502	\$15,800.00	\$0	\$0	\$15,800.00	1.66
	Council Bluffs Industrial Foundation PO Box 1565, Council Bluffs, IA 51502	\$35,800.00	\$0	\$0	\$35,800.00	16.00
		\$4,988,100.00	\$0	\$9,318,500	\$14,306,600.00	136.90

ATTACHMENT A



149 W. Broadway,
Council Bluffs, IA 51503

September 24, 2018

The Honorable Mayor Matt Walsh and
Council Bluffs City Council Members
City of Council Bluffs
209 Pearl Street
Council Bluffs, IA 51503

Dear Mayor Walsh and Council Members:

Congratulations on the exciting things that are happening in Council Bluffs. The City has so many things to be proud of and Advance Southwest Iowa Corporation (ASWIC) is thrilled to be able to promote our great City.

As you know, ASWIC works to attract new businesses to the City as well as retain our existing business base. In order for us to be successful, it is vital that we have shovel ready sites as well as State and local incentives to assist us in our process. As such, I'm writing this letter in support of the Urban Revitalization designation for South Point Business Park Phase I and II.

South Point is owned by the Council Bluffs Industrial Foundation with Phase II being a designated shovel ready site. ASWIC has been actively marketing both Phase I and II of South Point since September 2016. Based on this robust marketing effort, we have experienced an abundance of interest with two executed options in Phase II and two additional companies looking at two of the remaining parcels (one in Phase I and one in Phase II).

The City of Council Bluffs Urban Revitalization program is a critical component to our competitiveness for current and future projects at South Point. The Urban Revitalization program can be utilized as a stand-alone incentive program but can also be applied as the match component for the State of Iowa's Targeted Jobs and High Quality Jobs programs which makes this a versatile instrument in our economic development tool box.

Thank you for allowing Advance Southwest Iowa Corporation to express our support for the Urban Revitalization designation for South Point Phase I and II. We look forward to being able to further promote South Point as an industrial site within the City of Council Bluffs and sincerely appreciate all that you and the Council do to continue to grow our City. Please feel free to contact me directly at (402) 960-8505 should you have any questions regarding the content of this letter.

Regards,

Paula D. Hazlewood

Paula D. Hazlewood
Executive Director
Advance Southwest Iowa Corporation

ATTACHMENT B

RESOLUTION NO. 18-282

A RESOLUTION OF NECESSITY AND INTENT TO ESTABLISH THE SOUTH POINTE REVITALIZATION AREA LEGALLY DESCRIBED AS LOTS 1, 2, 4 AND 5, SOUTH POINTE SUBDIVISION; LOTS 2-5, SOUTH POINTE SUBDIVISION, REPLAT 1; LOT 1, SOUTH POINTE SUBDIVISION, REPLAT 2; AND ALL OF SOUTH POINTE SUBDIVISION, PHASE 2), CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, the subject area is an appropriate area as defined in Section 404.1.4 of the Iowa Code; and

WHEREAS, the Council Bluffs Industrial Foundation and others have properties available for economic development in this area; and

WHEREAS, a plan for the area must be developed in accordance with Section 404.2 of the Iowa Code; and

WHEREAS, thirty days notice of public hearing is required to be sent to all property owners and occupants within the area; and

WHEREAS, notice of public hearing is also required in accordance with Section 362.3 of the Iowa Code.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the development of the area is necessary in the interest of the City and the area substantially meets the criteria of Section 404.1.4.

BE IT FURTHER RESOLVED

That the City Council directs staff to prepare a final plan pursuant to Section 404.2 of the Iowa Code by October 25, 2018.

BE IT FURTHER RESOLVED

That the City Council directs the City Clerk to set this matter for public hearing on November 26, 2018.

**ADOPTED
AND
APPROVED:**

October 8, 2018

Matthew J. Walsh

Mayor

ATTEST:

Jodi Quakenbush

City Clerk

Council Communication

Department: Public Works Admin
Case/Project No.: FY15-19
Submitted by: Matthew Cox, City
Engineer

Resolution 18-283

Council Action: 10/8/2018

Description

Resolution accepting the work of Hawkins Construction Co. as complete and authorizing release of retainage after 30 days if no claims are filed in connection with the 9th and 10th Street Bridges over Indian Creek. Project # FY15-19.

Background/Discussion

The Iowa DOT annually makes Federal and State funds available for the purposes of rehabilitating or replacing structurally deficient or functionally obsolete bridges. Bridges are ranked to receive funding based on a priority point system.

The 9th and 10th Street Bridges over Indian Creek (FHWA Structure #'s 504040 and 504045) ranked high enough among other bridges in the state to qualify for participation in the program.

The Indian Creek box under Creek Top was spanned by bridges at 9th and 10th Street. Both of the bridges and concrete box were in poor condition. This project replaced the bridges by reconstructing a section of the concrete box, allowing the bridges to be eliminated.

Highway Bridge Program funds allow for 80% funding for construction of the 9th and 10th Street Bridge replacement with maximum eligible costs of \$2,000,000.00.

This project was in the FY15 & FY16 CIP with a budget of \$1,350,000 in sales tax funds for engineering, right-of-way, and the City's share of construction.

Original Contract Amount	\$2,563,803.92
Change Orders (-1.35%)	(\$34,600.24)
Final Contract Amount	\$2,529,203.68
Less Previous Payments	\$2,499,203.68
Retainage Due Contractor	\$30,000.00

The Contractor completed the project on time and did not receive any non-compliance notices.

Recommendation

Approval of this resolution.

ATTACHMENTS:

Description	Type	Upload Date
Resolution 18-283	Resolution	9/28/2018

**RESOLUTION
NO 18-283**

**RESOLUTION ACCEPTING THE WORK OF
HAWKINS CONSTRUCTION COMPANY IN CONNECTION WITH
THE 9TH AND 10TH STREET BRIDGES OVER INDIAN CREEK
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE
A CITY CHECK IN THE AMOUNT OF \$30,000.00
PROJECT #FY15-19**

WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with Hawkins Construction Company, Omaha, NE for the 9th and 10th Street Bridges over Indian Creek; and

WHEREAS, said contractor has fully completed the construction of said improvements in accordance with the terms and conditions of said contract and plans and specifications filed with the city clerk; and

WHEREAS, a request for final payment in the amount of \$30,000.00 to Hawkins Construction Company, has been submitted to the city council for approval and payment; and

WHEREAS, final payment is due 30 days after acceptance of the work; and

WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$30,000.00 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$30,000.00 payable to Hawkins Construction Company from budget codes; Division II, G21600-676200; Project #00509.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues

ADOPTED
AND
APPROVED

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: Public Works Admin
Case/Project No.: PW16-06A
Submitted by: Matthew Cox, City
Engineer

Resolution 18-284

Council Action: 10/8/2018

Description

Resolution accepting the work of Neuvirth Construction, Inc. as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the Levee Certification Project, Geotechnical MR_2. Project # PW16-06A.

Background/Discussion

The City of Council Bluffs owns or sponsors multiple levee segments which encompass the City Federal Levee System, providing flood protection from the Missouri River, Mosquito Creek, and Indian Creek. These levee systems are currently shown on FEMA floodplain maps as being accredited and are identified as providing protection from the 100-year flood or 1% annual chance flood event.

In order to maintain the level of protection identified on the FEMA Flood Insurance Rate Map, it is necessary to provide documentation to FEMA that complies with the requirements of 44 CFR 65.10. If the levees are not certified, they will be de-accredited and FEMA will begin the process of updating maps. Areas previously protected by the levees will be identified as flood-prone.

In order to meet the criteria for levee certification, improvements to each of the levee systems will be necessary.

The purpose of the Geotechnical MR_2 project was to resolve seepage deficiencies along the Missouri River levee. The project modified the existing relief well system with piping to lower the head of each well, improved a drainage channel, and provided a sump structure for ground water pumping.

The FY16 CIP included \$1,695,000 funded by the Iowa Flood Mitigation Program and \$3,305,000 in Sales Tax Funds programmed for levee improvements. The budget for this project was \$960,000.

	Division I	Division II	Division III	
	<u>General</u>	<u>Pavement</u>	<u>Storm</u>	<u>Total</u>
Original Contract Amount	\$529,862.00	\$5,220.50	\$222,337.37	\$757,419.87
Change Orders (+26.25%)	\$154,227.09	\$3,623.64	\$ 40,972.14	\$198,822.87
Revised Contract Amount	\$684,089.09	\$8,844.14	\$263,309.51	\$956,242.74
Less previous payments	\$649,884.64	\$8,401.93	\$250,144.03	\$908,430.60
Retainage due contractor	\$ 34,204.45	\$ 442.21	\$ 13,165.48	\$47,812.14

Contractor did not complete the project on time and liquidated damages in the amount of \$17,250 were assessed; the liquidated damages are currently subject to litigation pending in Pottawattamie County District Court.

Recommendation

Approval of this resolution.

ATTACHMENTS:

Description

Resolution 18-284

Type

Resolution

Upload Date

9/28/2018

**RESOLUTION
NO 18-284**

**RESOLUTION ACCEPTING THE WORK OF
NEUVIRTH CONSTRUCTION, INC. IN CONNECTION WITH
THE LEVEE CERTIFICATION PROJECT, GEOTECHNICAL MR_2
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE
A CITY CHECK IN THE AMOUNT OF \$47,812.14
PROJECT #PW16-06A**

WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with Neuvirth Construction, Inc., Blair, NE, for Levee Certification Project, Geotechnical MR_2; and

WHEREAS, a request for final payment in the amount of \$47,812.14 to Neuvirth Construction, Inc., has been submitted to the city council for approval and payment; and

WHEREAS, final payment is due 30 days after acceptance of the work; and

WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$47,812.14 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$47,812.14 payable to Neuvirth Construction, Inc. from budget codes Division I, E16100-676000; Division II, E16100-676200; Division III, E16100-676500; Project #1606A.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues.

ADOPTED
AND
APPROVED

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: Community
Development

Case/Project No.: URV-18-008
Submitted by: Brenda Carrico,
Program Coordinator

Resolution 18-285

Council Action: 10/8/2018

Description

Resolution of necessity and intent to establish the Arbor Creek Revitalization Area and setting Public Hearing for November 26, 2018 legally described as proposed Lot 2 of Arbor Creek Subdivision. Location: Immediately north of the intersection of Railroad Avenue and College Road. URV-18-008

Background/Discussion

See attached.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
CC staff report - reso of intent - Arbor Creek	Other	9/27/2018
NOTICE OF PUBLIC HEARING - Arbor Creek URV	Other	9/27/2018
Arbor Creek Urban Revitalization Plan	Other	9/27/2018
Resolution 18-285	Resolution	9/28/2018

Council Communication

Department: Community Development Case No.: URV-18-008 Applicant: Community Development Department	Resolution No.: 18- Ordinance No.:	Resolution of Intent: 10-8-18 Planning Commission: 11-13-18 Public Hearing & First Reading: 11-26-18 Second Reading: 12-17-18 Third Reading: 1-14-19 (est.)
Subject/Title		
Establishment of the Arbor Creek Urban Revitalization Plan and Area		
Location		
Immediately north of the intersection of Railroad Avenue and College Road		
Background/Discussion		
<p><u>Background</u></p> <p>A development proposal has been submitted by Zimmerman Properties Development LLC for the construction of a 60 unit multi-family residential project. Valley Ridge Apartments will be a three-story building with a separate clubhouse and maintenance building. Parking spaces will be placed along the north and east perimeters of the main building. Anticipated amenities may include a gazebo, BBQ grills, playground, dog park and sports court. Thirty of the units will have two bedrooms and thirty of the units will have three bedrooms. All of the units will have two bathrooms. The developer will submit an application to the Iowa Finance Authority (IFA) in January of 2019 for Low Income Housing Tax Credits (LIHTC). If awarded tax credits, the units will be rented to households whose incomes are at or below 60% of the area median income. As an example, for a family of three, the 60% income limit is \$44,100.</p> <p><u>Discussion</u></p> <p>Chapter 404 of the Iowa Code authorizes a City to designate an area as an urban revitalization area. Improvements to qualified real estate within designated areas may then be eligible to receive a total or partial exemption from property taxes for a specified number of years. The exemptions are intended to stimulate private investment by reducing the tax increase that would normally result from making improvements to real estate property.</p> <p>In order to establish an urban revitalization area one of the five conditions outlined in Section 404.1 must be met. For this area, staff believes a finding would be consistent under 404.1.5. Section 404.1.5 discusses an area which is appropriate for housing and residential development, including single or multifamily housing.</p> <p>Urban revitalization tax abatement incentives can apply to residential, commercial and industrial development. Both new construction on vacant or unimproved land and rehabilitation of existing structures are eligible for tax abatement.</p> <p>Staff has prepared a resolution of intent to establish this area as an urban revitalization area. The resolution directs staff to develop an urban revitalization plan as required by the Iowa Code, notify property owners and occupants and set November 26, 2018 as a public hearing date. Concurrent</p>		

Council Communication

with the adoption of an urban revitalization plan, an ordinance establishing the urban revitalization area can be considered. Upon adoption of the area, the City is permitted to grant tax abatement to qualified projects.

Recommendation

The Community Development Department recommends City Council adopt a resolution of necessity and intent to establish the Arbor Creek Urban Revitalization Plan and Area.

Attachments

- 1) Draft of Arbor Creek Urban Revitalization Plan
- 2) Resolution
- 3) Public Hearing Notice

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department

Approved by: Brandon Garrett, Director, Community Development Department

NOTICE OF PUBLIC HEARING

TO ALL INTERESTED PERSONS, GROUPS AND AGENCIES:

THE CITY OF COUNCIL BLUFFS, IOWA proposes to exercise the authority conferred upon it by the Urban Revitalization Act by designating an urban revitalization area that is generally located on 6.19 acres of undeveloped land lying north of the intersection of Railroad Avenue and College Road.

This area is legally described as proposed Lot 2, Arbor Creek Subdivision, City of Council Bluffs, Pottawattamie County, Iowa.

The Urban Revitalization Act authorizes cities to make available property tax exemptions for eligible improvements made in the area. A proposed plan for the Arbor Creek Urban Revitalization Area has been prepared by the City of Council Bluffs, Iowa, which more fully describes the proposed activities and includes information as required under the Urban Revitalization Act. This proposed plan is on file and is available for public examination at the office of the City Clerk, 209 Pearl Street, Council Bluffs, Iowa from 8:00 a.m. to 5:00 p.m., Monday through Friday.

A public hearing before the City Council has been set on this matter for Monday, November 26, 2018 at 7:00 p.m. in the Council Chambers in City Hall, 209 Pearl Street, Council Bluffs, Iowa.

All persons, groups, agencies interested in this matter are invited to submit written comments to the City Clerk on or before the public hearing or may appeal in person at the public hearing.

Jodi Quakenbush, City Clerk
Council Bluffs, Iowa

Arbor Creek Urban Revitalization Plan



Prepared by
Community Development Department
City of Council Bluffs, Iowa

Adopted by
City Council on _____, 2018

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INTRODUCTION

The Urban Revitalization Act empowers a municipality to designate an area appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate-income families, including single or multi-family housing.

The City of Council Bluffs wishes to utilize property tax abatement incentives under the Urban Revitalization Act to facilitate the construction of a multi-family residential project in the community. The preparation and subsequent adoption of an Urban Revitalization Plan is required by the Iowa Code prior to the provision of property tax abatement.

Section 404.1 of the Iowa Code stipulates that the Council may, by ordinance, designate an area of the City as the revitalization area, if that area is classified as any of the following:

1. An area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, the existence of conditions which endanger life or property by fire and other causes or a combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and which is detrimental to the public health, safety or welfare.
2. An area which by reason of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, incompatible land use relationships, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the actual value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or a combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety or welfare in its present condition and use.
3. An area in which there is a predominance of buildings or improvements which by reason of age, history, architecture or significance should be preserved or restored to productive use.
4. An area which is appropriate as an economic development area as defined in Section 403.17(10) of the Iowa Code which states “an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises, public improvements related to housing and residential development, or construction of housing and residential development for low and moderate income families, including single or multi-family housing.”

5. An area designated as appropriate for public improvements related to housing and residential development, or construction of housing and residential development, including single or multi-family housing.

The City of Council Bluffs concluded that the Arbor Creek Urban Revitalization Area meets the criteria of element 5. Consequently, on October 8, 2018, the City Council adopted Resolution No. __-__ ____, which directed staff to prepare a plan for the proposed revitalization area. Illustration 1 is the City Council Resolution.

Arbor Creek Urban Revitalization Plan
Illustration 1 – Resolution

LEGAL DESCRIPTION

The Arbor Creek Urban Revitalization Area is a tract of land containing the following legally described parcel:

Proposed Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa

Illustration 2 shows the approximate location and the boundary of the Arbor Creek Urban Revitalization Area. The area is 6.19 acres.

Arbor Creek Urban Revitalization Plan

Illustration 2 - Boundary



PROPERTY OWNERS AND ASSESSED VALUES

The Arbor Creek Urban Revitalization Area will be comprised of 6.19 acres of land which is currently owned by the City of Council Bluffs. The Arbor Creek Urban Revitalization area will be located on what is currently a 29.86 Acre Parcel that is currently being subdivided into a three-lot subdivision. JLL Valuation and Advisory Services, LLC appraised the land at \$188,811.70.

Legal Description	Owner & Address	Land Valuation	Dwelling Valuation	Building Valuation	Total Valuation
Lot 2, Arbor Creek	City of Council Bluffs	\$188,811.70	\$0	\$0	\$188,811.70

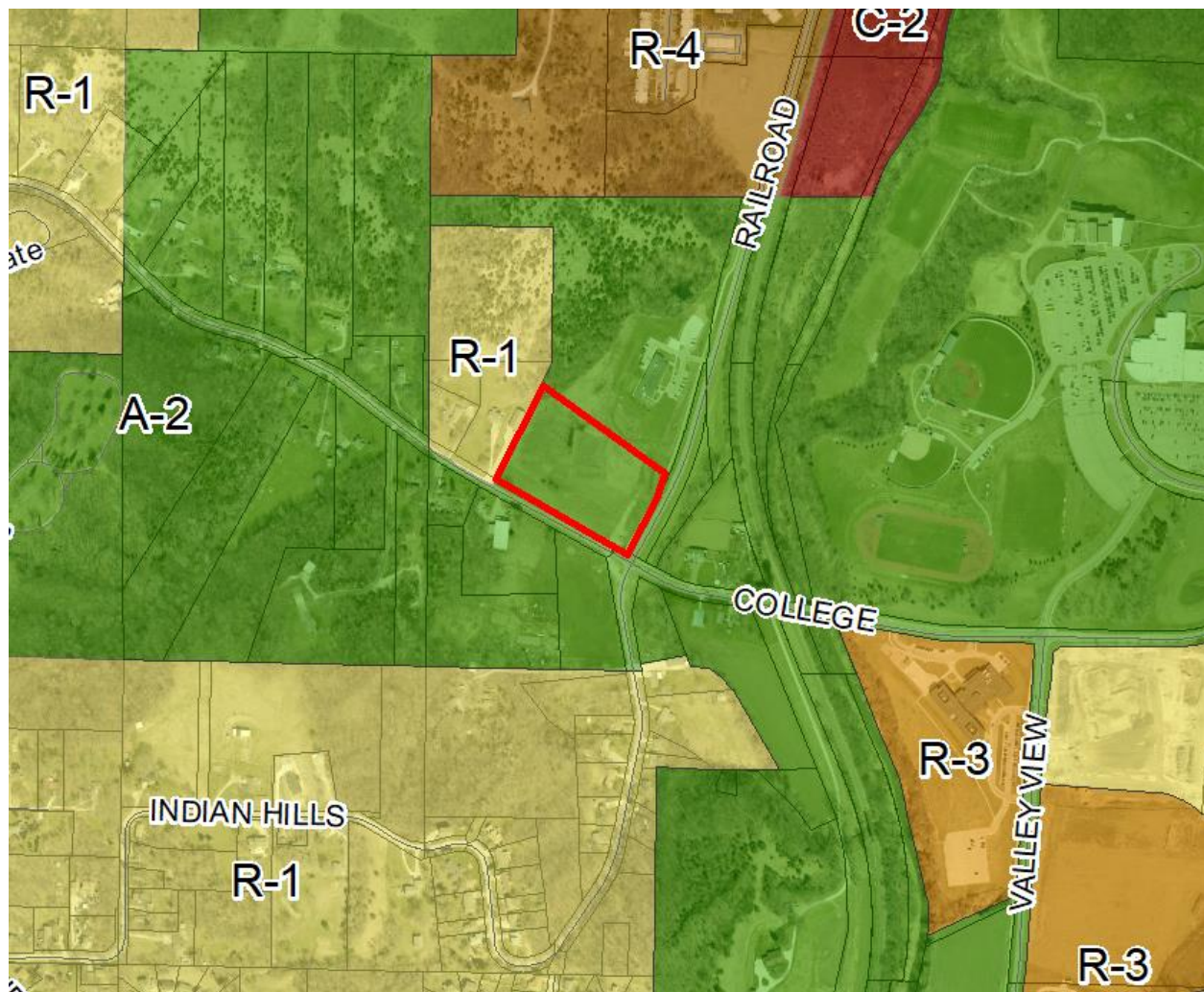
EXISTING ZONING AND PROPOSED LAND USE

The Arbor Creek Urban Revitalization Area is zoned R-3/Low Density Multi-Family Residential (pending) with a Planned Residential Overlay (pending). The R-3/Low Density Multi-Family District is intended and designed for development of medium density multi-family residential units. The Planned Residential Overlay is intended to provide flexibility in the use and design of structures and land in situations where conventional development may be inappropriate. The Overlay also permits projects that involve the mixture of commercial and residential uses.

Adjacent zoning includes R-1 District to the west, and A-2 District to the north, east, and south. Land uses abutting the proposed Arbor Creek Urban Revitalization Area include the Midlands Humane Society to the north, and single-family residential dwellings to the east, west, and south. The Bluffs Tomorrow: 2030 Future Land Use Plan designates the subject property as Rural Residential/Agricultural, though a reclassification of the land to Medium-Density Residential has been proposed. In the general vicinity of the proposal, there is another multifamily housing complex located 1,500 Feet to the North, College View Elementary School which is located approximately 1,200 Feet to the Southeast, Iowa Western Community College located 2,000 Feet to the West, and other examples of new residential and commercial development located south of the Iowa Western Community College Campus. Illustration 3 depicts the existing on-site and surrounding zoning.

A development proposal has been submitted by Zimmerman Properties Development, LLC for the construction of a multifamily residential project. The first phase of the project will include 60 residential units which will provide housing for those whose incomes are at or below 60% of the area median income. The current proposal includes a clubhouse, playground, dog park, sports court, and shelter/barbeque area as amenities for the residents. Associated parking and landscaping will also be provided with each phase of construction.

The Development Plan can be found in Attachment A.



PROPOSALS FOR IMPROVING OR EXPANDING CITY SERVICES

The proposed Arbor Creek Urban Revitalization Area will be served with all municipal services (sanitary sewer, water and storm sewer) and can be accessed by a dedicated roadway. Electricity and gas service are also available to the project. The project is located adjacent to College Road and Railroad Avenue, which will adequately handle the additional traffic generated by this proposed project.

Site grading inclusive of overexcavation is anticipated to develop the site. Storm drainage improvements inclusive of detention will be installed throughout the site, a public water main loop will be constructed with fire hydrants in compliance with fire department guidelines. A sewer main extension will be installed through the site to service the three buildings. Both water and sewer extensions will be connected to existing infrastructure along College Road. Half road improvements may be needed for College Road. If half road improvements are not desired for College Road, current grade conditions may preclude

placement of public sidewalk in the current right-of-way. Easement for public sidewalk on private property will be dedicated if existing conditions are not improved and preclude placement of sidewalk in right-of-way.

RELOCATION PROVISIONS

The Arbor Creek Urban Revitalization Area is currently undeveloped; therefore, the City will not displace any residential or non-residential tenants as a result of proposed improvements in the urban revitalization area.

OTHER PUBLIC ASSISTANCE

The developer will be applying for Low Income Tax Credits from the Iowa Finance Authority in January of 2019.

APPLICABILITY AND TAX EXEMPTION SCHEDULE

1. Eligibility - The Arbor Creek Urban Revitalization Plan will apply to commercial and multi-family residential (12 or more units).

Both new construction and rehabilitation of existing structures will be eligible for tax abatement under the plan. Rehabilitation may include renovation of a structure to bring it to code standards, remodeling and expansion. New construction of multi-family structures containing 12 or more units or the renovation of existing multi-family properties containing 3 or more units will also be eligible for property tax exemption under the plan.

2. Term - The term of this Plan shall be until December 31, 2035 or amended by City Council.

3. Commercial and Industrial

Ten Year - All eligible commercial and industrial real estate is eligible to receive a partial exemption from taxation on the actual value added by the improvements. The exemption is for a period of ten years. The amount of the partial exemption is equal to a percent of the actual value added by the improvements, determined as follows:

- a. For the first year, eighty percent.
- b. For the second year, seventy percent.
- c. For the third year, sixty percent.
- d. For the fourth year, fifty percent.
- e. For the fifth year, forty percent.
- f. For the sixth year, forty percent.
- g. For the seventh year, thirty percent.
- h. For the eighth year, thirty percent.
- i. For the ninth year, twenty percent.
- j. For the tenth year, twenty percent.

-OR-

Three Year - All eligible commercial and industrial real estate is eligible to receive a one hundred percent exemption from taxation on the actual value added by the improvements. The exemption is for a period of three years.

4. Multi-Family New Construction (12 or more units) - All eligible multi-family construction shall be eligible to receive a 100% exemption for a period of four years.

5. Multi-Family Rehabilitation (3 or more units) - All eligible multi-family rehabilitation projects shall be eligible to receive a 100% exemption for a period of ten years.

6. Improvements - Improvements shall include commercial and industrial rehabilitation and additions to existing structures as well as new construction on vacant land or on land with existing structures. Improvements involving multi-family projects shall include new construction of projects resulting in 12 or more units or the rehabilitation of existing multi-family projects containing 3 or more units (assessed as commercial property). In addition, all improvements must result in the following increases in value:

- For non-residential property, improvements must increase the actual value of the structure by at least 15%. If more than one building is located on the property, the 15% increase requirement applies only to the structure or structures upon which the improvements were made.
- For residential property, the improvement must increase the actual value of the structure by at least 10%.
- If no structures were located on the property prior to the improvements, any improvements may qualify.

7. Actual Value - Actual value added by the improvements means the actual value added as of the first year for which the exemption was received. However, if such construction was begun one year prior to the adoption by the City of a Plan of Urban Revitalization pursuant to Chapter 404 of the Iowa Code, the value added by such construction, shall not constitute an increase in value for purposes of qualifying for the exemptions listed in this section.

APPLICATION AND REVIEW PROCESS

Upon completion of all improvements made within the assessment year for which the exemption is first claimed, the owner shall use the following procedure to secure the tax exemption.

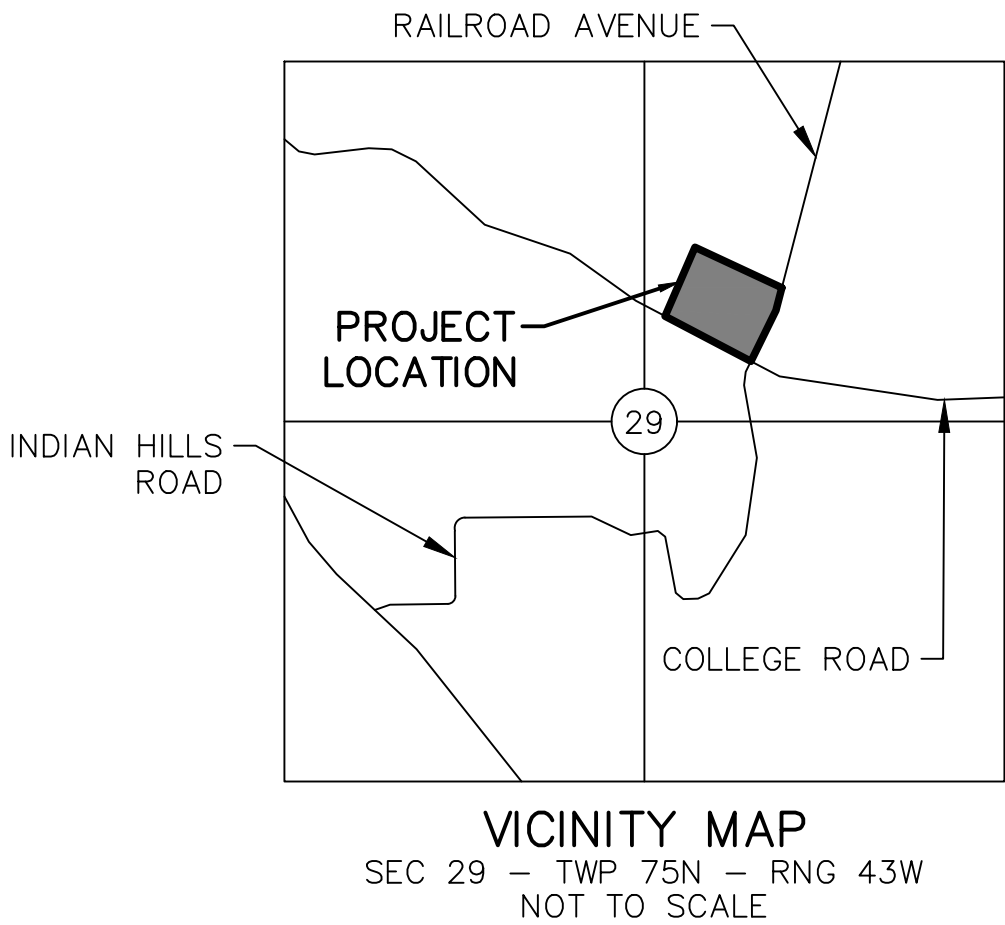
1. The applicant requests a conference with the Community Development Department to discuss applicability of the request to established policy and review the application process.
2. The applicant completes the required forms and submits them along with all required data by February 1st to the Community Development Department. As part of the acceptance procedure, the Community Development Department shall review the submission for completeness. If there is a deficiency, the Department shall notify the applicant within seven (7) days.
3. The Department shall review the application according to the following criteria: 1) conformance with the Urban Revitalization Plan; 2) a finding that the site is within a designated area; 3) a finding that the work has been completed within the time required to qualify for abatement in the assessment year; 4) a finding that the application is consistent with Chapter 404 of the Iowa Code; and 5) a finding that the application is consistent with all applicable city codes and ordinances.
4. Upon review of the application, the Community Development Department will prepare a recommendation and schedule the proposal for City Council consideration.
5. By resolution, the City Council will accept the application and improvements as consistent with the intent of this plan and state law.
6. The City Council will then direct the Community Development Department to transmit a copy of the case file to the Assessor's Office by March 1st as required by Chapter 404 of the Iowa Code.

VALLEY RIDGE APARTMENTS
DEVELOPMENT PLANS

COUNCIL BLUFFS, IOWA

Sheet List Table

C001	TITLE SHEET
C100	SITE PLAN
C300	GRADING PLAN
C500	UTILITY PLAN
AB1	BUILDING ELEVATIONS
CA1	BUILDING ELEVATIONS
1 OF 1	LANDSCAPE PLAN



OWNER:
CITY OF COUNCIL BLUFFS
209 PEARL ST. COUNCIL BLUFFS, IA 51503

DEVELOPER
ZIMMERMAN PROPERTIES DEVELOPMENT, LLC
1329 E. LARK STREET
SPRINGFIELD, MISSOURI 65804
jmcdonald@wilhoitproperties.com
PHONE: 417-883-1632
ATTN: JAMES McDONALD

DESIGNER:
KAW VALLEY ENGINEERING, INC.
14700 W. 114TH TERRACE
LENEXA, KANSAS 66215
mikeo@k-veng.com
PHONE: (913) 894-5150
ATTN: MICHAEL OSBOURN

LEGAL DESCRIPTION:
PROPOSED LOT 2, ARBOR CREEK SUBDIVISION

SITE DATA:
SITE AREA= 6.19 AC

R3 ZONING REQUIREMENTS
FRONT YARD= 20'
REAR YARD= 20'
SIDE YARD= 5' (PLUS ONE FOOT FOR EVERY STORY ABOVE FIRST FLOOR)
MAX HEIGHT= 60'
LOT COVERAGE= 45% MAXIMUM
PROPOSED LOT COVERAGE= 12%

EXISTING ZONING: A2 (PARKS, ESTATES AND AGRICULTURAL DISTRICT)
PROPOSED ZONING: R3 (LOW DENSITY MULTIFAMILY RESIDENTIAL DISTRICT)

PARKING REQUIRED: 1.5 STALLS/UNIT X 60 UNITS= 90 STALLS
PARKING PROVIDED: 111 STALLS (9 ACCESSIBLE STALLS)

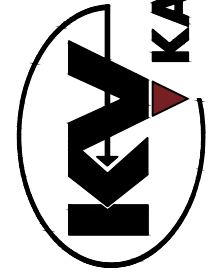
UTILITY STATEMENT:
THE UNDERGROUND UTILITIES SHOWN HEREON ARE FROM FIELD SURVEY INFORMATION OF ONE-CALL LOCATED UTILITIES, FIELD SURVEY INFORMATION OF ABOVE GROUND OBSERVABLE EVIDENCE, AND/OR THE SCALING AND PLOTTING OF EXISTING UTILITY MAPS AND DRAWINGS AVAILABLE TO THE SURVEYOR AT THE TIME OF SURVEY. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. FURTHERMORE, THE SURVEYOR DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES BY EXCAVATION UNLESS OTHERWISE NOTED ON THIS SURVEY.
IOWA ONE CALL TICKET #182250748

SAFETY NOTICE TO CONTRACTOR
IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, THE CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR CONDITIONS OF THE JOB SITE, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY DURING PERFORMANCE OF THE WORK. THIS REQUIREMENT WILL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS.

WARRANTY / DISCLAIMER
THE DESIGNS REPRESENTED IN THESE PLANS ARE IN ACCORDANCE WITH ESTABLISHED PRACTICES OF CIVIL ENGINEERING FOR THE DESIGN FUNCTIONS AND USES INTENDED BY THE OWNER AT THIS TIME. HOWEVER, NEITHER KAW VALLEY ENGINEERING, INC NOR ITS PERSONNEL CAN OR DO WARRANTY THESE DESIGNS OR PLANS AS CONSTRUCTED, EXCEPT IN THE SPECIFIC CASES WHERE KAW VALLEY ENGINEERING PERSONNEL INSPECT AND CONTROL THE PHYSICAL CONSTRUCTION ON A CONTEMPORARY BASIS AT THE SITE.

CAUTION – NOTICE TO CONTRACTOR
THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF EXISTING UTILITIES AS SHOWN ON THESE PLANS IS BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES AND, WHERE POSSIBLE, MEASUREMENTS TAKEN IN THE FIELD. THE INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR MUST CALL THE APPROPRIATE UTILITY COMPANY AT LEAST 72 HOURS BEFORE ANY EXCAVATION TO REQUEST EXACT FIELD LOCATION OF UTILITIES. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES WHICH CONFLICT WITH PROPOSED IMPROVEMENTS SHOWN ON THE PLANS. **THE CONTRACTOR SHALL EXPOSE EXISTING UTILITIES AT LOCATIONS OF POSSIBLE CONFLICTS PRIOR TO ANY CONSTRUCTION.**

14700 WEST 114TH TERRACE
LENEXA, KANSAS 66215
PH. (913) 894-5150 | FAX (913) 894-5977
k-veng.com | www.k-veng.com

**KAW VALLEY ENGINEERING**

KAW VALLEY ENGINEERING, INC. IS AUTHORIZED TO OFFER ENGINEERING SERVICES BY IOWA STATE CERTIFICATE OF AUTHORIZATION # 314844.
EXPIRES 04/01/20

VALLEY RIDGE APARTMENTS
COLLEGE RD AND RAIL ROAD AVE.
COUNCIL BLIFFS, IOWA 51503

DEVELOPMENT PLANS
TITLE SHEET

PROJ. NO. C17-9615

DESIGNER KVK DRAWN BY JON

CFN

SHEET C001

REV 0

INITIAL ISSUE

9/10/18

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REV

DATE

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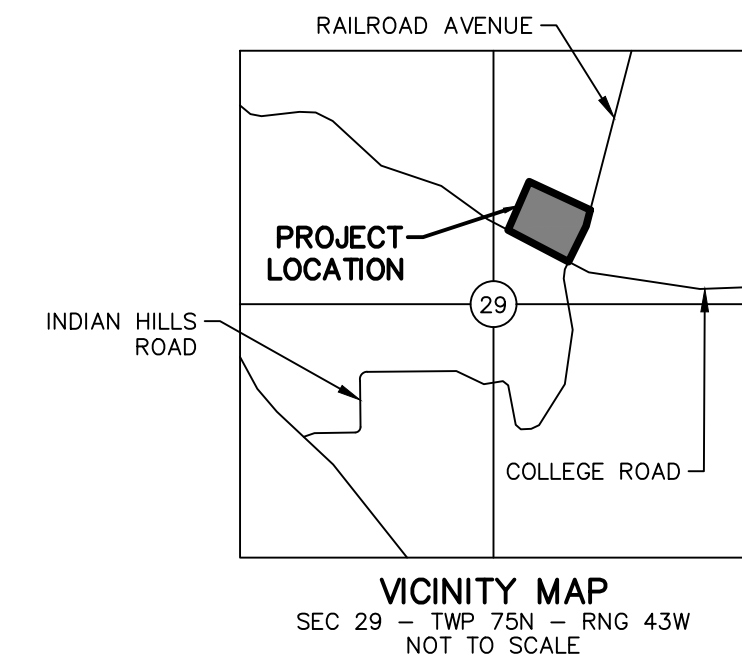
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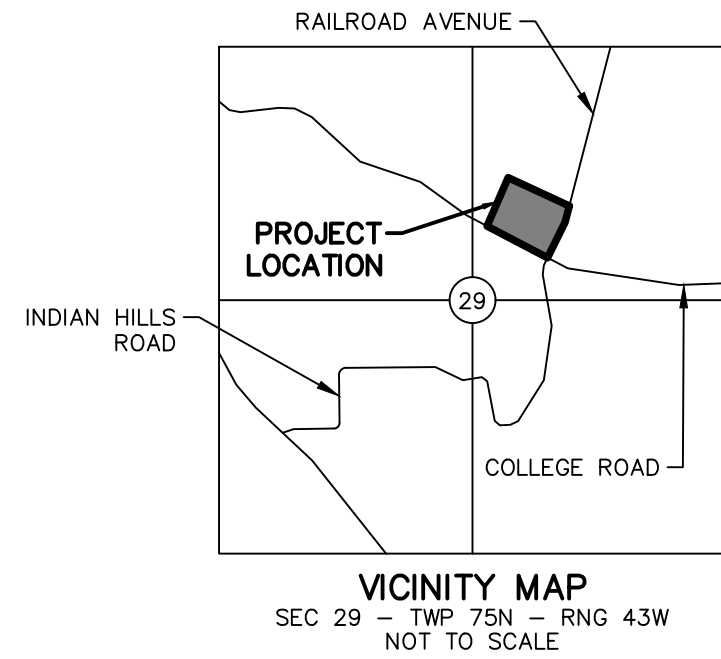
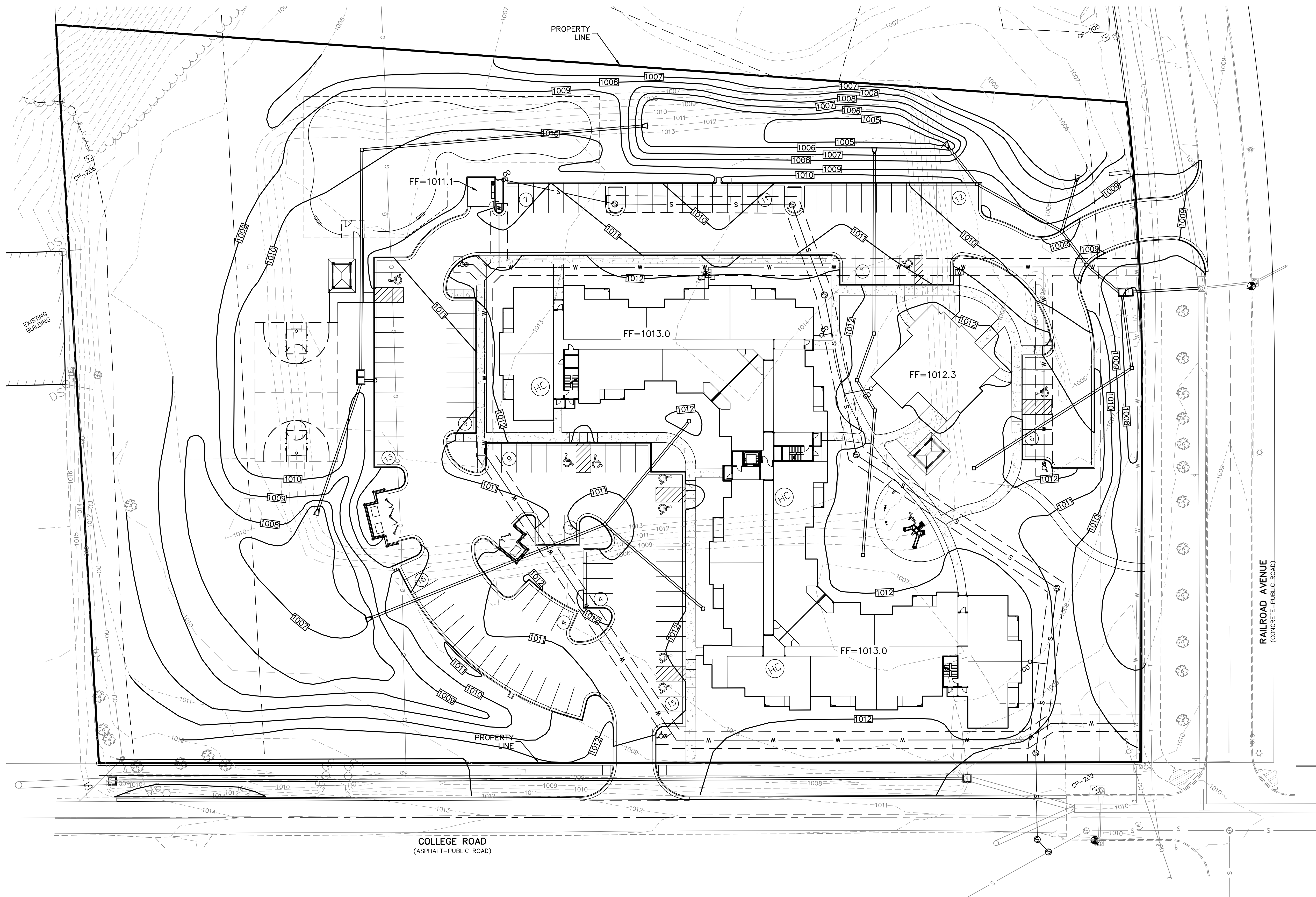
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MRO

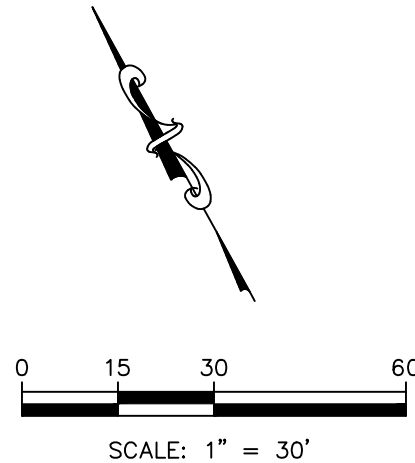
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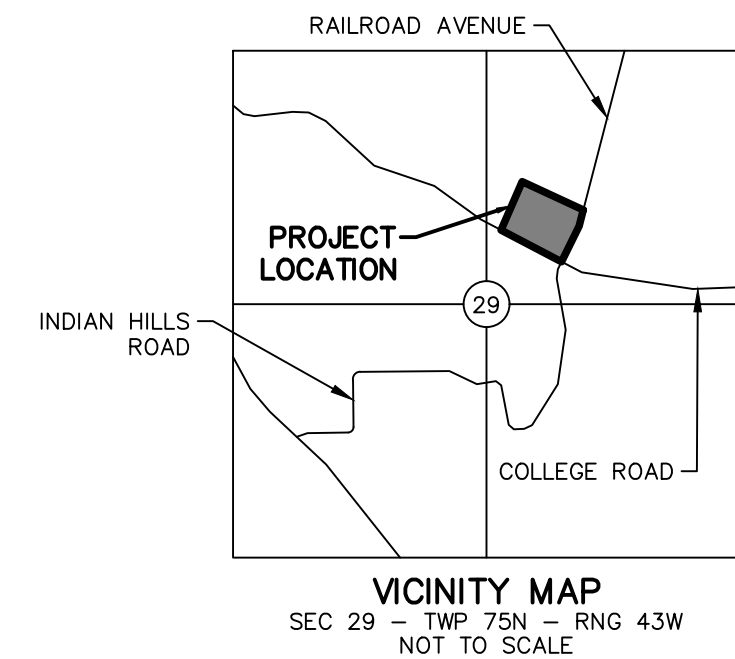
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CFN			
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





















- LEGEND:**
- SECTION CORNER
 - MONUMENT FOUND ORIGIN UNKNOWN UNLESS OTHERWISE NOTED
 - BENCHMARK
 - CONTROL POINT
 - B/B BACK TO BACK OF CURB MEASUREMENT
 - CHAIN LINK FENCE
 - CMP CORRUGATED METAL PIPE
 - DEADMAN ANCHOR
 - DECIDUOUS TREE
 - DOWN SPOUT
 - DIP DUCTILE IRON PIPE
 - E/E EDGE TO EDGE OF ASPHALT
 - ELECTRIC METER
 - ELECTRICAL TRANSFORMER
 - FLARED END SECTION
 - FIRE HYDRANT
 - GAS LINE SIGN
 - GATE POST
 - HRMP HANDICAP RAMP
 - HDPE HIGH DENSITY POLYETHYLENE
 - LIGHT POLE
 - MAIL BOX
 - OVERHEAD UTILITY LINE (# OF LINES)
 - RCP REINFORCED CONCRETE PIPE
 - SANITARY SEWER MANHOLE
 - STORM SEWER MANHOLE
 - STREET/TRAFFIC SIGN
 - TREE LINE
 - UNDERGROUND GAS
 - UNDERGROUND TELEPHONE
 - UTILITY POLE
 - UTILITY POLE W/ TRANSFORMER
 - WATER LINE
 - WATER LINE GATE VALVE
 - WELL
 - EXISTING GRADE 1' CONTOUR
 - EXISTING GRADE 5' CONTOUR
 - PROPOSED FINISHED GROUND CONTOUR (1' INTERVALS)



14700 WEST 114TH TERRACE LENEXA, KANSAS 66215 PH. (913) 884-5150 FAX (913) 884-5977 kawvalley.com www.kawvalley.com		KAW VALLEY ENGINEERING	
KAW VALLEY ENGINEERING, INC. IS AUTHORIZED TO OFFER ENGINEERING SERVICES BY IOWA STATE CERTIFICATE OF AUTHORIZATION # 314844. EXPIRES 04/01/20			
VALLEY RIDGE APARTMENTS COLLEGE RD AND RAIL ROAD AVE. COUNCIL BLIFFS, IOWA 51503		DEVELOPMENT PLANS GRADING PLAN	
PROJ. NO. C17_9615		DESIGNER KGK DRAWN BY JON	
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THIS DRAWING SHALL NOT BE UTILIZED BY ANY PERSON, FIRM, OR CORPORATION IN WHOLE OR IN PART WITHOUT THE SPECIFIC PERMISSION OF KAW VALLEY ENGINEERING, INC.		REV DATE DESCRIPTION	
		A 9/10/18 INITIAL ISSUE	
		KGK JON	
		DSN DWN	
		MRO CHK	



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|  | SECTION CORNER |
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ORIGIN UNKNOWN UNLESS
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|  | CHAIN LINK FENCE |
| CMP | CORRUGATED METAL PIPE |
|  | DEADMAN ANCHOR |
|  | DECIDUOUS TREE |
| DS ^o | DOWN SPOUT |
| DIP | DUCTILE IRON PIPE |
| E/E | EDGE TO EDGE OF ASPHALT |
|  | ELECTRIC METER |
|  | ELECTRICAL TRANSFORMER |
|  | FLARED END SECTION |
|  | FIRE HYDRANT |
|  | GAS LINE SIGN |
| GP ^o | GATE POST |
| HRMP | HANDICAP RAMP |
| HDPE | HIGH DENSITY POLYETHYLENE |
|  | LIGHT POLE |
| MB ^o | MAIL BOX |
| (2)-OU | OVERHEAD UTILITY LINE (# OF LINES) |
| RCP | REINFORCED CONCRETE PIPE |
|  | SANITARY SEWER MANHOLE |
|  | STORM SEWER MANHOLE |
|  | STREET/TRAFFIC SIGN |
|  | TREE LINE |
|  | UNDERGROUND GAS |
|  | UNDERGROUND TELEPHONE |
|  | UTILITY POLE |
|  | UTILITY POLE W/ TRANSFORMER |
|  | WATER LINE |
|  | WATER LINE GATE VALVE |
|  | WELL |
| | |
| ---1009--- | EXISTING GRADE 1' CONTOUR |
| ---1010--- | EXISTING GRADE 5' CONTOUR |

- NOTES:
- 60 PRIVATE STORM SEWER
70 EX PUBLIC SANITARY SEWER MANHOLE
70A EXISTING 8" PUBLIC SANITARY SEWER MAIN
71 PUBLIC SANITARY SEWER MANHOLE
71A PROPOSED PUBLIC 8" SANITARY SEWER MAIN
72 6" SANITARY SEWER SERVICE LINE PVC SDR 26, SLOPE @
2.0% MINIMUM UNLESS OTHERWISE NOTED
80 POINT OF CONNECTION- 1" WATER SERVICE
80A 1" WATER LINE- HDPE SDR-9 (AWWA C901)
80B 1" WATER METER- CONTRACTOR TO COORDINATE ORDERING
AND INSTALLATION WITH THE CITY.
80C 1" VALVE
81 POINT OF CONNECTION - 4" WATER SERVICE
81A 4" WATER LINE - PVC AWWA C900
81B 4" WATER METER - CONTRACTOR TO COORDINATE ORDERING
AND INSTALLATION WITH THE CITY.
81C 4" VALVE
82 POINT OF CONNECTION - 6" FIRE SERVICE LINE
82A 6" FIRE SERVICE LINE - PVC AWWA C900
82B 6" GATE VALVE
84 FIRE HYDRANT ASSEMBLY (SEE SEPARATE WATER MAIN
PLANS)
85 PROPOSED PUBLIC 8" WATER MAIN
86 EXISTING PUBLIC WATER MAIN



1 NORTH ELEVATION
SCALE: 3/32" = 1'-0" (24X36 SHEET)



2 SOUTH ELEVATION
SCALE: 3/32" = 1'-0" (24X36 SHEET)



3 EAST ELEVATION
SCALE: 3/32" = 1'-0" (24X36 SHEET)

- FINISH MATERIALS**
- 30 YEAR ARCHITECTURAL SHINGLE ROOFING ON DECK AND PRE-MFR TRUSSES
 - VINYL WINDOWS (E-STAR RATED) WITH MFR-SHUTTERS
 - CEMENT BOARD SIDING ON SHEATHING AND WOOD STUD FRAMING
 - BRICK VENEER ON SHEATHING AND WOOD STUD FRAMING



4 WEST ELEVATION
SCALE: 3/32" = 1'-0" (24X36 SHEET)

ELEVATION KEY

Valley Ridge Apartments

A 60-Unit Family Community in Council Bluffs, Iowa

Parker Associates
Tulsa, LLC
2202 E. 49th St., Suite 200
Tulsa, OK 74105
(918)-742-2485

Zimmerman Properties LLC

1730 E. Republic Rd.
P.O. Box 3737
Springfield, MO. 65808

BRYAN E. HULST - ARCHITECT OF RECORD
IOWA LICENSE ARC 07536

SHEET: **AB1** BUILDING ELEVATIONS 09/10/2018



1 NORTH (FRONT) ELEVATION
SCALE: 1/4" = 1'-0" (24X36 SHEET)

2 SOUTH (BACK) ELEVATION
SCALE: 1/4" = 1'-0" (24X36 SHEET)

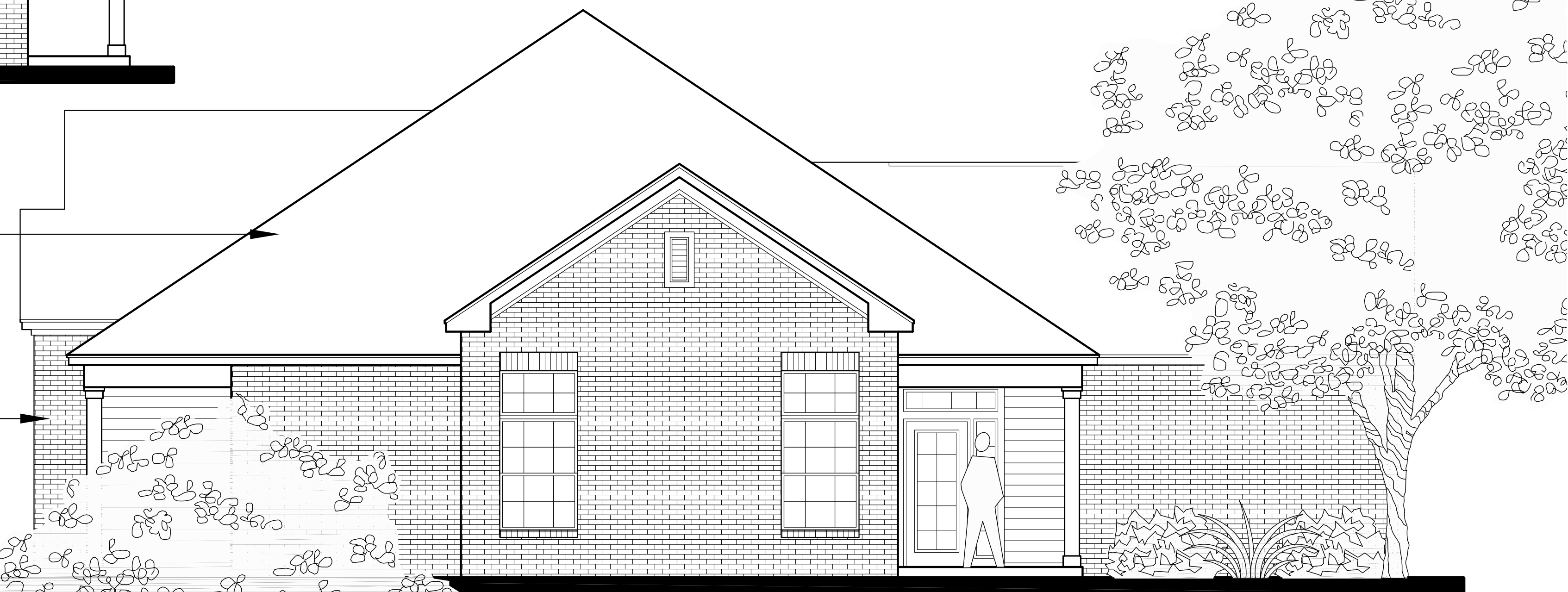
FINISH MATERIALS

30 YEAR ARCHITECTURAL SHINGLE
ROOFING ON DECK AND PRE-MFR
TRUSSES

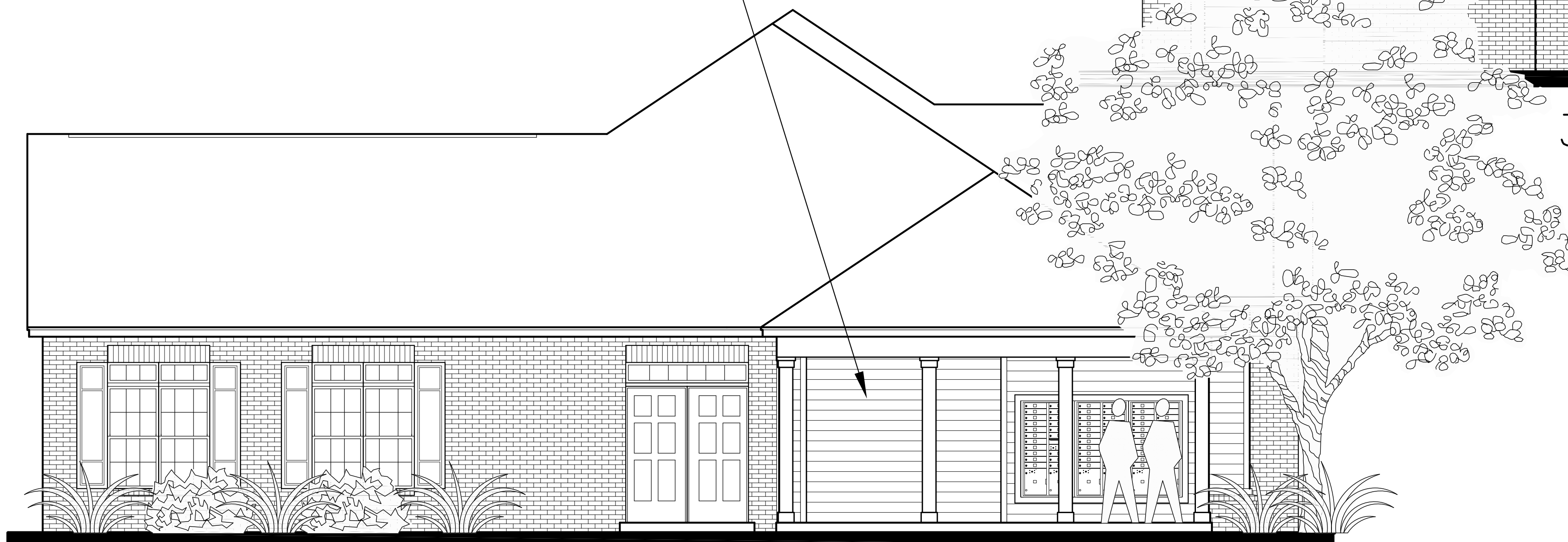
VINYL WINDOWS (E-STAR RATED) WITH
MFR-SHUTTERS

CEMENT BOARD SIDING ON SHEATHING
AND WOOD STUD FRAMING

BRICK VENEER ON SHEATHING AND
WOOD STUD FRAMING



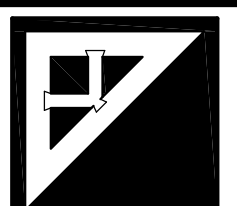
3 EAST (SIDE) ELEVATION
SCALE: 1/4" = 1'-0" (24X36 SHEET)



4 WEST (SIDE) ELEVATION
SCALE: 1/4" = 1'-0" (24X36 SHEET)

Valley Ridge Apartments

A 60-Unit Family Community in
Council Bluffs, Iowa



Parker Associates
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**Zimmerman
Properties
LLC**

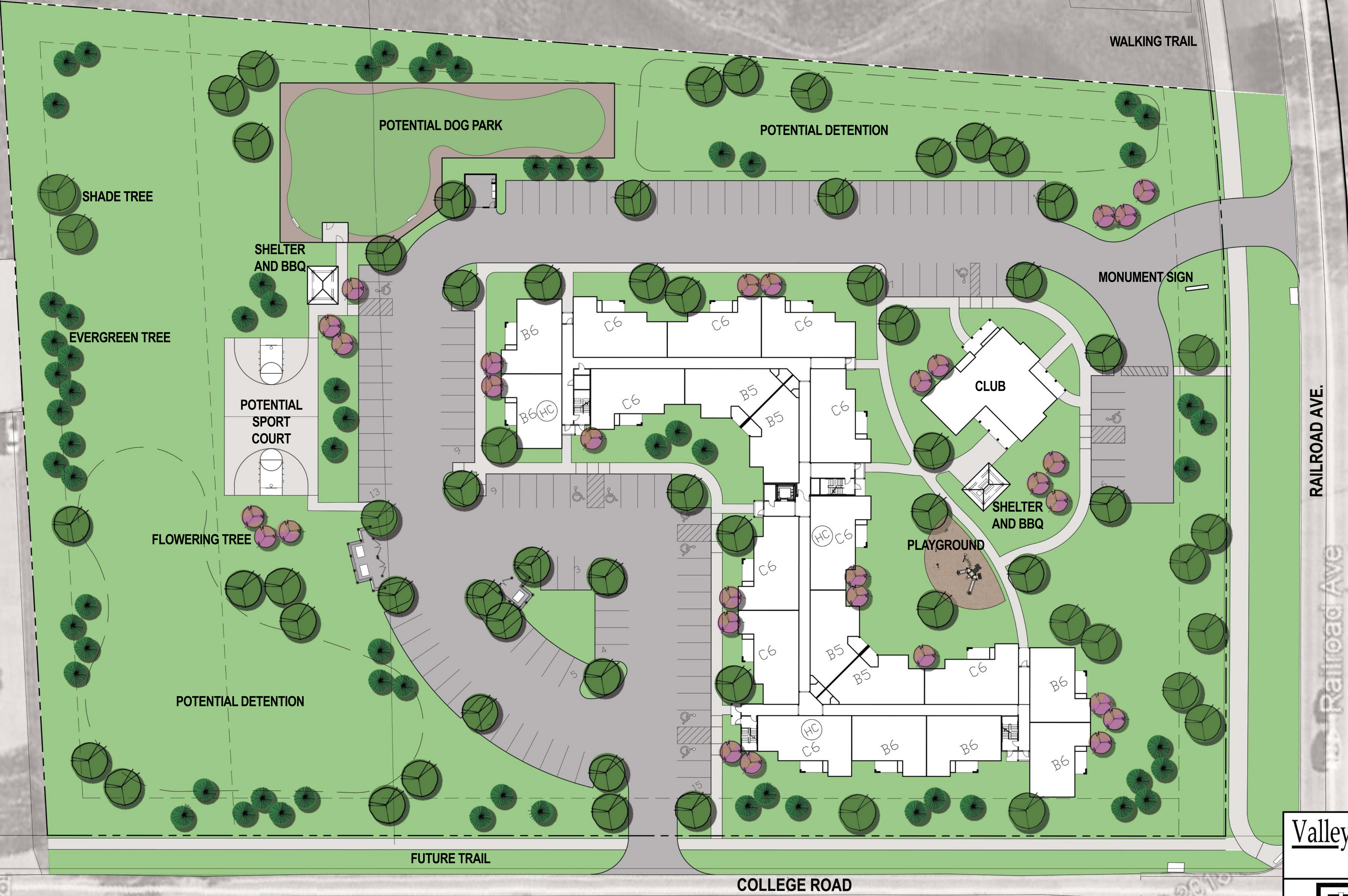
1730 E. Republic Rd.
P.O. Box 3737
Springfield, MO. 65808

BRYAN E. HULST — ARCHITECT OF RECORD
IOWA LICENSE ARC 07536

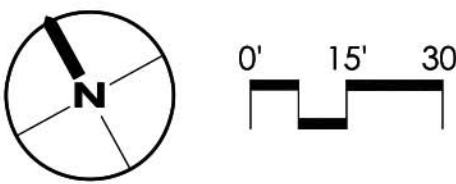
SHEET: **CA1** BUILDING ELEVATIONS 09/10/2018

PRELIMINARY PLANT SCHEDULE

- SHADE TREES:
SWAMP WHITE OAK
RED MAPLE
GINKGO
SYCAMORE
ALLEE ELM
ZELKOVA
- EVERGREEN TREES:
EASTERN WHITE PINE
ROCKY MOUNTAIN JUNIPER
DOUGLASS FIR
- FLOWERING TREES:
CRABAPPLE
SERVICE BERRY
REDBUD



PRELIMINARY LANDSCAPE PLAN



Valley Ridge Apartments

A 60-Unit Family Community in
Council Bluffs, Iowa



Parker Associates
Tulas, LLC
2202 E. 49th St. Suite 200
Tulsa, OK 74115
(918) 742-2485

BRYAN E. HULST - ARCHITECT OF RECORD
IOWA LICENSE ARC 07536

**Zimmerman
Properties
LLC**

1730 E. Republic Rd.
P.O. Box 3737
Springfield, MO. 65808

RESOLUTION NO. 18-285

A RESOLUTION OF NECESSITY AND INTENT TO ESTABLISH THE ARBOR CREEK REVITALIZATION AREA LEGALLY DESCRIBED AS PROPOSED LOT 2 OF ARBOR CREEK SUBDIVISION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, the subject area is an appropriate area as defined in Section 404.1.5 of the Iowa Code; and

WHEREAS, a proposal has been submitted for the construction of a multi-family residential project on the vacant land; and

WHEREAS, a plan for the area must be developed in accordance with Section 404.2 of the Iowa Code; and

WHEREAS, thirty days notice of public hearing is required to be sent to all property owners and occupants within the area; and

WHEREAS, notice of public hearing is also required in accordance with Section 362.3 of the Iowa Code.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the development of the area is necessary in the interest of the City and the area substantially meets the criteria of Section 404.1.5.

BE IT FURTHER RESOLVED

That the City Council directs staff to prepare a final plan pursuant to Section 404.2 of the Iowa Code by October 25, 2018.

BE IT FURTHER RESOLVED

That the City Council directs the City Clerk to set this matter for public hearing on November 26, 2018.

**ADOPTED
AND
APPROVED:**

October 8, 2018

Matthew J. Walsh Mayor

ATTEST:

Jodi Quakenbush City Clerk

Council Communication

Department: City Clerk

Case/Project No.:

Submitted by: Matthew J. Walsh

Mayor's Appointments

Council Action: 10/8/2018

Description

- 1) Citizen/Police Advisory Board
- 2) Historic Preservation Commission
- 3) Zoning Board of Adjustment

Background/Discussion

CITIZEN/POLICE ADVISORY BOARD

Reappoint the following with terms expiring 10/27/2024:

Lucile Gersevic
1604 S 10th St

Kenneth D Sewing
1301 Marshall Av

Greg Andersen Sr
14 Euclid Av

HISTORIC PRESERVATION COMMISSION

Appoint the following with term expiring 12/31/2021:

Sarah Young
533 Trail Ridge St

ZONING BOARD OF ADJUSTMENT

Appoint the following with term expiring 04/01/2023:

David Tritsch
203 Norwood Dr

Recommendation

Council Communication

Department: City Clerk

Case/Project No.:

Submitted by:

Claims

Council Action: 10/8/2018

Description

Background/Discussion

Recommendation

ATTACHMENTS:

Description

Notice of Claims

Type

Other

Upload Date

10/2/2018

RETURN TO: CITY OF COUNCIL BLUFFS, IOWA
ATTN: CITY LEGAL DEPARTMENT
OR CITY CLERK
209 PEARL STREET
COUNCIL BLUFFS, IA 51503

CITY CLAIM NO. 18-PD-1916

NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: Jasmine Rene Rodriguez DAY PHONE: (402) 216 3904
ADDRESS: 3392 center st. Omaha NE 68105 DOB: 09.17.1991

DATE & TIME OF LOSS/ACCIDENT: 1:40pm 9.15.2018

LOCATION OF LOSS/ACCIDENT: 135 W. Broadway

DESCRIPTION OF LOSS/ACCIDENT: Will attach description in separate email.

(USE BACK OF FORM, IF NECESSARY)

TOTAL DAMAGES CLAIMED: I haven't had it inspected

WITNESS(ES) (Name(s), Address(es), Phone No(s)) Nitch Myers, (402) 650-9826
Virginia Barnette (712) 890-7466

WAS POLICE REPORT FILED ☒ YES ☐ NO

IF MEDICAL ATTENTION WAS REQUIRED, PLEASE PROVIDE NAME, ADDRESS, AND TELEPHONE NO. OF TREATING PHYSICIAN AND FACILITY:

UNMC emergency room 4305 Dewey ave 68198 Omaha NE

HAVE YOU RESUMED NORMAL ACTIVITIES? ☐ YES ☒ NO

IF YOU INCURRED PROPERTY DAMAGE, PLEASE DESCRIBE AND PROVIDE COPIES OF ESTIMATES, INVOICES, PHOTOGRAPHS, AND ANY

OTHER RELEVANT INFORMATION: I have not had the means to take action on my behalf. I've even lost my job because of this. I will as soon as this claim is filed through OSD, or I can get drivers insurance info.

LIST INSURANCE PROVIDER AND COVERAGE: Allstate. Danny Schultz. (402) 332-0444 (w) cov.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IN SUPPORT OF MY CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

NOTE: IT IS A FRAUDULENT PRACTICE PUNISHABLE BY FINE OR IMPRISONMENT TO KNOWINGLY MAKE A FALSE CLAIM (SECTION 714.8(3) CODE OF IOWA)

09-18-18
DATE

CLAIMANT'S SIGNATURE

CLERK RCD
19 SEP'18
PM 2:20

SEP 19

RETURN TO: CITY OF COUNCIL BLUFFS, IOWA
ATTN: CITY LEGAL DEPARTMENT
OR CITY CLERK
209 PEARL STREET
COUNCIL BLUFFS, IA 51503

CITY CLAIM NO. 18-PK-1915

NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: CATHLEEN TIMM DAY PHONE: 402-699-1929
ADDRESS: 4624 NAVAJO ST, APT 12 DOB: 9-9-42
DATE & TIME OF LOSS/ACCIDENT: WEEK OF SEPT 1, 2018
LOCATION OF LOSS/ACCIDENT: 3725 + 3727 4TH AVE
DESCRIPTION OF LOSS/ACCIDENT: ~~DAMAGE~~ CITY IS DOING WORK TO DODGE RIVERSIDE GOLF COURSE. DURING WEEK OF SEPT 1ST, AREA EXPERIENCED HEAVY RAIN STORMS. DUE TO GOLF COURSE WORK, WATER SPILLED OFF OF WORK AREA AND INTO MY DUPLEX PROPERTY. HAS NEVER HAPPENED BEFORE. (USE BACK OF FORM, IF NECESSARY)
TOTAL DAMAGES CLAIMED: \$
WITNESS(ES) (Name(s), Address(es), Phone No(s)): SUZANNE DAVIDSON 712 328 3296

WAS POLICE REPORT FILED ☐ YES ☒ NO

IF MEDICAL ATTENTION WAS REQUIRED, PLEASE PROVIDE NAME, ADDRESS, AND TELEPHONE NO. OF TREATING PHYSICIAN AND FACILITY:

NO MEDICAL ATTENTION REQUIRED

HAVE YOU RESUMED NORMAL ACTIVITIES? ☒ YES ☐ NO

IF YOU INCURRED PROPERTY DAMAGE, PLEASE DESCRIBE AND PROVIDE COPIES OF ESTIMATES, INVOICES, PHOTOGRAPHS, AND ANY OTHER RELEVANT INFORMATION:

DAMAGE TO EXTERIOR PAINTING & WOOD
WATER DAMAGE TO INTERIOR. SEE ESTIMATES OF ALL DAMAGED ITEMS.

LIST INSURANCE PROVIDER AND COVERAGE:

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IN SUPPORT OF MY CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

NOTE: IT IS A FRAUDULENT PRACTICE PUNISHABLE BY FINE OR IMPRISONMENT TO KNOWINGLY MAKE A FALSE CLAIM (SECTION 714.8(3) CODE OF IOWA)

9/17/18
DATE

Cathleen Timm
CLAIMANT'S SIGNATURE

*With the other (last) two floods in this area,
I had no run off from Dodge Park*

SEP 18
4:57 pm

CLERK RCVD
19 SEP 18

PM2:19

RETURN TO: CITY OF COUNCIL BLUFFS, IOWA
ATTN: CITY LEGAL DEPARTMENT
OR CITY CLERK
209 PEARL STREET
COUNCIL BLUFFS, IA 51503

CITY CLAIM NO. 18-PW-1917

NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: John Skunk DAY PHONE: 402-813-1110
ADDRESS: 813 College Road DOB: 12-24-54

DATE & TIME OF LOSS/ACCIDENT: 1995 to 2018

LOCATION OF LOSS/ACCIDENT: 813 College Road driveway and street

DESCRIPTION OF LOSS/ACCIDENT: Drainage tube pushing up driveway approach as the results of cleaning ditch by digging. Every time dirt is removed the tube pushed up causing a large and dangerous bump.
(USE BACK OF FORM, IF NECESSARY)

TOTAL DAMAGES CLAIMED: \$ Estimated \$300.00 if done by road crew repaving street now

WITNESS(ES) (Name(s), Address(es), Phone No(s)): Gerald Pond, 3444 3rd Ave CB, IA 51501 402-511-0423

Lynn Skunk, 813 College Road CB, IA 51503 402-541-9307

Arden Ellis, 20214 Victoria Drive 712-322-7235, Many more upon request

WAS POLICE REPORT FILED ☐ YES ☒ NO N/A

IF MEDICAL ATTENTION WAS REQUIRED, PLEASE PROVIDE NAME, ADDRESS, AND TELEPHONE NO. OF TREATING PHYSICIAN AND FACILITY:

N/A

HAVE YOU RESUMED NORMAL ACTIVITIES? ☐ YES ☒ NO N/A

IF YOU INCURRED PROPERTY DAMAGE, PLEASE DESCRIBE AND PROVIDE COPIES OF ESTIMATES, INVOICES, PHOTOGRAPHS, AND ANY

OTHER RELEVANT INFORMATION: See attached

LIST INSURANCE PROVIDER AND COVERAGE: State Farm Insurance - Property Insurance

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IN SUPPORT OF MY CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

NOTE: IT IS A FRAUDULENT PRACTICE PUNISHABLE BY FINE OR IMPRISONMENT TO KNOWINGLY MAKE A FALSE CLAIM (SECTION 714.8(3) CODE OF IOWA)

9-19-18
DATE

John Skunk
CLAIMANT'S SIGNATURE

CLERK RCD

19 SEP'18

PM2:19

SEP 19

Council Communication

Department: City Clerk
Case/Project No.: ZC-18-012
Submitted by: Chris Meeks,
Planner

Ordinance 6349

Council Action: 10/8/2018

Description

Ordinance to amend the zoning map as adopted by reference in Section 15.02.070 by rezoning property legally described as being part of Lot 2, Auditor's Subdivision of the SE1/4 SW1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE1/4 NW1/4 of Section 32-75-43, from R-3/Low Density Multifamily Residential District to C-2/Commercial District defined in Chapter 15.15. Location: 1600 McPherson Avenue. ZC-18-012

Background/Discussion

See attachment.

Recommendation

See attachment.

ATTACHMENTS:

Description	Type	Upload Date
ZC-18-012 Staff Report Including Attach A and B	Other	9/12/2018
Ordinance 6349	Ordinance	9/18/2018

Council Communication

Department: Community Development CASE # ZC-18-012 Applicant/Property Owner: Indian Hills Holdings, Inc. Attn: Neal Drickey 2023 South 181 st Circle Omaha, NE 68130 Representative: Paul J. Kelly Architecture Attn: Paul J. Kelly 440 N. 61 st Street Omaha, NE 68132	Ordinance No. _____	City Council: 9/24/18 Planning Commission: 9/11/18
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Subject/Title

Request: Public hearing on the request of Indian Hills Holdings, Inc., represented by Paul J. Kelly Architecture, to rezone property legally described as being part of Lot 2, Auditor's Subdivision of the SE1/4 SW1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE1/4 NW1/4 of Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa from R-3/Low Density Multifamily Residential District to C-2/Commercial District. Said property being more particularly described as follows: Commencing at the southwest corner of the SE1/4 SW1/4 of said Section 29, thence East 520.36 feet along the South line of the SE1/4 SW1/4 of said Section 29; thence North 0°52'05" W, 16.00 feet to the point of beginning; thence Northwesterly 58.55 feet along a 785.48 foot radius curve to the right whose chord is North 39°40'37" West, 58.53 feet, said curve being the Northeasterly right-of-way of McPherson Avenue; thence along said right-of-way North 37°32'30" W, 291.45 feet; thence North 35°26'26" East, 355.92 feet; thence North 0°52'05" West, 29.33 feet, thence North 89°58'59" East, 292.67 feet; thence South 0°49'43" East, 433.41 feet; thence South 89°10'17" West, 75.00 feet; thence North 11°39'19" West, 300 feet to the Northeasterly right-of-way of McPherson Avenue; thence Northwesterly 203.92 feet along said right-of-way along a 785.48 foot radius curve to the right whose chord is North 49°14'58" West, 203.34 feet to the point of beginning, except that part in streets, roads, and highways. Location: 1600 McPherson Avenue.

Location: 1600 McPherson Avenue

Background

The Community Development Department has received an application from Indian Hills Holdings, Inc. and Neal Drickey, represented by Paul J. Kelly of Paul J. Kelly Architecture, to rezone the property legally described as being the East 292.67 Feet of the Southerly 566 Feet of Lot 2, excluding the South 178 Feet of the East 74.87 Feet, Auditor's Subdivision of the SE ¼ of the SW ¼ of Section 29-75-43; The 355.92 Foot by 291.45 Foot Triangle in the Southeast Corner of Lot 1, Auditor's Subdivision of the SE ¼ of the SW ¼ of Section 29-75-43; and the Westerly 203.92 Feet of Lot 1, Auditor's Subdivision of the Northeast ¼ of the Northwest ¼ of Section 32-75-43 from R-3/Low Density Multi-Family Residential District to C-2/Commercial District. The applicant is proposing this rezoning to allow an existing building on the site to be renovated and converted from its current state, a vacant nursing home, to a commercial storage

building. Commercial Storage is not a permitted use in the R-3/Low Density Residential District, but would be considered a conditional use in the C-2/Commercial District.

Land Use and Zoning

The following zoning districts and land uses surround the subject properties:

North: Residential structures that are zoned in the R-1/Single Family Residential District.

South: A combination of commercial and residential buildings located in the C-1/Commercial District and R-1/Single Family Residential District.

East: A combination of undeveloped property and residential properties located in the R-1/Single Family Residential District.

West: Residential properties and St. Albert Jr/Sr. High School that are located in the R-1/Single Family Residential District.

The future land use plan of the Bluffs Tomorrow 2030 (comprehensive Plan) designates the subject property as High Density Residential.

Public notices were mailed to all property owners within 200 feet of the request. No comments were received for the request.

All City Departments and local utilities were notified of the proposed rezoning. The following comments were received:

- The Council Bluffs Fire Marshall stated they have no comments on the request.
- The Permits and Inspections Division stated they have no comments on the request.
- The Public Works Department stated they have no comments regarding the rezoning request.
- Council Bluffs Water Works stated the building has water service, but it has been shut off. The developer will need to contact Council Bluffs Water Works with any questions regarding the water service.
- MidAmerican Energy stated they have no objections to the request.

The following attachments are included with the case staff report:

Attachment A: Location/zoning map

Attachment B: Proposed Building Renderings and Site Plans

Discussion

1. While the proposed rezoning is not directly consistent with the Future Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan, the property is adjacent to area designated for commercial uses.
2. Adequate utilities (e.g., water, sanitary sewer, electric, etc.) are available to accommodate the uses permitted in the C-2/Commercial District.
3. The rezoning of the property will allow a vacant building to be renovated to serve a new purpose. The building may not otherwise suit the needs of a future developer, and would have required demolition.
4. Prior to being used for commercial storage, a Conditional Use Permit will need to be approved by the Zoning Board of Adjustment.

Recommendation

The Community Development Department recommends approval of the request to rezone property legally described as being part of Lot 2, Auditor's Subdivision of the SE1/4 SW1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE1/4 NW1/4 of Section 32-75-43, said property being more particularly described as follows: Commencing at the southwest corner of the SE1/4 SW1/4 of said Section 29, thence East 520.36 feet along the South line of the SE1/4 SW1/4 of said Section 29; thence

North 0°52'05" W, 16.00 feet to the point of beginning; thence Northwesterly 58.55 feet along a 785.48 foot radius curve to the right whose chord is North 39°40'37" West, 58.53 feet, said curve being the Northeasterly right-of-way of McPherson Avenue; thence along said right-of-way North 37°32'30" W, 291.45 feet; thence North 35°26'26" East, 355.92 feet; thence North 0°52'05" West, 29.33 feet, thence North 89°58'59" East, 292.67 feet; thence South 0°49'43" East, 433.41 feet; thence South 89°10'17" West, 75.00 feet; thence North 11°39'19" West, 300 feet to the Northeasterly right-of-way of McPherson Avenue; thence Northwesterly 203.92 feet along said right-of-way along a 785.48 foot radius curve to the right whose chord is North 49°14'58" West, 203.34 feet to the point of beginning, except that part in streets, roads, and highways, from R-3/Low Density Multi-Family Residential District to C-2/Commercial District, based on reasons stated above.

Public Hearing

Speakers in favor:

1. Paul Kelly, Paul J. Kelly Architecture, 440 North 61st Street, Omaha, NE 68132
2. Clint Brunow, 16935 State Orchard Road, Council Bluffs, IA 51503

Speakers against: None.

Planning Commission Recommendation

The Planning Commission recommends approval of the request to rezone property legally described as being part of Lot 2, Auditor's Subdivision of the SE1/4 SW1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE1/4 NW1/4 of Section 32-75-43, said property being more particularly described as follows: Commencing at the southwest corner of the SE1/4 SW1/4 of said Section 29, thence East 520.36 feet along the South line of the SE1/4 SW1/4 of said Section 29; thence North 0°52'05" W, 16.00 feet to the point of beginning; thence Northwesterly 58.55 feet along a 785.48 foot radius curve to the right whose chord is North 39°40'37" West, 58.53 feet, said curve being the Northeasterly right-of-way of McPherson Avenue; thence along said right-of-way North 37°32'30" W, 291.45 feet; thence North 35°26'26" East, 355.92 feet; thence North 0°52'05" West, 29.33 feet, thence North 89°58'59" East, 292.67 feet; thence South 0°49'43" East, 433.41 feet; thence South 89°10'17" West, 75.00 feet; thence North 11°39'19" West, 300 feet to the Northeasterly right-of-way of McPherson Avenue; thence Northwesterly 203.92 feet along said right-of-way along a 785.48 foot radius curve to the right whose chord is North 49°14'58" West, 203.34 feet to the point of beginning, except that part in streets, roads, and highways, from R-3/Low Density Multi-Family Residential District to C-2/Commercial District, based on reasons stated above.

VOTE: AYE 7 NAY 0 ABSTAIN 0 ABSENT 0 VACANT 4 Motion: Carried

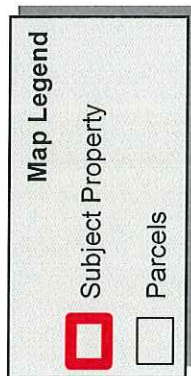
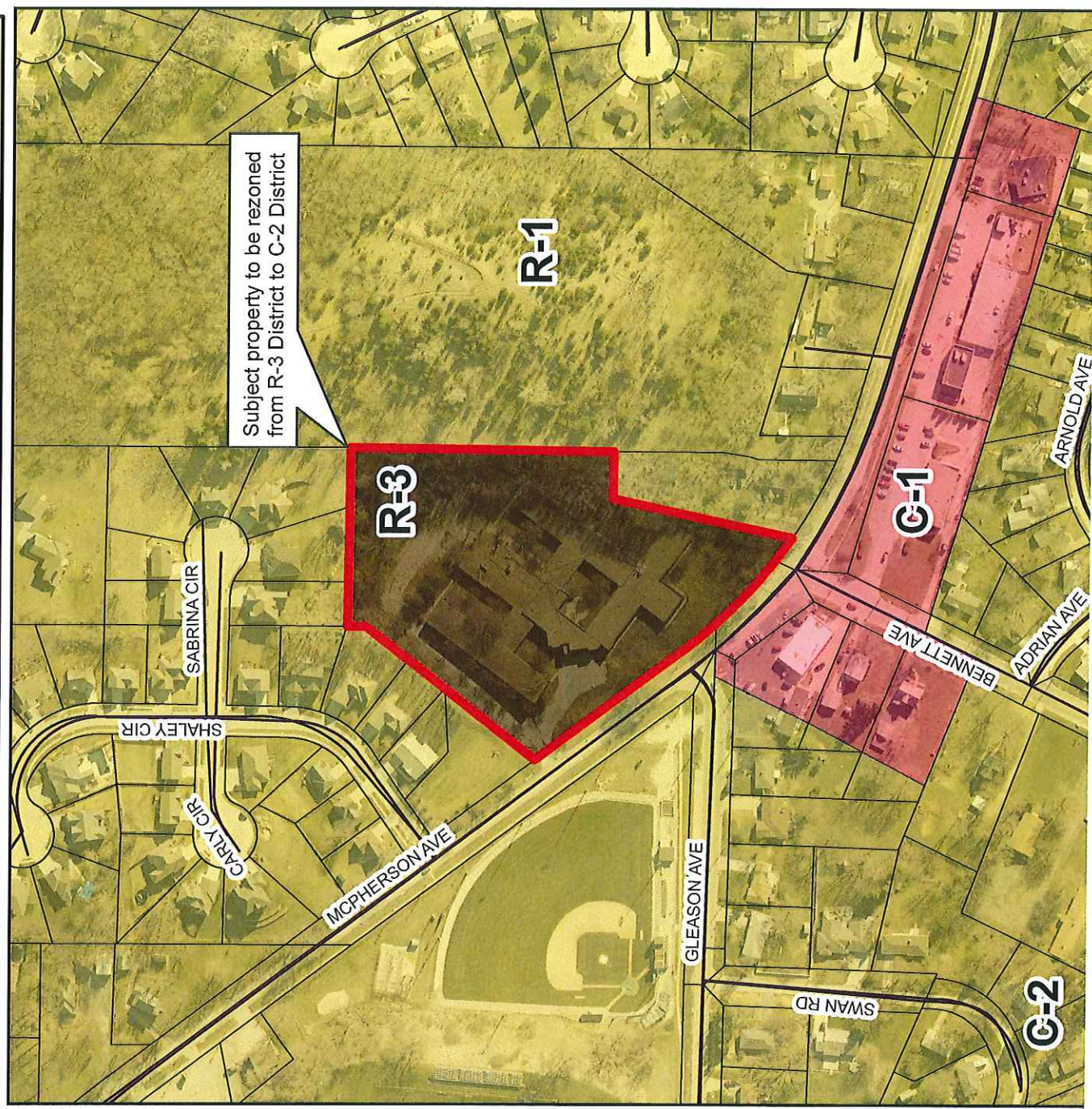
Attachments

Attachment A: Location/zoning map

Attachment B: Proposed Building Renderings and Site Plans

Prepared by: Chris Meeks, Planner

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION CASE #ZC-18-012 LOCATION/ZONING MAP



Last Amended: 8/21/18

DISCLAIMER
This map is prepared and compiled from City documents, plans and other public information. The City does not warrant, represent or guarantee the accuracy, completeness or timeliness of the information contained on this map. The user of this map assumes all responsibility for the information contained on this map.

Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328-4629

Attachment B

NEW PERIMETER BUILDINGS AT EXISTING PARKING AREAS WITH MANSARD ROOFS, BRICK WAINSCOT & PIERS, AND LAP SIDING AT SITE PERIMETER ELEVATIONS.

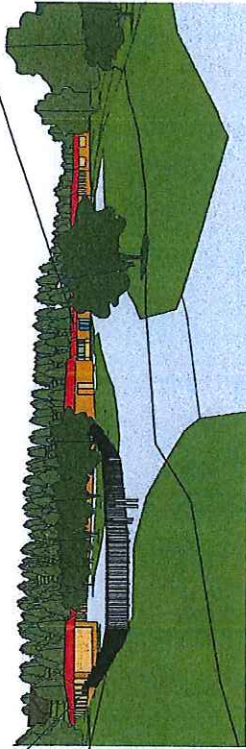
NEW PRESS POINT FENCING WITH MOTORIZED GATE AT MCPHERSON AVENUE ENTRANCE AND ALONG THE WEST PROPERTY LINE.



Existing Southwest Aerial View

NEW PERIMETER BUILDINGS AT EXISTING PARKING AREAS WITH MANSARD ROOFS, BRICK WAINSCOT & PIERS, AND LAP SIDING AT SITE PERIMETER ELEVATIONS.

NEW PRESS POINT FENCING WITH MOTORIZED GATE AT MCPHERSON AVENUE ENTRANCE AND ALONG THE WEST PROPERTY LINE.



Entry View

BUSINESS OFFICE ACCESS AT EXISTING SOUTH ENTRANCE

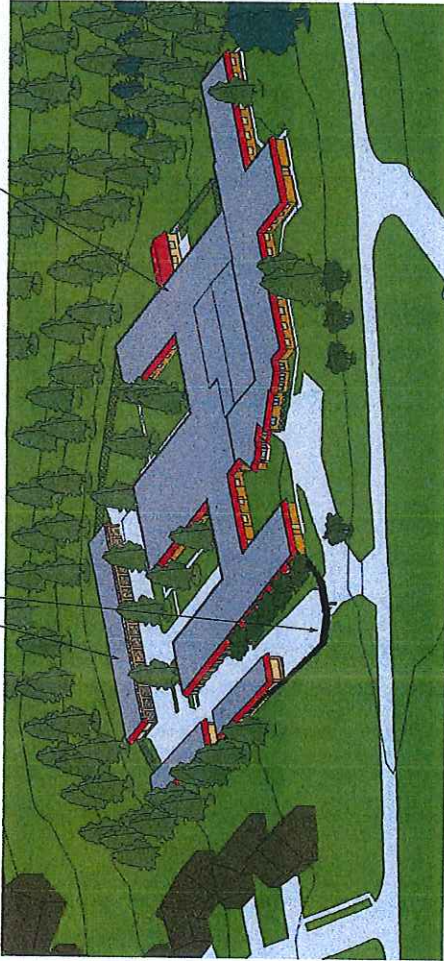


Existing Southeast Aerial View

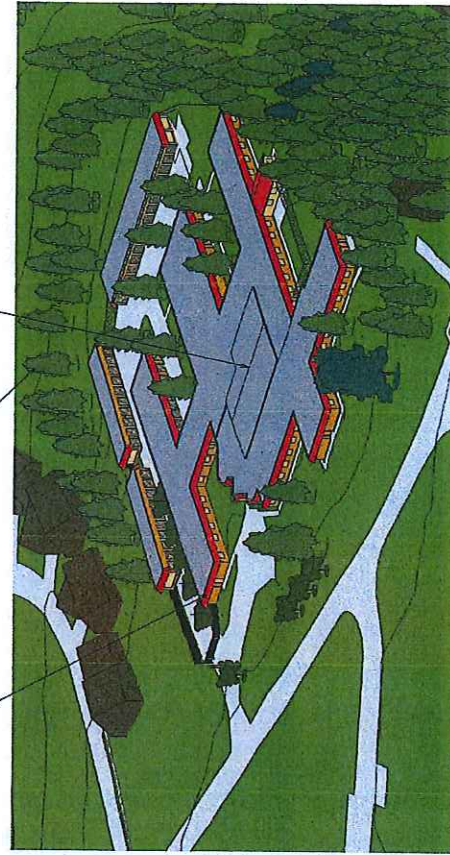
EXISTING BUILDING TO BE ADAPTED FOR RE-USE AS A SELF-STORAGE FACILITY

EXISTING PERIMETER TREE BUFFER TO REMAIN

EXISTING COURTYARD INFILLED WITH LOW PROFILE ROOF



Aerial View from Southwest



Aerial View from Southeast

Indian Hills Storage

Indian Hills Holdings, Inc.
1600 McPherson Ave, Council Bluffs, Iowa 51503



Paul J. Kelly
Architecture
440 North 4th Street
Council Bluffs, Iowa 51503
319.333.1111
pk@pkarch.com
10-02-01
12-April-2018

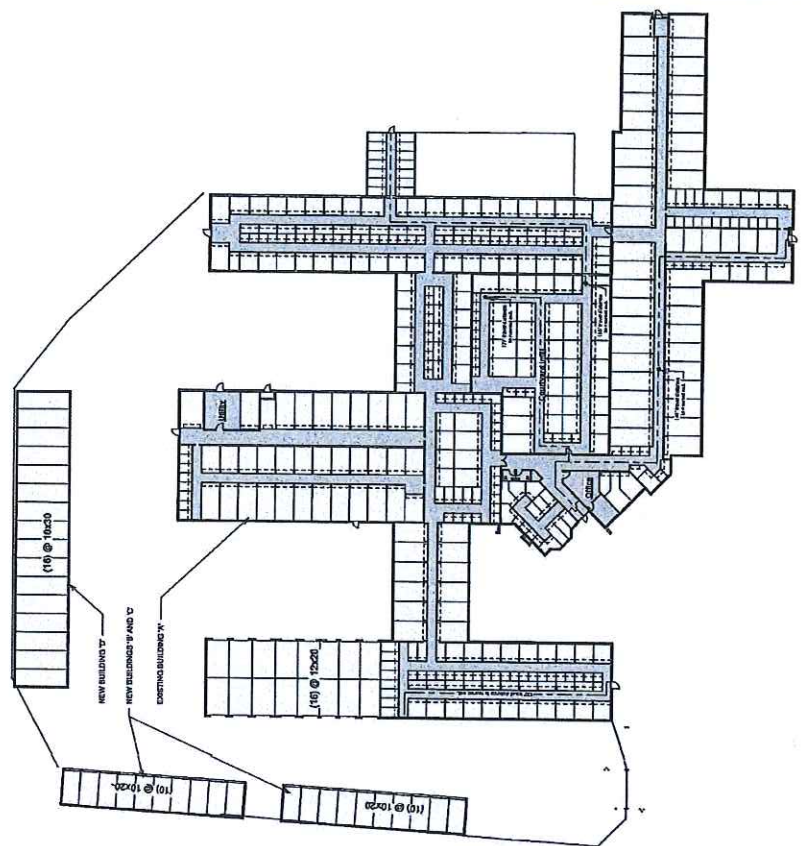
Existing Site: 232,348 sf

Impervious Coverage (Existing): 90,700 sf (40%)
 Impervious Coverage (Max Buildings): 116,174 sf (max 50% allowed)
 Existing Building: 54,693 sf (23.5%)
 Proposed Additions: 15,360 sf (6.6%)
 Total Proposed Bldg Coverage: 70,053 sf (30.1%)

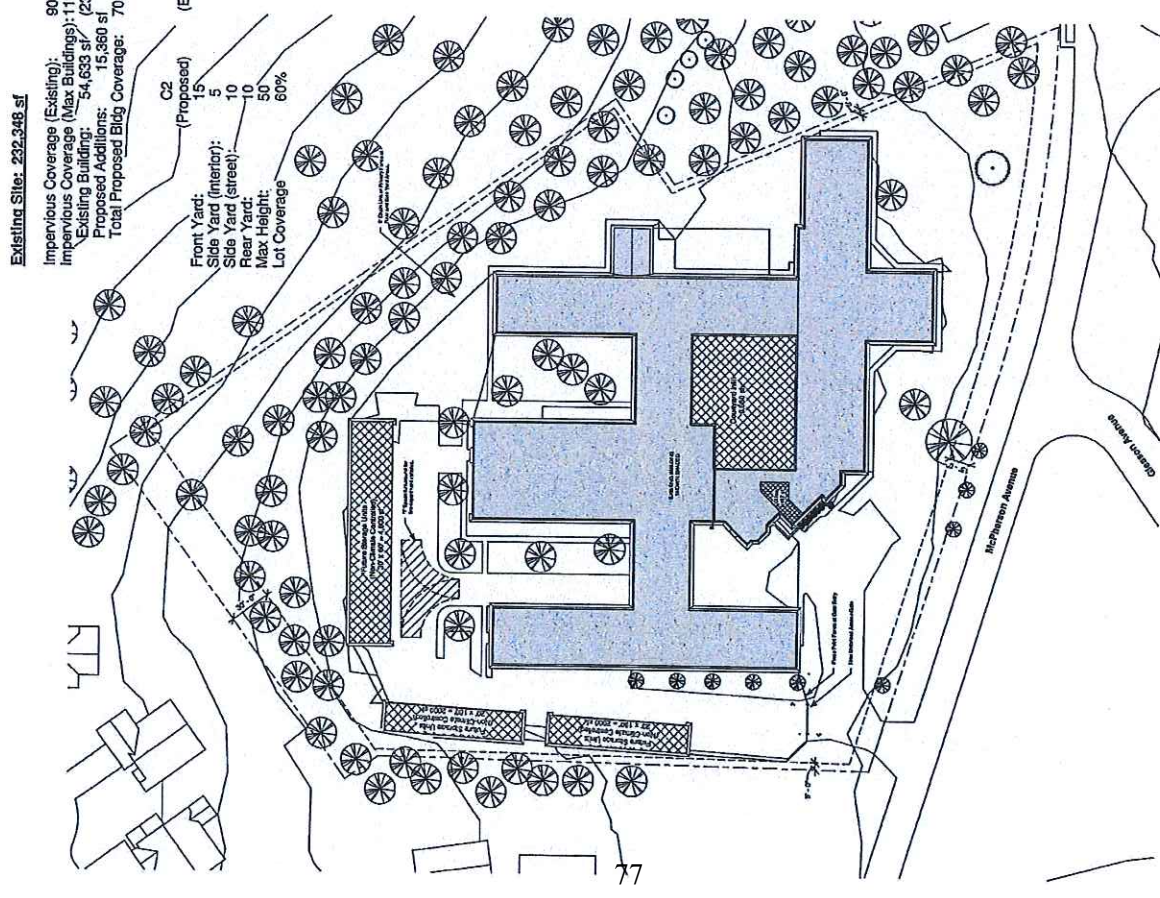
Front Yard: 20
 Side Yard (Interior): 15
 Side Yard (Street): 10
 Rear Yard: 10
 Max Height: 60
 Lot Coverage: 45%

Indian Hills - Unit Mix									
Climate Controlled									
Unit Size	Unit SF	A	B	C	D	Total SF			
3 x 5	25	127				3,175			
5 x 7	35	81				4,025			
5 x 10	50					5,000			
10 x 10	100	130				13,000			
10 x 15	150	46				6,900			
10 x 20	200	45				9,000			
10 x 23	230	35				5,280			
12 x 20	240	36				5,840			
Subtotal:						41,203			
Non Climate Controlled									
Unit Size	Unit SF	A	B	C	D	Total SF			
10 x 1	30					3,000			
10 x 10	100					10,000			
10 x 15	150					15,000			
10 x 20	200					20,000			
10 x 23	230					23,000			
Subtotal:						61,000			
Total:						102,203			

PROPOSED PLANS		
No.	Description	Date



2. PROPOSED FLOOR PLAN
 T = 30'-0"



1. SITE PLAN - PROPOSED
 T = 60'-0"



Paul J. Kelly
 Architecture
 440 North 6th Street
 Omaha, Nebraska 68132
 (402) 233-4121
 paul@pkj.com

Project No. 180041
 Date 11 August 2018

Indian Hills Storage

Indian Hills Holdings, Inc.
 1600 McPherson Ave, Council Bluffs, Iowa 51503

Master Planning

ORDINANCE NO. 6349

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.070 OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REZONING PROPERTY LEGALLY DESCRIBED AS BEING PART OF LOT 2, AUDITOR'S SUBDIVISION OF THE SE1/4 SW1/4 OF SECTION 29-75-43, AND A PART OF LOT 1, AUDITOR'S SUBDIVISION OF THE NE1/4 NW1/4 OF SECTION 32-75-43, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA FROM R-3/LOW DENSITY MULTIFAMILY RESIDENTIAL DISTRICT TO C-2/COMMERCIAL DISTRICT AS DEFINED IN CHAPTER 15.15 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.070 of the 2015 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended to rezone property legally described as being part of Lot 2, Auditor's Subdivision of the SE1/4 SW1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE1/4 NW1/4 of Section 32-75-43, City of Council Bluffs, Pottawattamie County, Iowa, and more particularly described as follows: Commencing at the southwest corner of the SE1/4 SW1/4 of said Section 29, thence East 520.36 feet along the South line of the SE1/4 SW1/4 of said Section 29; thence North 0°52'05" W, 16.00 feet to the point of beginning; thence Northwesterly 58.55 feet along a 785.48 foot radius curve to the right whose chord is North 39°40'37" West, 58.53 feet, said curve being the Northeasterly right-of-way of McPherson Avenue; thence along said right-of-way North 37°32'30" W, 291.45 feet; thence North 35°26'26" East, 355.92 feet; thence North 0°52'05" West, 29.33 feet, thence North 89°58'59" East, 292.67 feet; thence South 0°49'43" East, 433.41 feet; thence South 89°10'17" West, 75.00 feet; thence North 11°39'19" West, 300 feet to the Northeasterly right-of-way of McPherson Avenue; thence Northwesterly 203.92 feet along said right-of-way along a 785.48 foot radius curve to the right whose chord is North 49°14'58" West, 203.34 feet to the point of beginning, except that part in streets, roads, and highways, City of Council Bluffs, Pottawattamie County, Iowa, from R-3/Low Density Multifamily Residential District to C-2/Commercial District as defined in Chapter 15.15 of the Municipal Code of Council Bluffs, Iowa.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

ADOPTED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 9-24-18

Second Consideration: 10-8-18

Public Hearing: 10-8-18

Third Consideration: _____

Council Communication

Department: Community
Development

Case/Project No.: SAV-18-013

Submitted by: Chris Meeks,
Planner

Resolution 18-286

Council Action: 10/8/2018

Description

Resolution to vacate and dispose of that 66' by 252' Section of 26th Avenue right-of-way extending from the West of the westerly right-of-way line of the South 13th Street, and located between Blocks 54 and 59, Railroad Addition. Location: South of property addressed at 2532 South 13th Street. SAV-18-013

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
SAV-18-013 Hansen Staff Report Including Attach A and B	Other	9/25/2018
Resolution 18-286	Resolution	9/28/2018

Council Communication

<p>Department: Community Development</p> <p>Case #SAV-18-013</p> <p>Property Owner: John Kilnoski 1403 McPherson Avenue Council Bluffs, IA 51503</p> <p>Applicant: Larry Hansen P.O. Box 492 Council Bluffs, IA 51502</p>	<p>Resolution of Intent No. _____</p> <p>Resolution to Dispose No. _____</p>	<p>City Council: 09/24/18</p> <p>Planning Commission: 09/11/18</p> <p>Set Public Hearing: 09/24/18</p> <p>Public Hearing: 10/8/18</p>
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Subject/Title

Request: Public hearing on the request of Larry Hanson to vacate and dispose of a 66' x 252' section of unimproved 26th Avenue right-of-way, located between Blocks 54 and 59, Railroad Addition and west of South 13th Street right-of-way.

Location: South of property addressed at 2532 South 13th Street.

Background

The Community Development Department has received an application from Larry Hansen, representing John Kilnoski, to vacate and dispose of an unimproved section of 26th Avenue located West of South 13th Street. The applicant wishes to vacate this section of right-of-way to allow him additional land area to develop the property directly south of the proposal with single family dwellings.

The following attachments have been included for reference:

Attachment A: Location and Zoning Map

Attachment B: Site Photos

On August 25, 2003, the City Council amended the adopted *Policy and Procedures for Alley, Street and Right-of-way Vacations*. The objectives of the amended Policy are as follows:

1. *To provide due process and citizen participation in the application and review process for vacations.*
There are two property owners with land that abuts the subject right-of-way. The owners of these properties are as follows:
North – Residential property owned by Paul and Lynda Lewis
South – Undeveloped property owned by John Kilnoski

All abutting property owners were mailed petitions asking if they are in favor of/opposed to and/or willing to/not willing to acquire the portion of the alley that abuts their property, if vacated. Responses to these petitions are summarized in Comment #10 below.

2. *To ensure that no property owner is deprived of required and reasonable access.*
Both adjacent properties have frontage on to South 13th Street. The property to the north, addressed as 2532 South 13th Street, appears to have a driveway on the subject right-of-way that is used to access accessory structures in the rear yard. The property owner has indicated they are not willing to acquire their portion of right-of-way, and may need to find other means of accessing the accessory structures behind their house.

The Community Development Department has contacted the applicant and made them aware that the proposed vacation request will restrict access to the accessory structures on property addressed as 2532 S. 13th Street. Through these discussions, the applicant has agreed that as part of the final platting process they will dedicate the land where the existing driveway is located to this property owner. The Community Development Department supports this approach by the applicant and recommends that the right-of-way not be disposed of until the applicant has an approved final plat. This will insure that the property owner at 2532 S. 13th Street can maintain access to their accessory structures.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.* This request will not create a dead-end right-of-way, as the request is to vacate the entirety of the 26th Avenue right-of-way between South 13th Street and the levee right-of-way of Indian Creek.
4. *To reduce or eliminate hazardous and dangerous traffic conditions.* The subject right-of-way is unimproved and is not used for vehicular and/or pedestrian traffic.

5. *To protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements.*

All City Departments and utilities were notified of the request. The following responses were received:

- Public Works Department noted there are utilities in the right-of-way of South 13th Street, and stated that the levee right-of-way shall not be infringed upon.
- The Fire Marshall stated he has no comments.
- The Permits and Inspections Division stated they have no comments.
- Council Bluffs Water Works stated they have no utilities in the subject alleyway.
- MidAmerican Energy noted there are overhead utilities in the subject 26th Avenue right-of-way serving the home addressed as 2532 S. 13th Street, and stated they have no objections to the proposed vacation, provided that the existing utility easements remain.

Based on the information above, if vacated, a utility easement over said right-of-way will be retained.

6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* Not applicable.
7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* The request is to vacate the entire 26th Avenue right-of-way between South 13th Street and the Indian Creek levee.
8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request is consistent with the local access and circulation objectives stated in Chapter 6, Transportation of the Bluffs Tomorrow: 2030 Plan (comprehensive plan).
9. *To reduce the City's maintenance liability on previously vacated right-of-way parcels from public improvement projects and various lots acquired through delinquent taxes or assessments.* Not applicable.
10. *To establish an equitable price for surplus public property.* All abutting property owners were notified about this vacation request. The following responses were received:
 - John Kilnoski stated he is in favor of the request and willing to acquire the portion of right-of-way adjacent to his property.
 - Paul and Lynda Lewis stated they are in favor of the request, though not willing to acquire the portion of right-of-way adjacent to their property.Based on the information above, the entirety of the right-of-way will be offered to John Kilnoski or his successors in interest for \$6,596.00.

Recommendation

The Community Development Department recommends approval to vacate and dispose of a 66' x 252' section of unimproved 26th Avenue right-of-way, located between Blocks 54 and 59, Railroad Addition, and lying West of South 13th Street, based on reasons stated above, and subject to the following conditions:

1. The vacation shall not be finalized until a final plat is approved by the City Council for the subject 26th Avenue right-of-way and the adjacent properties to the south.
2. The applicant shall dedicate the northerly portion of the subject 26th Avenue right-of-way to the property owner located at 2532 S. 13th Street in order to insure access is provided to their accessory structures. This dedication shall occur as part of the final plat of the subject 26th Avenue right-of-way and the adjacent properties to the south.

Public Hearing

Speakers in favor: None.

Speakers against: None.

Planning Commission Recommendation

The Planning Commission recommends The Community Development Department recommends approval to vacate and dispose of a 66' x 252' section of unimproved 26th Avenue right-of-way, located between Blocks 54 and 59, Railroad Addition, and lying West of South 13th Street, based on reasons stated above, and subject to the following conditions:

1. The vacation shall not be finalized until a final plat is approved by the City Council for the subject 26th Avenue right-of-way and the adjacent properties to the south.
2. The applicant shall dedicate the northerly portion of the subject 26th Avenue right-of-way to the property owner located at 2532 S. 13th Street in order to insure access is provided to their accessory structures. This dedication shall occur as part of the final plat of the subject 26th Avenue right-of-way and the adjacent properties to the south.

VOTE: AYE 6 NAY 0 ABSTAIN 1 ABSENT 0 VACANT 4 Motion: Carried


Attachment A – Location and Zoning Map


Attachment B – Site Photos

Prepared By: Chris Meeks, Planner, Community Development Department

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION CASE #SAV-18-013 LOCATION AND ZONING MAP

Map Legend

 Subject Right-of-Way

 Parcels



Last Amended: 8/21/18

DISCLAIMER
This map was prepared and compiled from City documents, plans and other public information. The City of Council Bluffs hereby certifies that the City approved this map for publication. The City does not warrant the accuracy of the information contained on this map. The user of this map assumes all responsibility for the information contained on this map.

Council Bluffs Community Development Department
209 Pearl Street
Council Bluffs, IA 51503
Telephone: (712) 328-4629



Attachment B:

Site Photos



Aerial photo of subject right-of-way (highlighted in red)

Google Street View photo of subject right-of-way.

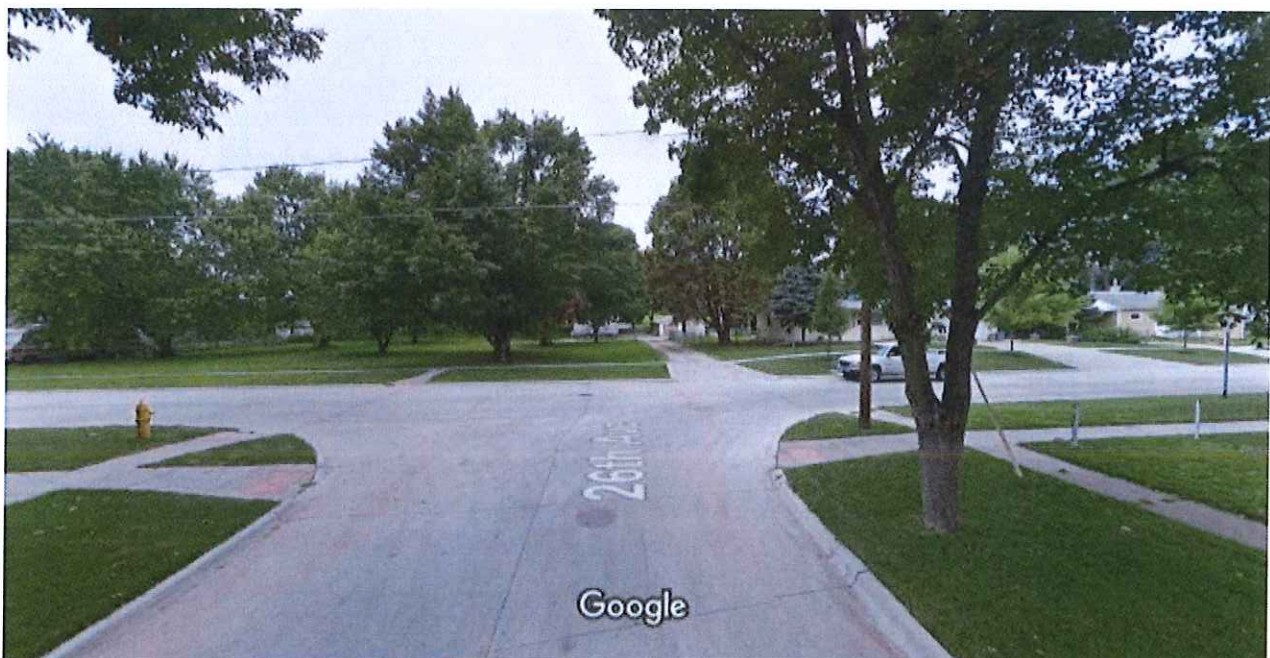


Image capture: Aug 2011 © 2018 Google

Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 - Phone: 890-5261
Prepared by: Community Development Dept., Co. Bluffs, IA 51503 - Phone: 328-4629

RESOLUTION NO. 18-286

A RESOLUTION TO VACATE AND DISPOSE OF THAT 66' BY 252' SECTION OF 26TH AVENUE RIGHT-OF-WAY EXTENDING FROM THE WEST OF THE WESTERLY RIGHT-OF-WAY LINE OF THE SOUTH 13TH STREET, AND LOCATED BETWEEN BLOCKS 54 AND 59, RAILROAD ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: That 66' by 252' portion of 26th Avenue right-of-way, lying West of the Westerly right-of-way line of the South 13th Street and located between Blocks 54 and 59, Railroad Addition, is of no benefit to the public and should be vacated; and

WHEREAS, a public meeting was held on this matter on the 8th day of October, 2018; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owner(s); and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the above-described city right-of-way is hereby vacated and conveyed as follows:

John Kilnoski and all successors in interest: The entirety of the 66' by 252' portion of vacated 26th Avenue right-of-way lying West of the right-of-way of South 13th Street, for the sum of \$6,596.00

BE IT FURTHER RESOLVED

The vacation shall not be finalized until a final plat is approved by the City Council for the subject 26th Avenue right-of-way and the adjacent properties to the south; and

BE IT FURTHER RESOLVED

The applicant shall dedicate the northerly portion of the subject 26th Avenue right-of-way to the property owner located at 2532 S. 13th Street in order to insure access is provided to their accessory structures. This dedication shall occur as part of the final plat of the subject 26th Avenue right-of-way and the adjacent properties to the south; and

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a City deed conveying the City's interest in the above-described right-of-way; and

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED
AND
APPROVED:

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Matthew J. Walsh and Jodi Quakenbush, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Matthew J. Walsh and said Jodi Quakenbush, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Planning Case #SAV-18-013

Notary Public in and for said State

Council Communication

Department: Community

Development

Case/Project No.: SUB-18-016

Resolution 18-287

Council Action: 10/8/2018

Submitted by: Chris Meeks,

Planner

Description

Resolution granting final plat approval of a 31 lot residential subdivision to be known as East Fox Run Subdivision. Location: East of Council Point Road, and being an extension of Carriage Road. SUB-18-016

Background/Discussion

See attachment.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
SUB-18-016 East Fox Run Sub Final Plat Staff Report Including Attachs	Other	9/26/2018
Resolution 18-287	Resolution	9/28/2018

Council Communication

Department: Community Development CASE #SUB-18-016 Owner/Applicant: Western Iowa Land Development, LLC P.O. Box 683 Avoca, IA 51521 Engineer: HGM Associates Attn: John Jorgenson 640 5 th Avenue Council Bluffs, IA 51501	Resolution No. _____	City Council: 10/8/2018
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Subject/Title

Request: Final plat approval of a 31-lot residential subdivision to be known as East Fox Run Subdivision, legally described as being a replat of all of Parcel "B" in Lot 117, Fox Run Landing, City of Council Bluffs, Pottawattamie County, Iowa.

Location: East of Council Point Road, and being an extension of Carriage Road.

Background/Discussion

The Community Development Department has received a request from Western Iowa Land Development, LLC for final plat approval of a 31-lot residential subdivision to be known as East Fox Run Subdivision. The proposed subdivision consists of 7.81 acres, more or less, of land, and is located East of Council Point Road, and will be an extension of Carriage Road.

The original subdivision plat for Fox Run Landing was approved by the Council Bluffs City Council with Resolution 00-206 on August 28, 2000. The preliminary plan for the East Fox Run Subdivision was approved by the City Council with Resolution 18-75 on February 26, 2018. "Parcel B" was created via a lot-line adjustment with the Community Development Department, and was assigned Case #LL-18-002, and was recorded as Document 2018-01464. The subdivision will feature 30 attached single-family dwellings, and one outlot. Access to these lots will occur from an extension of Carriage Road, which intersects at Council Point Road. Access to Outlot A will come from Carriage Road from a 20 foot wide easement that is centered on the common lot line of Lots 28 and 29.

Comments

1. The proposed subdivision is consistent with the purpose and intent of the Council Bluffs Municipal Subdivision and Zoning Ordinances.
2. The entirety of the East Fox Run Subdivision is to be rezoned upon execution of the final plat from A-2/Parks, Estates, and Agricultural District to R-2/Two Family Residential with a PR/Planned Residential Overlay District applied. The rezoning was approved by Ordinance 6317, and the Development Plan was approved by Resolution 18-74.
3. Lots 1 through 30 in East Fox Run Subdivision will be developed with attached single-family dwellings and will comply with minimum R-2/Two Family Residential District lot size requirements. Outlot A will not be a developable lot, as it will be used for stormwater management.
4. All electric, cable and communication facilities shall be installed underground. All costs to construct,

remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the applicant and not the City.

5. The Council Bluffs Public Works Department provided the following comments:
 1. The Public Works Department has not completed a walkthrough of the subdivision to accept the new infrastructure into the City's inventory.
 2. The engineer will need to submit the grading certification, PCSMP feature installation certification, and recorded maintenance and easement agreement.
 3. The plat document needs a dedication of Outlot A to the homeowners or like entity for maintenance and repair purposes.
6. The Council Bluffs Fire Department stated they have no comments for the proposed final plat.
7. Council Bluffs Water Works stated all water mains have been installed in the East Fox Run Subdivision.
8. MidAmerican Energy Company stated they have no objections to the final plat, and noted they have entered an agreement with the developer to extend electric facilities in the area.
9. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a building on each lot, at no cost to the City.
10. The plat does not indicate if any private restrictions and/or covenants will be established for the subdivision, though notes if there are any they will be recorded with the Pottawattamie County Recorder's Office. A copy of said private restrictions and/or covenants shall be provided to the City of Council Bluffs, if applicable.

Recommendation

The Community Development Department recommends final plat approval of a 31-lot residential subdivision to be known as East Fox Run Subdivision, as legally described above and as shown on Attachment 'A', subject to all comments stated above and following conditions:

- a. All technical corrections discussed above shall be made on the final plat prior to execution of the document.
- b. The Public Works Department shall accept all infrastructure into the City's inventory prior to the final plat being signed and recorded; and
- c. The final plat shall be recorded within 90 days of City Council approval or the plat shall become null and void unless an extension of has been requested and granted by the Community Development Department Director; and
- d. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements; and
- e. All utilities shall be installed underground. Any cost to remove and/or relocate any utilities shall be the sole expense of the applicant and not the City; and
- f. The applicant shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City; and
- g. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a dwelling unit on each lot, at no cost to the City; and
- h. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.

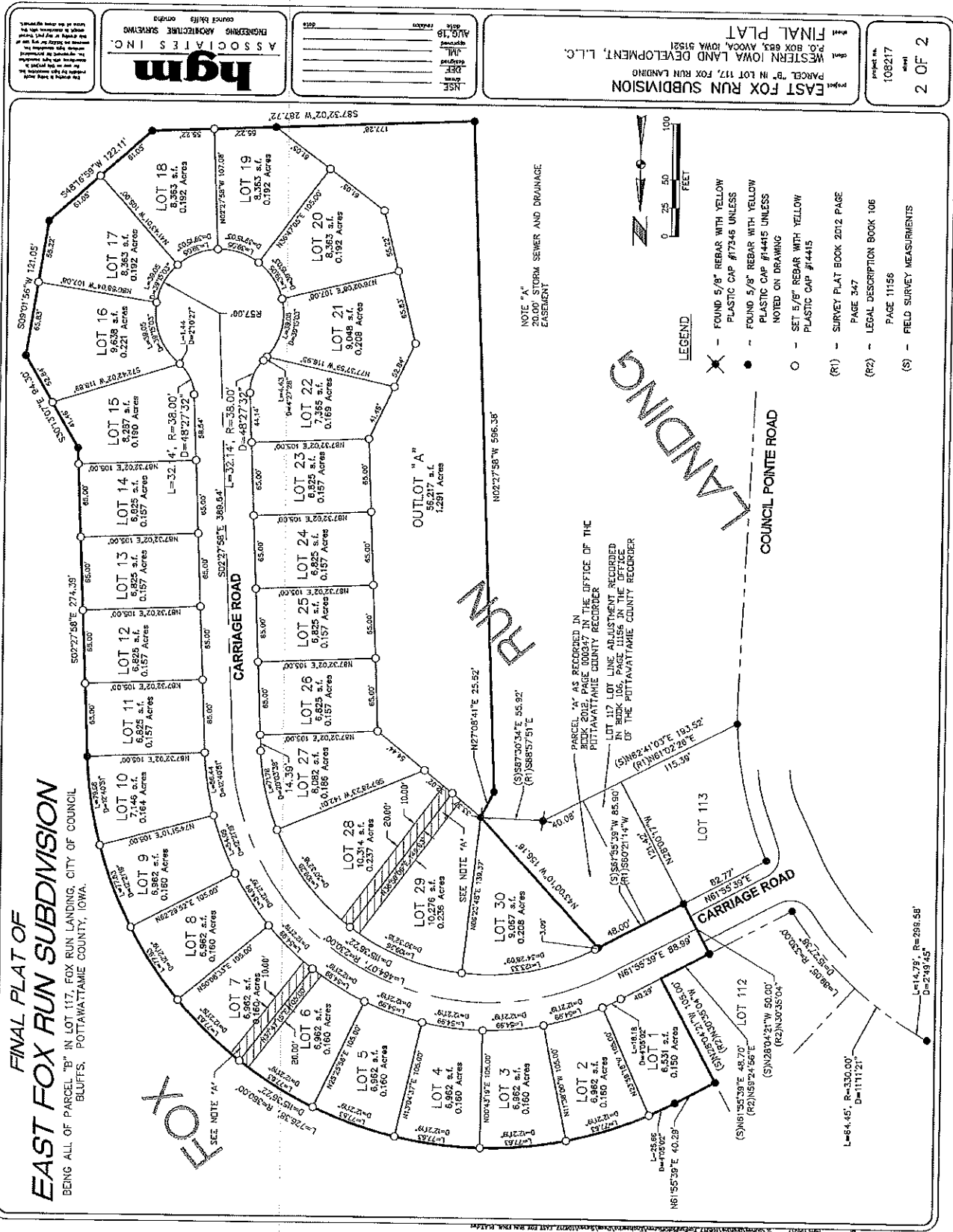
Attachment

Attachment A: East Fox Run Subdivision final plat

Engineer: John Jorgenson, HGM Associates, 640 5th Avenue, Council Bluffs, IA 51501

Prepared by: Chris Meeks, Planner

FINAL PLAT OF EAST FOX RUN SUBDIVISION BEING ALL OF PARCEL "B" IN LOT 117, FOX RUN LANDING, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.



hgm
 ENGINEERING ARCHITECTURE SURVEYING
 CONSULTING BUILDING

WESTERN IOWA LAND DEVELOPMENT, L.L.C.
 P.O. BOX 683, AWOOLA, IOWA 51521
FINAL PLAT

PROJECT
 EAST FOX RUN SUBDIVISION
 PARCEL "B" IN LOT 117, FOX RUN LANDING

PROJECT NO.
 108217

SHEET
 2 OF 2

RESOLUTION NO. 18-287

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF A 31 LOT RESIDENTIAL SUBDIVISION TO BE KNOWN AS EAST FOX RUN SUBDIVISION.

WHEREAS, Western Iowa Land Development, LLC has requested review and approval of a final subdivision plat for a 31-lot residential subdivision to be known as East Fox Run Subdivision; and

WHEREAS, The proposed land consists of 7.81 acres, more or less, of land, and is located East of Council Point Road, as an extension of Carriage Road, and is legally described as: Being a replat of all of Parcel “B” in Lot 117, Fox Run Landing, City of Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, The following comments were provided for the proposed subdivision request:

1. The proposed subdivision is consistent with the purpose and intent of the Council Bluffs Municipal Subdivision and Zoning Ordinances.
2. The entirety of the East Fox Run Subdivision is to be rezoned upon execution of the final plat from A-2/Parks, Estates, and Agricultural District to R-2/Two Family Residential with a PR/Planned Residential Overlay District applied. The rezoning was approved by Ordinance 6317, and the Development Plan was approved by Resolution 18-74.
3. Lots 1 through 30 in East Fox Run Subdivision will be developed with attached single-family dwellings and will comply with minimum R-2/Two Family Residential District lot size requirements. Outlot A will not be a developable lot, as it will be used for stormwater management.
4. All electric, cable and communication facilities shall be installed underground. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the applicant and not the City.
5. The Council Bluffs Public Works Department provided the following comments:
 - a. The Public Works Department has not completed a walkthrough of the subdivision to accept the new infrastructure into the City’s inventory.
 - b. The engineer will need to submit the grading certification, PCSMP feature installation certification, and recorded maintenance and easement agreement.
 - c. The plat document needs a dedication of Outlot A to the homeowners or like entity for maintenance and repair purposes.
6. The Council Bluffs Fire Department stated they have no comments for the proposed final plat.
7. Council Bluffs Water Works stated all water mains have been installed in the East Fox Run Subdivision.
8. MidAmerican Energy Company stated they have no objections to the final plat, and noted they have entered an agreement with the developer to extend electric facilities in the area.

9. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a building on each lot, at no cost to the City.
10. The plat does not indicate if any private restrictions and/or covenants will be established for the subdivision, though notes if there are any they will be recorded with the Pottawattamie County Recorder's Office. A copy of said private restrictions and/or covenants shall be provided to the City of Council Bluffs, if applicable.

WHEREAS, The Community Development Department recommends final plat approval of a 31-lot residential subdivision to be known as East Fox Run Subdivision, as legally described above and as shown on Attachment 'A', subject to all comments stated above and following conditions:

- a. All technical corrections discussed above shall be made on the final plat prior to execution of the document.
- b. The Public Works Department shall accept all infrastructure into the City's inventory prior to the final plat being signed and recorded; and
- c. The final plat shall be recorded within 90 days of City Council approval or the plat shall become null and void unless an extension of has been requested and granted by the Community Development Department Director; and
- d. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements; and
- e. All utilities shall be installed underground. Any cost to remove and/or relocate any utilities shall be the sole expense of the applicant and not the City; and
- f. The applicant shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City; and
- g. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a dwelling unit on each lot, at no cost to the City; and
- h. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the final plat approval for 31-lot residential subdivision to be known as East Fox Run Subdivision, as legally described above, is hereby approved subject to all local, state and federal regulations; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

Council Communication

Department: Community
Development

Case/Project No.: OTB-18-027

Resolution 18-288

Council Action: 10/8/2018

Submitted by: Chris Meeks,
Planner

Description

Resolution to dispose of City property described as the southeast corner of Lot 13, Ross's Place; more particularly described as in Council Packet. Location: Property former addressed as 907 ½ North 8th Street. OTB-18-027

Background/Discussion

See attached.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
OTB-18-027 Moreno Staff Report Including Attach	Other	9/27/2018

Council Communication

Department: Community Development CASE #OTB-18-027 Applicant: Victor M. Moreno 154 Grant Street Council Bluffs, IA 51503	Resolution to Dispose No. _____	Public Hearing: 10/8/2018
Subject/Title		
<p>Request of Victor M. Moreno to purchase property described as the Southeast Corner of Lot 13, Ross's Place; more particularly described as: Commencing at a point on the South line of said Lot 13, 96 feet from the Southwest Corner of Lot 13, thence Northerly 50 feet on a line which extends from the place of beginning to a point on the Northerly line of Lot 13, which is 96 feet from the Northwest Corner of said Lot 13, thence Easterly to a point on the East line of said Lot 13, which is 57 feet 3 inches North of the Southeast Corner of said Lot 13, thence West along the South line of Lot 13 to the place of beginning. The property was formerly addressed as 907 ½ North 8th Street.</p>		
Background/Discussion		
<p>The City has received an offer to purchase the property described above. The property is classified as 'transitional dispose' and 'non-buildable'. According to the adopted policy of April 23, 2018, the property should be priced at the value established by the most recent fee schedule for street/alley vacations, which on this property would be \$483.75. The originally platted Lot 13, Ross's Place has been divided into three separate parcel, with the other two already being owned by the applicant. The applicant wishes to acquire this parcel to own the entirety of Lot 13, Ross's Place. The application has offered \$483.75 to purchase the property, and has submitted a \$50.00 down payment.</p> <p>The Legal Department has indicated this property was acquired through the 657a process in 2009, and legal costs have exceeded the \$483.75 that was offered for this property, so the City will not need to remit the additional money back to the courts.</p> <p>The Public Works Department, Permits and Inspections Division, and Community Development Department all note that the property in its current state does not have street frontage, and would not be buildable. The Departments request a deed restriction be placed on the property that would require the entirety of the platted Lot 13, Ross's Place to remain as one parcel, to prevent further subdivision without the review of City Staff.</p>		
Recommendation		
<p>The Community Development Department recommends setting a disposing of the property described above to Victor M. Moreno for the purchase price of \$483.75, subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The applicant shall have 60 days from the date of approval to pay the remaining fee to purchase the parcel, a total of \$433.75. 2. The deed shall have a restriction requiring the parcel to remain combined with the remainder of Lot 13, Ross's Place to prevent further subdivision. 		
<p>Attachment: Location map.</p> <p>Prepared By: Chris Meeks, Planner, Community Development Department</p>		

CASE #OTB-18-027



Council Communication

Department: Public Works Admin
Case/Project No.: PW18-16A
Submitted by: Matthew Cox, City
Engineer

Resolution 18-289

Council Action: 10/8/2018

Description

Resolution approving the plans and specifications for the Steven Road East Construction. Project # PW18-16A.

Background/Discussion

In January of 2016, a Record of Decision was signed for the Eastern Hills Drive project. This completed a 7-year process for the documentation required to comply with the National Environmental Policy Act (NEPA).

The Eastern Hills Drive project will improve the transportation network in eastern Council Bluffs by completing Eastern Hills Drive between US Highway 6 and Iowa Highway 92, while providing improved connections to developments along Greenview Road, Steven Road, and Cottonwood Road. The continuity for the local transportation system will support future land development, increases the capacity of existing roads to accommodate traffic demands and improves emergency access.

The Steven Road East project will construct Cedar Lane from 900 ft. west of Eastern Hills Drive to 2,200 feet west on existing alignment and then 2,300 feet southwest on new alignment to State Orchard Road. A 10 foot wide paved trail will be included on the south side of Cedar Lane\Steven Road.

The estimated construction cost for the project is \$2,986,700.

The project received Federal funding from a \$3.5M appropriation and \$10.2M in earmarks. A previously approved funding agreement (Transportation Federal Aid Agreement No. 04-18-HDP-5) authorized Iowa DOT to administer the project. Federal funds support 80% of the improvement costs with the remaining 20% shared by the City of Council Bluffs and Pottawattamie County. The City's match will be paid using sales tax funds.

The project schedule is as follows:	Hold Public Hearing	October 8, 2018
	Bid Letting	October 16, 2018
	Award	November 2018
	Construction Start	Winter\Spring 2019

Recommendation

Approval of this resolution.


ATTACHMENTS:

Description	Type	Upload Date
Map	Map	9/28/2018
Resolution 18-289	Resolution	9/28/2018

PW18-16A
STEVEN ROAD EAST

PROJECT LOCATION

Legend

 PW18-16A

RESOLUTION
NO 18-289

**RESOLUTION APPROVING THE
PLANS, SPECIFICATIONS, FORM OF CONTRACT
AND COST ESTIMATE FOR THE
STEVEN ROAD EAST CONSTRUCTION
PROJECT #PW18-16A**

WHEREAS, the plans, specifications, form of contract and cost estimate are on file in the office of the City Clerk of the City of Council Bluffs, Iowa for the Steven Road East Construction; and

WHEREAS, A Notice of Public Hearing was published as required by law, and a public hearing was held on October 8, 2018.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the Steven Road East Construction Project and the Iowa DOT is hereby authorized to advertise for bids for said project.

AND BE IT FURTHER RESOLVED

That the aforementioned project is encompassed by the language of the 1989 Local Option Sales Tax Ballot and as such this is an appropriate expenditure of the Local Option Sales Tax Revenues.

ADOPTED
AND
APPROVED

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: Legal

Case/Project No.:

Submitted by: Legal Department

Ordinances 6351 - 6370

Council Action: 10/8/2018

Description

Ordinances 6351 - 6370 Ordinances to amend, add and/or remove sections previously in Title 4 "Public Health & Sanitation" in accordance with the removal of the City Health Department.

- 1) Ordinance 6351 to amend Title 9 "Traffic" by adding "Chapter 9.70 - causing dust and debris to cross private property lines and to be brought upon the streets and or highways within the council bluffs city limits."
- 2) Ordinance 6352 to amend Title 4 "Health and Sanitation" by amending Chapter 4.12 - Solid Waste Collection and Disposal.
- 3) Ordinance 6353 to amend Chapter 4.02 "Air Pollution Control" by repealing existing Sections 4.02.010 through 4.02.080.
- 4) Ordinance 6354 to amend Chapter 4.05 "Tattoo and Body Piercing Regulations" by repealing existing sections 4.05.010 through 4.05.080.
- 5) Ordinance 6355 to amend Title 4 "Health and Sanitation" by amending Chapter 4.15 "Abandoned and Junk Vehicles, Machinery, Trailers and Parts."
- 6) Ordinance 6356 to amend Title 4 "Health and Sanitation" by amending Chapter 4.19 "Weed Nuisances."
- 7) Ordinance 6357 to amend Title 4 "Health and Sanitation" by amending Chapter 4.20 "Animal Control."
- 8) Ordinance 6358 to amend Title 4 "Health and Sanitation" by amending Chapter 4.21.020(b)(2) "Hunting Regulations" and 4.21.025(c) "Feeding Prohibited."
- 9) Ordinance 6359 to amend Chapter 4.22 "Food Code" by repealing existing Sections 4.22.010 through 4.22.030.
- 10) Ordinance 6360 to amend Chapter 4.26 "Swimming Pools and Spas" by repealing Sections 4.26.010 through 4.26.030.
- 11) Ordinance 6361 to amend Chapter 4.32 "Private Sewage Disposal Systems" by repealing existing Sections 4.32.010 through 4.32.170.
- 12) Ordinance 6362 to amend Chapter 4.33 "Private Wells" by repealing existing Sections 4.33.010 through 4.33.040.
- 13) Ordinance 6363 to amend Title 4 "Health and Sanitation" by amending Chapter 4.50 "Noise Control."
- 14) Ordinance 6364 to amend Chapter 4.70 "High-Risk Sexual Conduct" by repealing existing Sections 4.70.010 through 4.70.050.
- 15) Ordinance 6365 to amend Chapter 4.60 "Hazardous Substances" by repealing existing Sections 4.60.010

through 4.60.080.

16) Ordinance 6366 to amend Chapter 4.80 "Minimum Requirements for Tanning" by repealing existing Sections 4.80.010 through 4.80.070.

17) Ordinance 6367 to amend Chapter 4.90 "Quarantine" by repealing Sections 4.90.010 through 4.90.020.

18) Ordinance 6368 to amend Chapter 13.12 "Plumbing Code" by adding Section 13.12.13 "Application for Permit-Issuance or Denial."

19) Ordinance 6369 to amend Chapter 12.02 "Miscellaneous Provisions" by adding Section 12.02.056 "Open Burning Prohibited."

20) Ordinance 6370 to amend Title 12 "Council Bluffs Fire Code" by adding Section 12.05 "Hazardous Substances."

Background/Discussion

Ordinance 6351

This amendment will move and replace chapters currently held in "Chapter 4 – Health and Sanitation." This new "Chapter 9.70 – Causing dust and debris to cross private property lines and to be brought upon the streets and or highways within the Council Bluffs city limits," was previously Chapter 4.020.40 through 4.02.070.

Ordinance 6352

The enforcement duties in this chapter are being assigned to the Mayor or his designee and amendments have been made to reflect the same.

Ordinance 6353

This chapter is being repealed but its provisions regarding dust control have been moved to Title 9 and the provisions regarding open burn have been moved to Title 12.

Ordinance 6354

This chapter is being repealed. The state adequately regulates these activities at this time.

Ordinance 6355

4.15.050 - Administration and enforcement.

Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the ~~health director~~administrative authority designated by the mayor and/or the police chief, or their respective designees, hereinafter collectively referred to as 'enforcement officer.' The enforcement officer and any person designated by the enforcement officer to abate the nuisance pursuant to this code or court order, are hereby authorized access to any property upon which a junk vehicle is located for the purpose of carrying out any and all actions necessary to enforce this chapter.

4.15.080 - Appeal to the ~~board of health~~City Council.

Any interested party may appeal the decision of the enforcement officer by filing a written notice of appeal with the ~~health director~~administrative authority within five calendar days after service of notice as required by Section 4.15.070. Such appeal shall be heard by the ~~board of health~~City Council which may affirm, amend or reverse the notice/order or take other action deemed appropriate. The ~~health director~~City shall give at least five days' written notice of the time and place of the hearing to the appellant by first-class mail or personal service. In conducting the hearing the ~~board of health~~City Council shall not be limited by the technical rules of evidence.

4.15.100 - Disposition of vehicle after notice or appeal.

Seven calendar days after declaring the vehicle or parts thereof to be a public nuisance, or five calendar days after action of the ~~board of health~~City Clerk authorizing removal following appeal, the vehicle or parts thereof may be removed and disposed of as provided by law. ~~After a vehicle has been removed, it~~

~~shall not thereafter be reconstructed or made operable.~~

Ordinance 6356

These Chapters have been amended they are now being enforced by the building division where two of the former Health Inspectors have been assigned. It should be noted that there is an appeal process in Chapter 4.15 that used to be the Board of Health. This did not happen very often so for now those appeals will be to the City Council, they will be held in the same fashion as the tobacco sales appeals. If this would start to take up too much of the Council's time we will propose an amendment.

Ordinance 6357

The responsibility for overseeing this Chapter and the Animal Control Division has been assigned to Community Development. This chapter had an appeal provision to the Board of Health, those appeals will now be to the Board of Review which will be made up of the Mayor, the Police Chief and the Fire Chief or their designee.

Ordinance 6358

The responsibility for overseeing this Chapter and the Animal Control Division have been assigned to Community Development.

Ordinance 6359

The State has taken over the responsibilities for these inspections.

Ordinance 6360

This Chapter is being repealed.

Ordinance 6361

This chapter will be repealed but the section requiring a permit has been relocated to Chapter 13.12, which is enforced by the Building Division.

Ordinance 6362

This Chapter is being repealed.

Ordinance 6363

This Chapter is being amended so that the enforcement responsibilities will now be with the Building Division. The Police Department is also authorized to enforce this Chapter along with all other provisions of our City Code. The City Council will now be the body that an applicant for a variance will now have to go to.

Ordinance 6364

The Chapter is being repealed. These duties have been taken over by the County.

Ordinance 6365

This Chapter is being moved to Title 12 where the Fire Code is located. The Fire Department has always been the primary enforcer of this Chapter.

Ordinance 6366

These duties are performed by the State.

Ordinance 6367

This section is being repealed.

Ordinance 6368

The Section was previously located in Title 4 Health, under Chapter 4.32 Private Sewage Disposal Systems at Section 4.32.110.

Ordinance 6369

This Section was previously held in Title 4, Chapter 4.02 "Air Pollution Control" under Section 4.02.020.

Ordinance 6370

This section was previously held at Title 4, Chapter 4.60 "Hazardous Substances".

Recommendation

Approval of these Ordinances.

ATTACHMENTS:

Description

Type

Upload Date

Ordinance 6351	Ordinance	9/28/2018
Ordinance 6352 Redline	Ordinance	10/1/2018
Ordinance 6352	Ordinance	10/1/2018
Ordinance 6353	Ordinance	10/1/2018
Ordinance 6354	Ordinance	10/1/2018
Ordinance 6355 Redline	Ordinance	10/1/2018
Ordinance 6355	Ordinance	10/1/2018
Ordinance 6356 Redline	Ordinance	10/1/2018
Ordinance 6356	Ordinance	10/1/2018
Ordinance 6357 Redline	Ordinance	10/1/2018
Ordinance 6357	Ordinance	10/1/2018
Ordinance 6358 Redline	Ordinance	10/1/2018
Ordinance 6358	Ordinance	10/1/2018
Ordinance 6359	Ordinance	10/1/2018
Ordinance 6360	Ordinance	10/1/2018
Ordinance 6361	Ordinance	10/1/2018
Ordinance 6362	Ordinance	10/1/2018
Ordinance 6363 Redline	Ordinance	10/1/2018
Ordinance 6363	Ordinance	10/1/2018
Ordinance 6364	Ordinance	10/1/2018
Ordinance 6365	Ordinance	10/1/2018
Ordinance 6366	Ordinance	10/1/2018
Ordinance 6367	Ordinance	10/1/2018
Ordinance 6368	Ordinance	10/1/2018
Ordinance 6369	Ordinance	10/1/2018
Ordinance 6370	Ordinance	10/1/2018

ORDINANCE NO. 6351

AN ORDINANCE TO AMEND TITLE 9 “TRAFFIC” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY ADDING “CHAPTER 9.70 – CAUSING DUST AND DEBRIS TO CROSS PRIVATE PROPERTY LINES AND TO BE BROUGHT UPON THE STREETS AND OR HIGHWAYS WITHIN THE COUNCIL BLUFFS CITY LIMITS.”

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 9 “Traffic” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

Chapter 9.70 - Causing dust and debris to cross private property lines and to be brought upon the streets and or highways within the Council Bluffs City limits.

9.70.010 – Precautions to minimizing pollution.

It is unlawful for any person handling, loading, unloading reloading, storing, transferring, transporting, placing, depositing, throwing, discarding, or scattering any ashes, fly ash, cinders, slag or dust collected from any combination process, any dust, dirt, chaff, waste paper, trash, rubbish, waste or refuse matter of any kind, or any other substance or material whatsoever, which is likely to be scattered by the wind across property lines or is susceptible to being windborne, to do so without taking reasonable precautions or measures to prevent particulate matter from becoming airborne so as to minimize atmospheric pollution.

9.70.020 – Covered loads.

No person shall operate an open body trucks or other motor vehicle upon the streets and or highways within the city limits of Council Bluffs hauling materials likely to give rise to airborne dust or other materials being disbursed from the vehicle unless it is covered.

9.70.030 – Causing mud or debris to be left on a street.

No person shall operate a motor vehicle in a manner that causes mud or other debris to be left upon the streets or highways within the city limits of Council Bluffs. By the adoption of this code section the City does also find that such an acts is a Nuisance as set out in Chapter 8.54 of the Municipal Code and subjects the violator to all of the provisions and penalties provided for in that Chapter.

9.70.040 – Exceptions.

Exceptions to this Chapter shall not apply to the following:

- (1) The maintenance of public roads by the city of Council Bluffs or its various departments;

- (2) Agricultural operations including tilling, planting, cultivating or harvesting within a field, the moving of livestock on foot, or the hauling or produce within the confines of a farm; and
- (3) Driveways limited to residential use.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____

“CHAPTER 4.12 – SOLID WASTE COLLECTION AND DISPOSAL.”

4.12.010 - Definitions.

The following words and phrases when used in this chapter shall have the following meanings:

- (1) "Administrative authority" means the ~~mayor or his or her designee~~Mayor or anyone else duly authorized by the Mayor.
- (2) "Bag" means a plastic or other sack designed to store solid waste with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty (30) pounds. Bags shall not have a capacity greater than thirty-three (33) gallons.
- (3) "Bulk container" means a receptacle designed for the storage of a large quantity of solid waste, not exceeding nine cubic yards, and designed for automated collection by collection vehicles, and includes what is popularly referred to as a "dumpster."
- (4) "Bulky waste" means large household appliances; stoves, refrigerators, water heater tanks, washing machines, toilets, bathtubs, furniture, carpets and rugs, and other household waste materials bundled so as not to exceed sixty (60) pounds or four feet in length, and two feet in diameter.
- (5) "Bundle" means trees, shrubs and brush trimmings, newspaper and magazines, or other non-household waste materials securely tied together forming an easily handled package not exceeding four feet in length, and two feet in diameter or sixty (60) pounds in weight.
- (6) "Byproducts" means and includes:
 - (A) All material produced, developed or generated incidental to the operation of any business, which is not the principal object of production of such business, but which material, due to its nature, can be sold by the producer thereof at a price greater than the cost of hauling such material to the point of delivery;
 - (B) Material which, due to its nature, can be sold by the producer thereof, at the point of production, for a valuable consideration;
 - (C) Material that the owner or producer thereof can, due to its nature, have removed from his or her premises without cost to him or her;
 - (D) The following, but not limited to the following items: suet, tallow, bones, and meat trimmings; leafy vegetable matter such as lettuce trimmings, cabbage trimmings, carrot tops, and corn husks; stale bread and pastry; fruit or vegetables no longer fit for human consumption; and
 - (E) Any material which the administrative authority determines to be byproducts.
- (7) "City contract agent" means the person, firm, or corporation with which the city has contracted to collect the residential solid waste of its residential customers.
- (8) "Commercial collection agent" means a person, firm, or corporation engaged in the business of collecting solid waste from one or more commercial establishments and/or residential premises for disposal.
- (9) "Commercial establishment" means any hotel, motel, trailer court or park, restaurant, market, grocery store, hospital, church, school, country club, private club, store, business concern, farm operation, industrial plant, manufacturing facility, processing facility, service establishment, regardless whether operated for profit or not.
- (10) "Construction debris" means waste building materials resulting from construction, remodeling, repair or demolition operation, including, but not limited to, wood, concrete, brick, glass, plaster, plasterboard, and roofing materials.
- (11) "Container" means a receptacle with handles and with a capacity of greater than twenty (20) gallons but not more than thirty-two (32) gallons constructed of plastic, metal, or fiberglass and

having a tight-fitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed sixty (60) pounds. Other containers agreeable to both city and contractor may be used.

(12) "Curbside" means that portion of right-of-way immediately adjacent to the curb or to the traveled portion in the case of a street, or immediately adjacent to the traveled portion in the case of a paved or approved alley.

(13) "Curbside recycling" means the weekly collection of recyclable materials at curbside by the city's contract agent.

(14) "Dead animals" means animals or portions thereof that have expired from any cause, except those slaughtered or killed for human use.

(15) "Disabled" means any person who (by advanced age or otherwise) lacks competent power, strength, or physical or mental ability to move solid waste containers of the type specified in these specifications.

(16) "Disposal" means the process of removing solid waste from the point of generation and transporting it to an approved disposal site at which it is to be left for permanent keeping or destruction.

(17) "Disposal site" means a solid waste depository, including, but not limited to, sanitary landfills, transfer stations, incinerators, and waste processing centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approval.

(18) "Firewood" means any wood cut into a length of not more than thirty (30) inches or a diameter of not more than eight inches and free of any paint, varnish, or other preservative.

(19) "Garbage" means every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation of, decay or decomposition of meats, including but not by way of limitation putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents; except in all cases any matter hereinafter included in the definition of "bulky waste," "construction debris," "dead animals," "hazardous waste," "rubbish," or "stable matter."

(20) "Hazardous waste" means any chemical or compound or mixture thereof, substance, or article which, if improperly used, handled, transported, processed, or stored, may constitute a danger to health or may cause damage to property by reason of being explosive, flammable, poisonous, unstable, irritating or otherwise harmful.

(21) "Recyclable materials" means waste that is designated by the city as part of a special collection for processing for reuse, including but not limited to food container glass, aluminum, steel (tin) cans, #1 ~~and through~~ #52 plastics, uncontaminated newspapers and glossy paper (magazines) and cardboard shall be considered uncontaminated if they have not been exposed to substances or conditions rendering them unusable for recycling.

(22) "Residential customer" means the owner or occupant of a residential premises, or of a condominium dwelling, who is required to place his or her residential solid waste for collection by the city.

(23) "Residential premises" means any single-family dwelling or any duplex or two-family dwelling within the city as defined by Chapter 15.03 of this code.

(24) "Residential solid waste" means all garbage, rubbish and bulky waste generated by a residential customer at the residence or residential unit where such person normally resides.

(25) "Rubbish" means all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter,

paper, pasteboard, rags, straw, used and discarded mattresses, tires exclusive of metal rims and not exceeding three feet in diameter, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances and any and all other waste materials not included in the definitions of "bulky waste," "construction debris," "dead animals," "garbage," "hazardous waste," or "stable matter."

(26) "Rubble" means inorganic construction debris such as, but not limited to, the following items: brick, concrete, asphalt, stone, concrete block and clay tile.

(27) "Solid waste" means and includes bulky waste, construction debris, dead animals, garbage, hazardous wastes, and rubbish. "Solid waste" shall not include byproducts or rubble as defined herein.

(28) "Stable matter" means all manure and other waste matter normally accumulated in or about a stable, or in any animal, livestock, or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

(29) "Yard waste" shall include grass clippings, leaves, garden foliage, tree trimmings, hedge trimmings, flower trimmings, dead plants, weeds and sawdust.

4.12.020 - Legislative findings.

The city council finds as follows:

(1) That an exclusive municipal system for the collection of all residential solid waste is necessary for the preservation of the public health, welfare and safety;

(2) That the periodic collection of solid waste from all places in the city benefits all occupants of places and premises in the city;

(3) Unpaid fees which are more than 60 days delinquent may be certified by the city treasurer and submitted to the treasurer of Pottawattamie County, Iowa, for collection in the same manner as other taxes, as provided for in the Iowa Code, Chapter ~~383~~384.84. An administrative assessment fee shall be imposed as set forth in the prevailing schedule of fees at the time of certification as set forth in Section 2.08.040, and

(4) That there is variation in the amount of solid waste produced at single-family or duplex residential locations. With the implementation of curbside recycling, such deviation does justify the limitations of quantities at such residential location by limiting the quantities produced, participation in the curbside recycling program will be enhanced.

4.12.030 - Burying of solid waste prohibited.

No person, firm or corporation shall bury solid waste within the city except in an approved landfill; nor shall any person, firm or corporation allow his, her, or its solid waste to be disposed of by another by burying in other than an approved landfill; nor shall any person, firm or corporation use or allow his, her, or its property, or property under his, her, or its control, to be used for such burying of solid waste, unless such property has been approved and licensed as a disposal site. The following items may be buried upon the following terms and conditions:

(1) Inorganic construction debris (rubble) buried pursuant to appropriate city permit;

(2) Materials, such as sludge, which are allowed to be buried pursuant to state statute or regulation; and

(3) Leaves and garden and lawn trimmings may be composted and buried on the premises upon which they are generated.

4.12.040 - Storage of solid waste prohibited.

No person, firm or corporation owning, controlling or occupying any residential premises, commercial establishment, apartment or condominium shall permit the storage on such premises, or on other private or public property, of any garbage, rubbish, bulky waste, dead animals, stable matter, construction debris, hazardous waste, rubble, sewage effluent, byproducts, stagnant water, or any other substance that would constitute a hazard to health or property, with the following exceptions:

- (1) The storage of firewood on residential premises for use by the owner/occupant thereof. Firewood needs to be neatly stacked and kept at least six inches off the ground to prevent rodent harborage; and
- (2) The storage of any material in connection with a business, wherein the storage of such material is customarily incidental to such business, provided such storage is not contrary to zoning ordinances pertaining to outdoor storage. For purposes of this section, "storage" means the keeping of any item on a premises for other than immediate use, sale or disposal.

4.12.050 - Collection and disposal of solid waste required.

(a) Every person, firm or corporation owning, occupying, controlling or renting a residential premises which fronts upon or abuts a public street or alley upon which the city's contract agent maintains a solid waste collection route, and wherein residential solid waste is generated or accumulates, shall cause such solid waste to be placed for collection, either by the city or by the city's contract agent, pursuant to the collection/disposal rules and regulations.

(b) Every person, firm or corporation owning, occupying, controlling or renting a condominium dwelling, as defined in Chapter 15.03 of this Municipal Code, of three units or more, or a single unit within said dwelling, wherein residential solid waste is generated or accumulated, shall, in the discretion of and upon direction by the ~~public health director~~administrative authority, cause such solid waste to be placed for collection, either by the city or by the city's contract agent, pursuant to the collection/disposal rules and regulations.

The director may require or allow the person or persons owning, occupying, controlling or renting individual dwelling units within a condominium dwelling of three units or more to place the residential solid waste which is generated or accumulates therein for collection by the city's contract agent if he or she determines:

- (1) That the collection of solid waste from such units is necessary in the interests of public health, welfare and safety;
- (2) That city solid waste collection service can efficiently be provided to all of the individual units therein without undue risk of harm to the equipment of the city's contract agent or to the private roads or streets serving the condominium; and
- (3) That a horizontal property regime has been appropriately filed in the office of the county recorder such as would permit valid liens for unpaid solid waste collection service bills to be filed against any and all individual units within said condominium.

(c) Every person, firm or corporation owning or managing the premises of a multifamily dwelling or apartment house, as defined in Section 15.03.220, wherein individual units are not separate properties pursuant to a horizontal property regime, and every person, firm or corporation owning, occupying, renting or managing a condominium dwelling not serviced by city solid waste collection service pursuant to subsection (b) of this section, wherein solid waste is generated or accumulates shall cause such solid waste is to be placed for collection by a

commercial collection agent, or shall cause the employees of such establishment to collect and dispose of said solid waste, pursuant to the collection/disposal rules and regulations.

(d) Every person, firm or corporation owning, occupying or managing the premises of a commercial establishment wherein solid waste is generated or accumulates shall cause such solid waste to be placed for collection by a commercial collection agent, or shall cause the employees of such establishment to collect and dispose of said solid waste, pursuant to the collection/disposal rules and regulations.

4.12.060 - Collection and disposal—Rules and regulations.

(a) Collection from Residential Customers at Residential Premises.

(1) Residential solid waste shall be placed for collection in bags or containers as herein defined, or shall be properly bundled. Bags and containers shall not exceed the size and weight specified in their respective definitions. Bags must be securely tied or sealed, and containers must have a firm-fitting lid in place to prevent spillage of solid waste therefrom.

(2) Residential customers shall place residential solid waste, with the exception of bulky wastes, as defined herein, for regular weekly collection by the city or the city's contract agent. Residential customers shall be limited to the equivalent of three — thirty-two (32) gallon cans or bags or one — ninety-five (95) gallon poly cart for collection on any collection, but such customer may only place for collection the residential solid waste actually generated by that resident at that residential premises. Residential customers shall be responsible for purchasing a sticker for each additional bag placed at curbside on a weekly basis that is over the collection limit totaling ninety-six (96) gallons of refuse. The fees are to be assessed for extra bags for the collection of solid waste as set forth in Section 2.08.040 "Schedule of Fees."

(i) Residential customers shall place residential yard waste for regular weekly collection by the city or city's contract agent. An unlimited amount of yard waste may be placed for collection on any collection day, for the months April through November, by a residential customer. Such customer may only place for collection the yard waste actually generated by the resident at the residential premises.

(ii) Separation of Yard Waste Required. All yard waste shall be separated by the residential customer from all other solid waste and either shall be: composted on the premises; placed in a two-ply kraft paper bag affixed with a Y sticker; placed in thirty-two (32) gallon trash receptacle or ninety-five (95) gallon city approved poly cart; or branches tied with string and/or twine for collection by the city's collection contractor.

(iii) Residential customers shall place recyclable material for regular weekly collection by the city or city's contract agent. An unlimited amount of recyclable material may be placed for collection on any collection day by a residential customer. There will be alternating weeks for the collection of recyclable materials. Blue weeks are weeks that paper, cardboard and glass will be collected. Green weeks are weeks that plastic and metal cans will be collected. Each residential customer shall be given two — eighteen (18) gallon containers for the storage of recyclable materials.

(3) Residential customers may place limited amounts of construction debris, as defined herein, for regular weekly garbage collection by the city or the city's contract agent, provided that such material must be bundled in bundles not exceeding the size and weight set forth in the definition thereof. Concrete, brick and asphalt shingles shall not be collected.

(4) Each residential customer shall place bags, bundles or containers of residential solid waste for collection at curbside immediately in front of his or her residence. A residential customer whose residence is on the corner of two intersecting streets upon which the city or the city's contract agent operates a residential collection route may, with the concurrence of the

administrative authority, designate which street they will place their residential solid waste for collection, regardless of the street address of such residence. Bags, bundles or containers must be placed within five feet of the curb on a paved street, or within five feet of the traveled portion on an unpaved street. In those instances where alley collection has been authorized by the administrative authority, bags, bundles or containers must be placed within five feet of the paved or traveled portion thereof. Where site conditions would make it unduly difficult for the residential customer to place bags, bundles, or containers within five feet of the curb or traveled way as specified, or where due to such conditions, the city or the city's contract agent cannot pick up bags, bundles or containers therefrom without undue difficulty, the administrative authority may approve an alternate site for collection. Both the residential customer and the city's contract agents shall thereafter be required to use said alternate site for the placement and collection of residential solid waste. When weather or street conditions prevent the collection of residential solid waste on any collection route or portion thereof on any particular regular collection day, the administrative authority may temporarily waive the placement and collection of such solid waste until the next regular collection day for that collection route. After collection has occurred, residential customers shall be required to remove empty containers from the right-of-way for storage until the next collection. Containers may not be stored in the right-of-way or in the front yard setback of any residential premises. Containers shall be stored in such a manner that water will not collect therein.

(5) Each residential customer shall be required to place all bags, bundles and containers of residential solid waste for collection between the hours of seven p.m. on the day preceding collection and seven a.m. on the day of collection for said residence. The collection day for a particular residence shall be determined by reference to the sector within which it is located. The city shall promulgate to each residential customer a schedule indicating in which sector his or her residence is located and indicating when collections will occur in each of the five sectors into which the city is divided for collection purposes.

(6) Bulky wastes, as defined herein, will be collected only upon prior arrangement made by the residential customer with the city's contract agent. Bulky waste collections from a residential customer's premises will be made once monthly on that customer's regular residential solid waste collection day. To arrange for collection of bulky waste items, the residential customer shall be required to contact the city's contract agent on or before the first day of the month for that month's collection. There shall be a limit of two bulky waste collections per year per residential address. The placement of bulky waste items for collection shall, in all other respects, be subject to the same regulations as all other residential solid waste. The volume of material collected shall not exceed four feet by eight feet by four feet on any given collection day.

(7) At residential premises or other residential units served by city solid waste collection service wherein a disabled person resides and wherein there is no able-bodied resident available to place solid waste containers, bags or bundles for collection at curbside, the city will arrange to collect such waste at the residence, provided such bags, bundles, or containers are clearly visible from the street at the time of collection. The determination of the administrative authority as to whether or not a person is disabled for purposes of this provision shall be binding upon such person. Such collections will be made on the regular residential collection day for the sector within which such resident is located and subject to all other collection rules and regulations.

(8) In the event that the administrative authority determines that a residential premises is not conveniently accessible for collection by the collection vehicles of either the city or its contract agent, the administrative authority may decline to provide residential collection service

to such residence. In that event, the owner or occupant of that residence shall be required to obtain solid waste collection services from a commercial collection agent.

(9) Provision, Waiver and Denial of City Collection Service. Where there is a mixed commercial and residential use located upon a parcel of property under single ownership and control, the administrative authority may either deny or waive the provision of city collection services to the residential portion thereof if it is determined that such mixed commercial and residential use can be conveniently serviced and will be continuously serviced by a commercial collection agent, or if it is determined that the city's collection services would likely be overburdened by attempting to provide collection services to that parcel. ~~Where a church and its parsonage or rectory are located upon a single parcel of property, the city may provide, and the parsonage or rectory may utilize, city residential solid waste collection services. The administrative authority may agree to provide city collection services to both the church and the parsonage or rectory if it is determined that such collection services can be conveniently provided and will not overburden the city's collection services. The administrative authority may withdraw such service upon its determination that such service can no longer be conveniently provided or that the city's collection service would be overburdened by the continued provision of such service.~~

(10) Failure to place residential solid waste for collection in appropriate bags, bundles or containers, or in the required location, or at other than the required time on the collection day shall constitute a misdemeanor. However, residential solid waste which is not placed for collection in appropriate bags, bundles, or containers, or in the required location, or during the required time on the collection day, need not be collected by the city or the city's contract agent. In the event that residential solid waste is not collected for appropriate cause, the residential customer involved shall be required to immediately remove such solid waste from curbside and either dispose of it or securely and safely store it for collection on the next collection day. Failure to so remove and either dispose of or store residential solid waste shall constitute a misdemeanor.

(11) In the event that the residential solid waste which a residential customer places for collection spills from the bags, bundles or containers prior to its collection, the city's contract agent will not be required to collect same, and the residential customer shall be required to clean up and place said solid waste for collection on the next collection day. In the event that the city's contract agent spills residential solid waste while collecting or transporting same, such agent shall immediately inform the administrative authority thereof and immediately clean up said spill.

(b) Collection from the Premises of a Commercial Establishment, Apartment or Condominium.

(1) The person, firm or corporation owning or operating: (i) a commercial establishment, (ii) an apartment house or complex of three or more units which are not separate properties pursuant to a horizontal property regime, or (iii) a condominium dwelling which is not served city solid waste collection service shall arrange for the weekly collection and disposal of all solid waste generated therein by either a licensed commercial collection agent or by the employees of such commercial establishment, apartment or condominium, provided that the hauling vehicle is covered by a tarp to prevent spillage and subject to the following rules and regulations.

(2) Each such commercial establishment, apartment or condominium shall place its solid waste for collection in containers or bulk containers as defined in this chapter. Such containers or bulk containers shall be provided either by the owners or operators of the commercial establishment, apartment or condominium, or by their commercial collection agent.

(3) Containers for solid waste from such a commercial establishment, apartment or condominium may be placed for collection at curbside on the date of collection, provided that said collection day does not coincide with the city's residential collection day in that zone. After

collection has occurred, all containers must be removed from the right-of-way. Containers may not be stored in the right-of-way or the front yard setback of a commercial establishment for purposes of collection or storage. The location for placement of containers and bulk containers for collection and storage purposes shall be determined by the commercial establishment and its solid waste collection agent, but shall be subject to the approval of the administrative authority. Containers and bulk containers must be stored and maintained in such a manner that water will not collect therein.

(4) Every person, firm or corporation owning, occupying or operating the premises of such a commercial premises, apartment or condominium, and each tenant or occupant of an individual unit in such apartment or condominium, shall cause all solid waste generated or accumulating therein to be collected and disposed of at least once each week, either by the employees of such commercial establishment, apartment or condominium or by a commercial collection agent, unless collection at a longer interval is authorized by the administrative authority, or unless weekly collection thereof is temporarily waived by the administrative authority due to weather or street conditions.

(5) Byproducts maybe collected by someone other than a commercial collection agent, if the byproducts so collected are to be used in the manufacture of another product or in another legally permissible manner.

(6) In the event that a commercial collection agent, or any other person, firm or corporation engaged in the collection or transportation of solid waste, spills such solid waste while collecting or transporting same, such agent, person, firm or corporation shall immediately inform the administrative authority thereof and shall be required to immediately clean up such spill.

(7) All vehicles utilized by any person, firm, commercial collecting agent or corporation for the purpose of solid waste collection and/or transportation must be equipped with a box that is of metal construction or other impervious material, fully enclosed, and leak proof, with the following exception:

(i) The administrative authority may make exceptions to these rules and regulations when undue hardship would result from their literal application, and may also impose further conditions and requirements when necessary to protect the public health, welfare, safety and convenience. The administrative authority is further authorized to make, and from time to time, amend as the need arises, such rules not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper, to effect the proper, expedient, economical and efficient collection and removal of solid waste by either the city or its contract agent, by a commercial establishment, or by a commercial collection agent.

4.12.063 - Abandoned appliances.

It is unlawful for any person to leave or permit to remain outside of any building or other structure, or within any unoccupied or abandoned building, dwelling, or other structure under their control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, freezer, or other appliance or container which has an airtight door or lid, snap lock, or other locking device which may not be released from inside, without first removing the door or lid, snap lock, or other locking from device from the ice box, refrigerator, freezer, appliance or container.

4.12.065 - Disposal of yard waste.

Residential customers electing to dispose of yard waste through the city's solid waste collection system shall place the yard waste in containers separate from all other solid waste. The containers

should be handled in the same fashion as other residential solid waste and in compliance with all applicable rules and regulations set out in Section 4.12.060 above.

4.12.070 - Supervision.

The administrative authority shall enforce the regulations of this chapter relating to the collection and removal of all solid waste by the city or by the city's contract agent, by employees of commercial establishments, or by commercial collection agents.

4.12.080 - Solid waste—Persons permitted to collect.

No person, firm or corporation shall gather, collect or remove any solid waste from any place or premises in the city or convey or transport the same over the public streets thereof except:

- (1) The city or its contract agents, or the servants and employees of either while acting as such;
- (2) A commercial collection agent holding a permit and acting as such pursuant to the provisions of this chapter;
- (3) Employees of a commercial establishment, apartment or condominium not served by city solid waste collection service when engaged in the collection and disposal of solid waste from that commercial establishment, apartment or condominium;
- (4) Owners/occupants of a residential premises, while engaged in the cleanup of such premises, and those assisting such owners/occupants without remuneration; and
- (5) Any owner or operator of a sanitary disposal project as defined in Section 455B.301 of the Iowa Code, 1989 edition, which has a facility in Council Bluffs, Iowa, shall pay to the city a monitoring and inspection fee for all solid waste generated outside the city limits of Council Bluffs, Iowa, which is accommodated by said facility. This fee shall be as set forth in the city's prevailing schedule of fees. It shall be paid monthly by the fifteenth (15) day of the month following its accrual. In addition to this fee, the owner/operator shall pay for any tests deemed necessary by the health department to adequately monitor said facility.

4.12.090 - Commercial collection permit required.

(a) No person, firm or corporation shall arrange or contract with any commercial establishment or residential premises for the collection of solid waste therefrom, or make any such collections, without first obtaining a commercial collection permit from the administrative authority. The applicant for such permit must submit all vehicles proposed as collection vehicles for inspection to determine if the bodies of such vehicles comply with the requirements of Section 4.12.060(b)(7), given the type of solid waste which the applicant proposes to haul therein. Application shall be on such forms as are prescribed from time to time by the administrative authority. The application shall contain an indemnity and hold harmless agreement which must be executed by the applicant. The application shall be accompanied ~~by a performance bond in the amount of five hundred dollars (\$500.00),~~ by a certificate of insurance evidencing public liability insurance for vehicles and collection operations in the amount of one ~~hundred thousand~~ million dollars (\$1,000,000.00), and by a permit fee for each vehicle covered thereby as set forth in the prevailing schedule of fees. Such fee shall be for the city's expense in inspecting collection vehicles and in processing the application, and shall be nonrefundable regardless whether or not a permit is issued. The permit shall indicate the type or types of solid waste which may be hauled in each collection vehicle, and a commercial collection agent may haul only that type of solid waste in his or her vehicle(s) which is indicated on the permit.

(b) The administrative authority may impose such conditions as in its opinion are necessary for the preservation of the public health, welfare and safety and no person holding such permit shall violate any of the conditions imposed by the administrative authority.

(c) All commercial collection permits issued by the administrative authority shall expire on January 1st of each year.

4.12.100 - Disposal.

The city and its contract agents, all commercial collection agents, and the haulers of any type of solid waste produced in the city or hauled through the city over city streets shall dispose of all solid waste at a disposal site approved by the administrative authority. Clean rubble such as brick, concrete, stone, concrete block and clay tile may be disposed of at other locations within the city approved by the administrative authority as a rubble dump, or may be utilized as fill at a site within the city, if a proper permit has been obtained therefor.

4.12.110 - Collection fees—Residential.

(a) The standard residential collection and disposal fee shall be as provided in the prevailing schedule of fees, shall be billed ~~semiannually~~as set out in the schedule of fees, shall not be transferable to another property, and shall not be refundable unless the account is terminated.

(b) A special residential collection and disposal fee is established at one-half the standard residential collection and disposal fee created by subsection (a) of this section. The special residential collection and disposal fee shall be payable annually in advance. Failure to timely pay the special fee as provided in this subsection shall forfeit eligibility for the special fee, and shall reinstate the standard fee established in subsection (a) of this section. A family unit or owner-occupant of residential premises may be eligible for the special fee if the applicant:

(1) Has a combined gross household income which does not exceed ~~thirteen-fifteen~~ thousand ~~six-two~~ hundred ninety dollars (\$~~135,692~~200.00) annually;

(2) Has timely filed an application with the city of Council Bluffs, Iowa, reciting such facts and requesting the benefits of this provision;

(3) Has waived any right to confidentiality relating to the information referenced in such application and authorizes or executes a limited power of attorney to the city of Council Bluffs, Iowa, to verify such information from the records of the Iowa Department of Revenue and/or Pottawattamie County social services department;

(4) Has received notification by the city that such application has been approved by the ~~mayor or his or her designee~~administrative authority;

(5) Submits payment of the annual fee on or before the first day of December following the July billing, effective with the July, 2008 billing; and

(6) Entitlement to the special fee shall be on an annual basis coinciding with the city's fiscal year commencing July 1st of each calendar year through June 30th of the subsequent calendar year. Application for the fiscal year special fee entitlement must be received by the city on or before June 1st of the preceding fiscal year in order to be considered for approval. The form of application shall be approved by the mayor, and such forms shall be made available in city hall. This special fee shall be transferable and refundable.

(c) The administrative authority is authorized to make, and from time to time amend as the need arises, such rules not inconsistent with the provisions of this chapter as may be reasonable, necessary and proper to permit the equitable application of the collection fees in all circumstances. The administrative authority shall have the authority to make such adjustments to fees as are necessary and equitable.

4.12.120 - Appeals.

The administrative authority is authorized to establish an appeal procedure, under such rules as the administrative authority may from time to time prescribe, for appeals by parties aggrieved by the application of the provisions of this chapter, or by the application of any rules adopted by the administrative authority pursuant to this chapter.

4.12.130 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

4.12.140 - Nuisance.

The storing of solid waste on private property for more than three days in violation of Section 4.12.040 above is a nuisance.

4.12.150 - Notice.

The adoption of the ordinance codified in this code section by the city council shall be notice to the public of the requirements of this chapter. However, upon the finding of a nuisance as set out in Section 4.12.140 above, the ~~mayor or his or her designee~~administrative authority shall give the additional notice of violation and opportunity to cure in the following manner:

- (1) By causing a dated and signed placard to be posted in a conspicuous place on the parcel of property found to be in violation of this chapter. The placard shall state that the parcel is in violation of this chapter, and that the failure of the owner to abate the nuisance within three days of the date stated on the placard will result in the city abating the nuisance and assessing the actual costs and an administrative fee against the property. It shall also advise the property owner of the appeal rights which were established pursuant to Section 4.12.120 above; and
- (2) By regular mail to the owner of the property as shown by the records of the county auditor. The notice shall state that the subject parcel of land is in violation of the requirements of this chapter, and that failure of the owner to abate the nuisance within three days of posting will result in the city abating the nuisance and assessing the actual cost and an administrative fee against the property. It shall also state the appeal rights which were established pursuant to Section 4.12.120 above.

4.12.160 - Payment or assessment of costs.

- (a) Upon completion of the abatement of a nuisance under the authority of this chapter, the property owner shall be charged a fee to cover the costs of abatement. The fee shall be as set forth in the prevailing schedule of fees of the city of Council Bluffs as most recently adopted by the city council, and shall be based on actual costs to the city to have the nuisance abated.
- (b) The ~~mayor or his or her designee~~administrative authority shall demand payment of such fee from the property owner by mailing a statement of the fee to the last known address of the owner and/or person in possession by ordinary mail. Such statement shall be due and payable upon mailing and shall be delinquent if not paid within ten (10) days of mailing.
- (c) Any fees for the abatement of the nuisance which are delinquent may be assessed against the property for collection in the same manner as a property tax, pursuant to the provisions of Section 364.12 of the Code of Iowa. An additional administrative fee shall be added to each delinquent

account if it is certified for collection by the county auditor. The additional administrative fee shall be as set forth in the prevailing schedule of fees of the city of Council Bluffs as most recently adopted by the city council.

ORDINANCE NO. 6352

AN ORDINANCE TO AMEND TITLE 4 “HEALTH AND SANITATION” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING “CHAPTER 4.12 – SOLID WASTE COLLECTION AND DISPOSAL.”

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 4 “Health and Sanitation” Chapter 4.12 “Solid Waste Collection and Disposal” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

4.12.010 - Definitions.

The following words and phrases when used in this chapter shall have the following meanings:

- (1) "Administrative authority" means the Mayor or anyone else duly authorized by the Mayor.
- (2) "Bag" means a plastic or other sack designed to store solid waste with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty (30) pounds. Bags shall not have a capacity greater than thirty-three (33) gallons.
- (3) "Bulk container" means a receptacle designed for the storage of a large quantity of solid waste, not exceeding nine cubic yards, and designed for automated collection by collection vehicles, and includes what is popularly referred to as a "dumpster."
- (4) "Bulky waste" means large household appliances; stoves, refrigerators, water heater tanks, washing machines, toilets, bathtubs, furniture, carpets and rugs, and other household waste materials bundled so as not to exceed sixty (60) pounds or four feet in length, and two feet in diameter.
- (5) "Bundle" means trees, shrubs and brush trimmings, newspaper and magazines, or other non-household waste materials securely tied together forming an easily handled package not exceeding four feet in length, and two feet in diameter or sixty (60) pounds in weight.
- (6) "Byproducts" means and includes:
 - (A) All material produced, developed or generated incidental to the operation of any business, which is not the principal object of production of such business, but which material, due to its nature, can be sold by the producer thereof at a price greater than the cost of hauling such material to the point of delivery;
 - (B) Material which, due to its nature, can be sold by the producer thereof, at the point of production, for a valuable consideration;
 - (C) Material that the owner or producer thereof can, due to its nature, have removed from his or her premises without cost to him or her;
 - (D) The following, but not limited to the following items: suet, tallow, bones, and meat trimmings; leafy vegetable matter such as lettuce trimmings, cabbage trimmings, carrot tops, and corn husks; stale bread and pastry; fruit or vegetables no longer fit for human consumption; and
 - (E) Any material which the administrative authority determines to be byproducts.
- (7) "City contract agent" means the person, firm, or corporation with which the city has contracted to collect the residential solid waste of its residential customers.

- (8) "Commercial collection agent" means a person, firm, or corporation engaged in the business of collecting solid waste from one or more commercial establishments and/or residential premises for disposal.
- (9) "Commercial establishment" means any hotel, motel, trailer court or park, restaurant, market, grocery store, hospital, church, school, country club, private club, store, business concern, farm operation, industrial plant, manufacturing facility, processing facility, service establishment, regardless whether operated for profit or not.
- (10) "Construction debris" means waste building materials resulting from construction, remodeling, repair or demolition operation, including, but not limited to, wood, concrete, brick, glass, plaster, plasterboard, and roofing materials.
- (11) "Container" means a receptacle with handles and with a capacity of greater than twenty (20) gallons but not more than thirty-two (32) gallons constructed of plastic, metal, or fiberglass and having a tight-fitting lid capable of preventing entrance into the container by vectors. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed sixty (60) pounds. Other containers agreeable to both city and contractor may be used.
- (12) "Curbside" means that portion of right-of-way immediately adjacent to the curb or to the traveled portion in the case of a street, or immediately adjacent to the traveled portion in the case of a paved or approved alley.
- (13) "Curbside recycling" means the weekly collection of recyclable materials at curbside by the city's contract agent.
- (14) "Dead animals" means animals or portions thereof that have expired from any cause, except those slaughtered or killed for human use.
- (15) "Disabled" means any person who (by advanced age or otherwise) lacks competent power, strength, or physical or mental ability to move solid waste containers of the type specified in these specifications.
- (16) "Disposal" means the process of removing solid waste from the point of generation and transporting it to an approved disposal site at which it is to be left for permanent keeping or destruction.
- (17) "Disposal site" means a solid waste depository, including, but not limited to, sanitary landfills, transfer stations, incinerators, and waste processing centers licensed, permitted or approved by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approval.
- (18) "Firewood" means any wood cut into a length of not more than thirty (30) inches or a diameter of not more than eight inches and free of any paint, varnish, or other preservative.
- (19) "Garbage" means every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation of, decay or decomposition of meats, including but not by way of limitation putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents; except in all cases any matter hereinafter included in the definition of "bulky waste," "construction debris," "dead animals," "hazardous waste," "rubbish," or "stable matter."
- (20) "Hazardous waste" means any chemical or compound or mixture thereof, substance, or article which, if improperly used, handled, transported, processed, or stored, may constitute a danger to health or may cause damage to property by reason of being explosive, flammable, poisonous, unstable, irritating or otherwise harmful.
- (21) "Recyclable materials" means waste that is designated by the city as part of a special collection for processing for reuse, including but not limited to food container glass, aluminum,

steel (tin) cans, #1 through #5 plastics, uncontaminated newspapers and glossy paper (magazines) and cardboard shall be considered uncontaminated if they have not been exposed to substances or conditions rendering them unusable for recycling.

(22) "Residential customer" means the owner or occupant of a residential premises, or of a condominium dwelling, who is required to place his or her residential solid waste for collection by the city.

(23) "Residential premises" means any single-family dwelling or any duplex or two-family dwelling within the city as defined by Chapter 15.03 of this code.

(24) "Residential solid waste" means all garbage, rubbish and bulky waste generated by a residential customer at the residence or residential unit where such person normally resides.

(25) "Rubbish" means all waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, tires exclusive of metal rims and not exceeding three feet in diameter, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances and any and all other waste materials not included in the definitions of "bulky waste," "construction debris," "dead animals," "garbage," "hazardous waste," or "stable matter."

(26) "Rubble" means inorganic construction debris such as, but not limited to, the following items: brick, concrete, asphalt, stone, concrete block and clay tile.

(27) "Solid waste" means and includes bulky waste, construction debris, dead animals, garbage, hazardous wastes, and rubbish. "Solid waste" shall not include byproducts or rubble as defined herein.

(28) "Stable matter" means all manure and other waste matter normally accumulated in or about a stable, or in any animal, livestock, or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

(29) "Yard waste" shall include grass clippings, leaves, garden foliage, tree trimmings, hedge trimmings, flower trimmings, dead plants, weeds and sawdust.

4.12.020 - Legislative findings.

The city council finds as follows:

(1) That an exclusive municipal system for the collection of all residential solid waste is necessary for the preservation of the public health, welfare and safety;

(2) That the periodic collection of solid waste from all places in the city benefits all occupants of places and premises in the city;

(3) Unpaid fees which are more than 60 days delinquent may be certified by the city treasurer and submitted to the treasurer of Pottawattamie County, Iowa, for collection in the same manner as other taxes, as provided for in the Iowa Code, Chapter 384.84. An administrative assessment fee shall be imposed as set forth in the prevailing schedule of fees at the time of certification as set forth in Section 2.08.040, and

(4) That there is variation in the amount of solid waste produced at single-family or duplex residential locations. With the implementation of curbside recycling, such deviation does justify the limitations of quantities at such residential location by limiting the quantities produced, participation in the curbside recycling program will be enhanced.

4.12.030 - Burying of solid waste prohibited.

No person, firm or corporation shall bury solid waste within the city except in an approved landfill; nor shall any person, firm or corporation allow his, her, or its solid waste to be disposed of by another by burying in other than an approved landfill; nor shall any person, firm or corporation use or allow his, her, or its property, or property under his, her, or its control, to be used for such burying of solid waste, unless such property has been approved and licensed as a disposal site. The following items may be buried upon the following terms and conditions:

- (1) Inorganic construction debris (rubble) buried pursuant to appropriate city permit;
- (2) Materials, such as sludge, which are allowed to be buried pursuant to state statute or regulation; and
- (3) Leaves and garden and lawn trimmings may be composted and buried on the premises upon which they are generated.

4.12.040 - Storage of solid waste prohibited.

No person, firm or corporation owning, controlling or occupying any residential premises, commercial establishment, apartment or condominium shall permit the storage on such premises, or on other private or public property, of any garbage, rubbish, bulky waste, dead animals, stable matter, construction debris, hazardous waste, rubble, sewage effluent, byproducts, stagnant water, or any other substance that would constitute a hazard to health or property, with the following exceptions:

- (1) The storage of firewood on residential premises for use by the owner/occupant thereof. Firewood needs to be neatly stacked and kept at least six inches off the ground to prevent rodent harborage; and
- (2) The storage of any material in connection with a business, wherein the storage of such material is customarily incidental to such business, provided such storage is not contrary to zoning ordinances pertaining to outdoor storage. For purposes of this section, "storage" means the keeping of any item on a premises for other than immediate use, sale or disposal.

4.12.050 - Collection and disposal of solid waste required.

(a) Every person, firm or corporation owning, occupying, controlling or renting a residential premises which fronts upon or abuts a public street or alley upon which the city's contract agent maintains a solid waste collection route, and wherein residential solid waste is generated or accumulates, shall cause such solid waste to be placed for collection, either by the city or by the city's contract agent, pursuant to the collection/disposal rules and regulations.

(b) Every person, firm or corporation owning, occupying, controlling or renting a condominium dwelling, as defined in Chapter 15.03 of this Municipal Code, of three units or more, or a single unit within said dwelling, wherein residential solid waste is generated or accumulated, shall, in the discretion of and upon direction by the administrative authority, cause such solid waste to be placed for collection, either by the city or by the city's contract agent, pursuant to the collection/disposal rules and regulations.

The director may require or allow the person or persons owning, occupying, controlling or renting individual dwelling units within a condominium dwelling of three units or more to place the residential solid waste which is generated or accumulates therein for collection by the city's contract agent if he or she determines:

- (1) That the collection of solid waste from such units is necessary in the interests of public health, welfare and safety;
- (2) That city solid waste collection service can efficiently be provided to all of the individual units therein without undue risk of harm to the equipment of the city's contract agent or to the private roads or streets serving the condominium; and
- (3) That a horizontal property regime has been appropriately filed in the office of the county recorder such as would permit valid liens for unpaid solid waste collection service bills to be filed against any and all individual units within said condominium.

(c) Every person, firm or corporation owning or managing the premises of a multifamily dwelling or apartment house, as defined in Section 15.03.220, wherein individual units are not separate properties pursuant to a horizontal property regime, and every person, firm or corporation owning, occupying, renting or managing a condominium dwelling not serviced by city solid waste collection service pursuant to subsection (b) of this section, wherein solid waste is generated or accumulates shall cause such solid waste is to be placed for collection by a commercial collection agent, or shall cause the employees of such establishment to collect and dispose of said solid waste, pursuant to the collection/disposal rules and regulations.

(d) Every person, firm or corporation owning, occupying or managing the premises of a commercial establishment wherein solid waste is generated or accumulates shall cause such solid waste to be placed for collection by a commercial collection agent, or shall cause the employees of such establishment to collect and dispose of said solid waste, pursuant to the collection/disposal rules and regulations.

4.12.060 - Collection and disposal—Rules and regulations.

(a) Collection from Residential Customers at Residential Premises.

(1) Residential solid waste shall be placed for collection in bags or containers as herein defined, or shall be properly bundled. Bags and containers shall not exceed the size and weight specified in their respective definitions. Bags must be securely tied or sealed, and containers must have a firm-fitting lid in place to prevent spillage of solid waste therefrom.

(2) Residential customers shall place residential solid waste, with the exception of bulky wastes, as defined herein, for regular weekly collection by the city or the city's contract agent. Residential customers shall be limited to the equivalent of three — thirty-two (32) gallon cans or bags or one — ninety-five (95) gallon poly cart for collection on any collection, but such customer may only place for collection the residential solid waste actually generated by that resident at that residential premises. Residential customers shall be responsible for purchasing a sticker for each additional bag placed at curbside on a weekly basis that is over the collection limit totaling ninety-six (96) gallons of refuse. The fees are to be assessed for extra bags for the collection of solid waste as set forth in Section 2.08.040 "Schedule of Fees."

(i) Residential customers shall place residential yard waste for regular weekly collection by the city or city's contract agent. An unlimited amount of yard waste may be placed for collection on any collection day, for the months April through November, by a residential customer. Such customer may only place for collection the yard waste actually generated by the resident at the residential premises.

(ii) Separation of Yard Waste Required. All yard waste shall be separated by the residential customer from all other solid waste and either shall be: composted on the premises; placed in a two-ply kraft paper bag affixed with a Y sticker; placed in thirty-two (32) gallon trash receptacle or ninety-five (95) gallon city approved poly cart; or branches tied with string and/or twine for collection by the city's collection contractor.

(iii) Residential customers shall place recyclable material for regular weekly collection by the city or city's contract agent. An unlimited amount of recyclable material may be placed for collection on any collection day by a residential customer. There will be alternating weeks for the collection of recyclable materials. Blue weeks are weeks that paper, cardboard and glass will be collected. Green weeks are weeks that plastic and metal cans will be collected. Each residential customer shall be given two — eighteen (18) gallon containers for the storage of recyclable materials.

(3) Residential customers may place limited amounts of construction debris, as defined herein, for regular weekly garbage collection by the city or the city's contract agent, provided that such material must be bundled in bundles not exceeding the size and weight set forth in the definition thereof. Concrete, brick and asphalt shingles shall not be collected.

(4) Each residential customer shall place bags, bundles or containers of residential solid waste for collection at curbside immediately in front of his or her residence. A residential customer whose residence is on the corner of two intersecting streets upon which the city or the city's contract agent operates a residential collection route may, with the concurrence of the administrative authority, designate which street they will place their residential solid waste for collection, regardless of the street address of such residence. Bags, bundles or containers must be placed within five feet of the curb on a paved street, or within five feet of the traveled portion on an unpaved street. In those instances where alley collection has been authorized by the administrative authority, bags, bundles or containers must be placed within five feet of the paved or traveled portion thereof. Where site conditions would make it unduly difficult for the residential customer to place bags, bundles, or containers within five feet of the curb or traveled way as specified, or where due to such conditions, the city or the city's contract agent cannot pick up bags, bundles or containers therefrom without undue difficulty, the administrative authority may approve an alternate site for collection. Both the residential customer and the city's contract agents shall thereafter be required to use said alternate site for the placement and collection of residential solid waste. When weather or street conditions prevent the collection of residential solid waste on any collection route or portion thereof on any particular regular collection day, the administrative authority may temporarily waive the placement and collection of such solid waste until the next regular collection day for that collection route. After collection has occurred, residential customers shall be required to remove empty containers from the right-of-way for storage until the next collection. Containers may not be stored in the right-of-way or in the front yard setback of any residential premises. Containers shall be stored in such a manner that water will not collect therein.

(5) Each residential customer shall be required to place all bags, bundles and containers of residential solid waste for collection between the hours of seven p.m. on the day preceding collection and seven a.m. on the day of collection for said residence. The collection day for a particular residence shall be determined by reference to the sector within which it is located. The city shall promulgate to each residential customer a schedule indicating in which sector his or her residence is located and indicating when collections will occur in each of the five sectors into which the city is divided for collection purposes.

(6) Bulky wastes, as defined herein, will be collected only upon prior arrangement made by the residential customer with the city's contract agent. Bulky waste collections from a residential customer's premises will be made once monthly on that customer's regular residential solid waste collection day. To arrange for collection of bulky waste items, the residential customer shall be required to contact the city's contract agent on or before the first day of the month for that month's collection. There shall be a limit of two bulky waste collections per year per residential address. The placement of bulky waste items for collection shall, in all other

respects, be subject to the same regulations as all other residential solid waste. The volume of material collected shall not exceed four feet by eight feet by four feet on any given collection day.

(7) At residential premises or other residential units served by city solid waste collection service wherein a disabled person resides and wherein there is no able-bodied resident available to place solid waste containers, bags or bundles for collection at curbside, the city will arrange to collect such waste at the residence, provided such bags, bundles, or containers are clearly visible from the street at the time of collection. The determination of the administrative authority as to whether or not a person is disabled for purposes of this provision shall be binding upon such person. Such collections will be made on the regular residential collection day for the sector within which such resident is located and subject to all other collection rules and regulations.

(8) In the event that the administrative authority determines that a residential premises is not conveniently accessible for collection by the collection vehicles of either the city or its contract agent, the administrative authority may decline to provide residential collection service to such residence. In that event, the owner or occupant of that residence shall be required to obtain solid waste collection services from a commercial collection agent.

(9) Provision, Waiver and Denial of City Collection Service. Where there is a mixed commercial and residential use located upon a parcel of property under single ownership and control, the administrative authority may either deny or waive the provision of city collection services to the residential portion thereof if it is determined that such mixed commercial and residential use can be conveniently serviced and will be continuously serviced by a commercial collection agent, or if it is determined that the city's collection services would likely be overburdened by attempting to provide collection services to that parcel.

(10) Failure to place residential solid waste for collection in appropriate bags, bundles or containers, or in the required location, or at other than the required time on the collection day shall constitute a misdemeanor. However, residential solid waste which is not placed for collection in appropriate bags, bundles, or containers, or in the required location, or during the required time on the collection day, need not be collected by the city or the city's contract agent. In the event that residential solid waste is not collected for appropriate cause, the residential customer involved shall be required to immediately remove such solid waste from curbside and either dispose of it or securely and safely store it for collection on the next collection day. Failure to so remove and either dispose of or store residential solid waste shall constitute a misdemeanor.

(11) In the event that the residential solid waste which a residential customer places for collection spills from the bags, bundles or containers prior to its collection, the city's contract agent will not be required to collect same, and the residential customer shall be required to clean up and place said solid waste for collection on the next collection day. In the event that the city's contract agent spills residential solid waste while collecting or transporting same, such agent shall immediately inform the administrative authority thereof and immediately clean up said spill.

(b) Collection from the Premises of a Commercial Establishment, Apartment or Condominium.

(1) The person, firm or corporation owning or operating: (i) a commercial establishment, (ii) an apartment house or complex of three or more units which are not separate properties pursuant to a horizontal property regime, or (iii) a condominium dwelling which is not served city solid waste collection service shall arrange for the weekly collection and disposal of all solid waste generated therein by either a licensed commercial collection agent or by the employees of such commercial establishment, apartment or condominium, provided that the hauling vehicle is covered by a tarp to prevent spillage and subject to the following rules and regulations.

(2) Each such commercial establishment, apartment or condominium shall place its solid waste for collection in containers or bulk containers as defined in this chapter. Such containers or bulk containers shall be provided either by the owners or operators of the commercial establishment, apartment or condominium, or by their commercial collection agent.

(3) Containers for solid waste from such a commercial establishment, apartment or condominium may be placed for collection at curbside on the date of collection, provided that said collection day does not coincide with the city's residential collection day in that zone. After collection has occurred, all containers must be removed from the right-of-way. Containers may not be stored in the right-of-way or the front yard setback of a commercial establishment for purposes of collection or storage. The location for placement of containers and bulk containers for collection and storage purposes shall be determined by the commercial establishment and its solid waste collection agent, but shall be subject to the approval of the administrative authority. Containers and bulk containers must be stored and maintained in such a manner that water will not collect therein.

(4) Every person, firm or corporation owning, occupying or operating the premises of such a commercial premises, apartment or condominium, and each tenant or occupant of an individual unit in such apartment or condominium, shall cause all solid waste generated or accumulating therein to be collected and disposed of at least once each week, either by the employees of such commercial establishment, apartment or condominium or by a commercial collection agent, unless collection at a longer interval is authorized by the administrative authority, or unless weekly collection thereof is temporarily waived by the administrative authority due to weather or street conditions.

(5) Byproducts maybe collected by someone other than a commercial collection agent, if the byproducts so collected are to be used in the manufacture of another product or in another legally permissible manner.

(6) In the event that a commercial collection agent, or any other person, firm or corporation engaged in the collection or transportation of solid waste, spills such solid waste while collecting or transporting same, such agent, person, firm or corporation shall immediately inform the administrative authority thereof and shall be required to immediately clean up such spill.

(7) All vehicles utilized by any person, firm, commercial collecting agent or corporation for the purpose of solid waste collection and/or transportation must be equipped with a box that is of metal construction or other impervious material, fully enclosed, and leak proof, with the following exception:

(i) The administrative authority may make exceptions to these rules and regulations when undue hardship would result from their literal application, and may also impose further conditions and requirements when necessary to protect the public health, welfare, safety and convenience. The administrative authority is further authorized to make, and from time to time, amend as the need arises, such rules not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper, to effect the proper, expedient, economical and efficient collection and removal of solid waste by either the city or its contract agent, by a commercial establishment, or by a commercial collection agent.

4.12.063 - Abandoned appliances.

It is unlawful for any person to leave or permit to remain outside of any building or other structure, or within any unoccupied or abandoned building, dwelling, or other structure under their control, in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator, freezer, or other appliance or container which has an airtight door or lid, snap lock,

or other locking device which may not be released from inside, without first removing the door or lid, snap lock, or other locking from device from the ice box, refrigerator, freezer, appliance or container.

4.12.065 - Disposal of yard waste.

Residential customers electing to dispose of yard waste through the city's solid waste collection system shall place the yard waste in containers separate from all other solid waste. The containers should be handled in the same fashion as other residential solid waste and in compliance with all applicable rules and regulations set out in Section 4.12.060 above.

4.12.070 - Supervision.

The administrative authority shall enforce the regulations of this chapter relating to the collection and removal of all solid waste by the city or by the city's contract agent, by employees of commercial establishments, or by commercial collection agents.

4.12.080 - Solid waste—Persons permitted to collect.

No person, firm or corporation shall gather, collect or remove any solid waste from any place or premises in the city or convey or transport the same over the public streets thereof except:

- (1) The city or its contract agents, or the servants and employees of either while acting as such;
- (2) A commercial collection agent holding a permit and acting as such pursuant to the provisions of this chapter;
- (3) Employees of a commercial establishment, apartment or condominium not served by city solid waste collection service when engaged in the collection and disposal of solid waste from that commercial establishment, apartment or condominium;
- (4) Owners/occupants of a residential premises, while engaged in the cleanup of such premises, and those assisting such owners/occupants without remuneration; and
- (5) Any owner or operator of a sanitary disposal project as defined in Section 455B.301 of the Iowa Code, 1989 edition, which has a facility in Council Bluffs, Iowa, shall pay to the city a monitoring and inspection fee for all solid waste generated outside the city limits of Council Bluffs, Iowa, which is accommodated by said facility. This fee shall be as set forth in the city's prevailing schedule of fees. It shall be paid monthly by the fifteenth (15) day of the month following its accrual. In addition to this fee, the owner/operator shall pay for any tests deemed necessary by the health department to adequately monitor said facility.

4.12.090 - Commercial collection permit required.

(a) No person, firm or corporation shall arrange or contract with any commercial establishment or residential premises for the collection of solid waste therefrom, or make any such collections, without first obtaining a commercial collection permit from the administrative authority. The applicant for such permit must submit all vehicles proposed as collection vehicles for inspection to determine if the bodies of such vehicles comply with the requirements of Section 4.12.060(b)(7), given the type of solid waste which the applicant proposes to haul therein. Application shall be on such forms as are prescribed from time to time by the administrative authority. The application shall contain an indemnity and hold harmless agreement which must be executed by the applicant. The application shall be accompanied by a certificate of insurance evidencing public liability insurance for vehicles and collection operations in the amount of one million dollars (\$1,000,000.00), and by a permit fee for each vehicle covered thereby as set forth in the prevailing schedule of fees. Such fee shall be for the city's expense in inspecting collection

vehicles and in processing the application, and shall be nonrefundable regardless whether or not a permit is issued. The permit shall indicate the type or types of solid waste which may be hauled in each collection vehicle, and a commercial collection agent may haul only that type of solid waste in his or her vehicle(s) which is indicated on the permit.

(b) The administrative authority may impose such conditions as in its opinion are necessary for the preservation of the public health, welfare and safety and no person holding such permit shall violate any of the conditions imposed by the administrative authority.

(c) All commercial collection permits issued by the administrative authority shall expire on January 1st of each year.

4.12.100 - Disposal.

The city and its contract agents, all commercial collection agents, and the haulers of any type of solid waste produced in the city or hauled through the city over city streets shall dispose of all solid waste at a disposal site approved by the administrative authority. Clean rubble such as brick, concrete, stone, concrete block and clay tile may be disposed of at other locations within the city approved by the administrative authority as a rubble dump, or may be utilized as fill at a site within the city, if a proper permit has been obtained therefor.

4.12.110 - Collection fees—Residential.

(a) The standard residential collection and disposal fee shall be as provided in the prevailing schedule of fees, shall be billed as set out in the schedule of fees, shall not be transferable to another property, and shall not be refundable unless the account is terminated.

(b) A special residential collection and disposal fee is established at one-half the standard residential collection and disposal fee created by subsection (a) of this section. The special residential collection and disposal fee shall be payable annually in advance. Failure to timely pay the special fee as provided in this subsection shall forfeit eligibility for the special fee, and shall reinstate the standard fee established in subsection (a) of this section. A family unit or owner-occupant of residential premises may be eligible for the special fee if the applicant:

(1) Has a combined gross household income which does not exceed fifteen thousand two hundred ninety dollars (\$15,200.00) annually;

(2) Has timely filed an application with the city of Council Bluffs, Iowa, reciting such facts and requesting the benefits of this provision;

(3) Has waived any right to confidentiality relating to the information referenced in such application and authorizes or executes a limited power of attorney to the city of Council Bluffs, Iowa, to verify such information from the records of the Iowa Department of Revenue and/or Pottawattamie County social services department;

(4) Has received notification by the city that such application has been approved by the administrative authority;

(5) Submits payment of the annual fee on or before the first day of December following the July billing, effective with the July, 2008 billing; and

(6) Entitlement to the special fee shall be on an annual basis coinciding with the city's fiscal year commencing July 1st of each calendar year through June 30th of the subsequent calendar year. Application for the fiscal year special fee entitlement must be received by the city on or before June 1st of the preceding fiscal year in order to be considered for approval. The form of application shall be approved by the mayor, and such forms shall be made available in city hall. This special fee shall be transferable and refundable.

(c) The administrative authority is authorized to make, and from time to time amend as the need arises, such rules not inconsistent with the provisions of this chapter as may be reasonable,

necessary and proper to permit the equitable application of the collection fees in all circumstances. The administrative authority shall have the authority to make such adjustments to fees as are necessary and equitable.

4.12.120 - Appeals.

The administrative authority is authorized to establish an appeal procedure, under such rules as the administrative authority may from time to time prescribe, for appeals by parties aggrieved by the application of the provisions of this chapter, or by the application of any rules adopted by the administrative authority pursuant to this chapter.

4.12.130 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

4.12.140 - Nuisance.

The storing of solid waste on private property for more than three days in violation of Section 4.12.040 above is a nuisance.

4.12.150 - Notice.

The adoption of the ordinance codified in this code section by the city council shall be notice to the public of the requirements of this chapter. However, upon the finding of a nuisance as set out in Section 4.12.140 above, the administrative authority shall give the additional notice of violation and opportunity to cure in the following manner:

- (1) By causing a dated and signed placard to be posted in a conspicuous place on the parcel of property found to be in violation of this chapter. The placard shall state that the parcel is in violation of this chapter, and that the failure of the owner to abate the nuisance within three days of the date stated on the placard will result in the city abating the nuisance and assessing the actual costs and an administrative fee against the property. It shall also advise the property owner of the appeal rights which were established pursuant to Section 4.12.120 above; and
- (2) By regular mail to the owner of the property as shown by the records of the county auditor. The notice shall state that the subject parcel of land is in violation of the requirements of this chapter, and that failure of the owner to abate the nuisance within three days of posting will result in the city abating the nuisance and assessing the actual cost and an administrative fee against the property. It shall also state the appeal rights which were established pursuant to Section 4.12.120 above.

4.12.160 - Payment or assessment of costs.

(a) Upon completion of the abatement of a nuisance under the authority of this chapter, the property owner shall be charged a fee to cover the costs of abatement. The fee shall be as set forth in the prevailing schedule of fees of the city of Council Bluffs as most recently adopted by the city council, and shall be based on actual costs to the city to have the nuisance abated.

(b) The administrative authority shall demand payment of such fee from the property owner by mailing a statement of the fee to the last known address of the owner and/or person in possession

by ordinary mail. Such statement shall be due and payable upon mailing and shall be delinquent if not paid within ten (10) days of mailing.

(c) Any fees for the abatement of the nuisance which are delinquent may be assessed against the property for collection in the same manner as a property tax, pursuant to the provisions of Section 364.12 of the Code of Iowa. An additional administrative fee shall be added to each delinquent account if it is certified for collection by the county auditor. The additional administrative fee shall be as set forth in the prevailing schedule of fees of the city of Council Bluffs as most recently adopted by the city council.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6353

AN ORDINANCE TO AMEND CHAPTER 4.02 “AIR POLLUTION CONTROL” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.02.010 THROUGH 4.02.080.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.02 “Air Pollution Control” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.02.010 through 4.02.080 as follows:

~~4.02.010 – Incinerators prohibited.~~

~~It is unlawful for any person to sell or install within the city any device intended for use as a refuse burner or incinerator, except when the owner or operator of such device has met the provisions herein and those specified in the State Code of Iowa.~~

~~4.02.020 – Open burning prohibited.~~

~~For the purpose of this chapter, open burning means the burning of any material wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from any enclosed chamber. A chamber shall be regarded as enclosed when, during the time combustion takes place, only such apertures, ducts stacks, flues, or chimneys as are necessary to provide combustion air and to permit the escape of exhaust gases are open.~~

~~——— (1) It is unlawful for any person to open burn any refuse or to permit open burning of any refuse within the city of Council Bluffs, Iowa. Except as hereinafter provided, this section shall apply to all refuse, including but not limited to waste paper, boxes, market wastes, garden wastes, trees, tree limbs, automobiles and parts thereof, and any and all materials other than material used as fuel in a furnace or boiler.~~

~~——— (2) This section shall not apply to outdoor fireplaces or barbeque grills used solely for the noncommercial preparation of food. Such outdoor fireplaces or grills may be used at other than daylight hours, but shall not be used for burning of refuse or combustible waste.~~

~~——— Fire containment devices, such as fire pits and chimaneas may be used but are subject to the provisions hereinafter set forth:~~

~~——— (A) No outdoor burning is permitted if the wind speed exceeds ten (10) mph;~~

~~——— (B) The fire must be constantly attended and supervised by a responsible adult until the fire has been completely extinguished;~~

~~——— (C) Fire containment devices shall not be permitted within fifteen (15) feet of any combustible or structure, or within ten (10) feet of a lot line unless mutually agreed upon by the neighboring property owner;~~

~~——— (D) Fire pits or other fire containment devices shall not exceed three feet in diameter;~~

~~——— (E) Flames shall be kept below two feet in height above the pit or other fire containment device;~~

~~——— (F) A portable fire extinguisher or other approved extinguishing equipment, such as a garden hose, must be readily available;~~

~~_____ (G) Burning that is offensive or objectionable to a reasonable person because of smoke or odor emissions, or when atmospheric conditions or local circumstances making such fires hazardous, shall be prohibited.~~

~~_____ (H) The fire chief or fire chief's designee has the authority to enforce the regulations contained within Section 4.02.020.~~

~~_____ (3) The director of public health or the director's designee may permit an open fire for the following purposes and subject to the provisions hereinafter set forth:~~

~~_____ (A) City crews operating under the authority of the department of public works;~~

~~_____ (B) The instruction of public employees in methods of fighting fires;~~

~~_____ (C) On private property used for industrial purposes for the instruction of employees in the methods of fighting fires;~~

~~_____ (D) For public gatherings under the legitimate sponsorship of civic, fraternal, religious, educational or similar organizations;~~

~~_____ (E) Recreational bonfire:~~

~~_____ (i) Permit application and applicable fee is required;~~

~~_____ (ii) Fire ring free of grass and weeds is required;~~

~~_____ (iii) Water source must be available at the proposed site.~~

~~_____ (iv) Fire containment devices shall not be permitted within twenty five (25) feet of any combustible or structure, or within ten (10) feet of a lot line unless mutually agreed upon by the neighboring property owner;~~

~~_____ Authorization to permit an open fire will not be granted by the director of public health or the director's designee when such conditions arise that the fire chief deems such fires to be a safety hazard.~~

~~_____ (4) Exceptions.~~

~~_____ (A) This section shall not apply to flare stacks used for the open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with State Code of Iowa, or to any incinerator operated under a permit granted by the director of public health or the director's designee pursuant to this chapter.~~

~~_____ (B) This section shall not apply to prescription burns of native grasses when the following conditions are met.~~

~~_____ (i) Submittal of a Council Bluffs prescription burn application and associated fee to the health department.~~

~~_____ (ii) Develop and submit a site fire management plan with health department.~~

~~_____ a. Plan shall contain: Site background information, fire management justification, fire regime proposal, smoke management plan, neighbor and community relationships and associated aerial maps.~~

~~_____ (iii) Develop and submit a burn prescription.~~

~~_____ a. Prescription shall: Identify proper location and owner, plans for unit preparation, ignition and holding operations, identify the unit and all hazards, identify the objectives of the burn, outline contingency plans, describe the weather conditions required, and present plans to notify proper authorities.~~

~~_____ (iv) All pertinent information must be reviewed and approved by the fire and health departments prior to any prescription burn.~~

~~_____ (v) Credentialed burn boss shall be utilized for site fire management plan, burn prescription as well as the actual burn.~~

~~4.02.030 – Fugitive dust – Generally.~~

For the purpose of minimizing atmospheric pollution, the director of public health or the director's designee shall have the authority to require that reasonable precautions be taken to prevent particulate matter from becoming airborne. Such reasonable precautions shall include, but not be limited to:

- (1) Where possible, use of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
- (2) Application of asphalt, oil, water or suitable chemicals on dirt roads, material stockpiles, or other surfaces which can give rise to airborne dusts;
- (3) Installation and use of hoods, fans and fabric filters to enclose and vent the handling of dusty materials. Adequate containment methods shall be employed during sandblasting or other similar operations;
- (4) Covering at all times, when in motion, open-bodied trucks transporting materials likely to give rise to airborne dust;
- (5) The paving of roadways and their maintenance in a clean condition; (6) The prompt removal of earth or materials from paved streets onto which earth or other material has been transported or deposited by trucking or earth-moving equipment, by water erosion, or by other means.

4.02.040 — Precautions to minimize pollution.

It is unlawful for any person handling, loading, unloading, reloading, storing, transferring, transporting, placing, depositing, throwing, discarding, or scattering any ashes, fly ash, cinders, slag or dust collected from any combination process, any dust, dirt, chaff, waste paper, trash, rubbish, waste or refuse matter of any kind, or any other substance or material whatsoever, which is likely to be scattered by the wind or is susceptible to being windborne, to do so without taking reasonable precautions or measures to prevent particulate matter from becoming airborne so as to minimize atmospheric pollution.

4.02.050 — General prohibition.

It is unlawful for any person to operate or maintain any building, structure, or premises, open area, storage pile of materials, yard vessel or construction, alteration, building, demolition or wrecking or salvage operation, or any other enterprise which has or involves any matter, material, or substance likely to be scattered by the wind or susceptible to being windborne, without taking reasonable precautions or measures to prevent particulate matter from becoming airborne so as to minimize atmospheric pollution.

4.02.060 — Airborne material prohibited.

No person shall cause, allow, or permit any material in a manner described by Sections 4.02.030 and 4.02.050 to become airborne in such quantities and concentrations that it remains visible in the ambient air, or is deposited beyond the premises where it originates.

4.02.070 — Exceptions.

Sections 4.02.030, 4.02.040, and 4.02.050 shall not apply to the following:

- (1) The maintenance of public roads by the city of Council Bluffs or its various departments;
- (2) Agricultural operations including tilling, planting, cultivating or harvesting within a field, the moving of livestock on foot, or the hauling or produce within the confines of a farm;
- (3) Driveways limited to residential use.

4.02.080 — Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city

~~attorney, any violation of the provisions of this chapter may be or she pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____

ORDINANCE NO. 6354

AN ORDINANCE TO AMEND CHAPTER 4.05 “TATTOO AND BODY PIERCING REGULATIONS” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.05.010 THROUGH 4.05.080.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.05 “Tattoo and Body Piercing Regulations” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.05.010 through 4.05.080 as follows:

~~4.05.010—Purpose.~~

~~The purpose of this chapter is to establish standards and requirements for tattoo and body piercing artists and establishments.~~

~~4.05.020—Definitions.~~

~~For the purpose of this chapter, the following words and phrases shall have following meanings:~~

- ~~(1) "Body piercing establishment" means the building or mobile unit where piercing is practiced.~~
- ~~(2) "Tattoo establishment" means the building or mobile unit where tattooing is practiced.~~

~~4.05.030—General provisions.~~

- ~~(a) No person shall tattoo a person under eighteen (18) years of age. No person shall pierce the body of a person under eighteen (18) years of age. A parent may give permission only by notarized statement or personal appearance for their child under the age of eighteen (18) to receive piercing of ears.~~
- ~~(b) No tattoo or body piercing artist shall engage in the practice of tattooing or body piercing without first obtaining a tattoo artist or body piercing permit from the department of public health.~~
- ~~(c) Tattoo or body piercing artists and tattoo and body piercing establishments which are in compliance with Iowa Code Section 135.37 and Iowa Administrative Code 641 Chapter 22 are not relieved from the requirements of this chapter.~~
- ~~(d) Tattooing or body piercing shall be practiced only in facilities which have received a tattoo or body piercing establishment permit from the department of public health.~~
- ~~(e) Tattooing or body piercing shall not be practiced in a residence unless the tattoo or body piercing establishment is completely separated from the living quarters by a solid permanent partition. A solid door leading to the living quarters shall be permitted, provided it remains closed during business hours. A direct outside entrance to the tattoo or body piercing establishment shall be provided.~~
- ~~(f) Tattoo and body piercing establishments shall be inspected annually by the director of public health or the director's designee.~~

~~4.05.040—Sanitation and infection control.~~

- ~~(a) Tables, chairs, and other general use equipment shall be constructed of impervious or smooth and easily cleanable material.~~
- ~~(b) A sink for hand washing supplied with potable, hot and cold running water shall be available in or directly adjacent to the tattooing area. Hand washing facilities shall be supplied with liquid soap and single-use paper towels.~~
- ~~(c) Toilet facilities must be available for employee or patron use.~~

- (d) The tattoo or body piercing establishment, including the immediate area where the tattoo or piercing procedure is to be performed, shall have an area of not less than one hundred fifty (150) square feet and shall be adequately lighted and ventilated.
- (e) Floors in the immediate area where the tattoo or body piercing procedure is to be performed shall have impervious, smooth, washable surfaces.
- (f) The entire premises and all facilities used in connection therewith shall be maintained in a clean, sanitary, vermin free condition and in good repair.
- (g) All refuse shall be stored in rigid containers with plastic liners that are emptied at least once each business day.
- (h) Closed cabinets shall be used for the exclusive storage of instruments, dyes, pigments, stencils, tattoo machines, and other equipment.
- (i) Smoking or consumption of food or drink shall not be allowed in any area where the actual tattoo or body piercing procedure is being performed.
- (j) No animals, except guide dogs for visually or hearing impaired persons, shall be permitted in a tattoo or body piercing establishment.

4.05.050 — Required equipment and sterilization.

Required equipment and sterilization procedures shall be followed in accordance with applicable State Code provisions.

- (1) Cups to hold ink or dye shall be for single patron use.
- (2) Any dye or ink in which needles were dipped shall not be used on another person.
- (3) All establishments shall be equipped with a container designated for disposal of used needles and other sharps. A written plan for disposal is required.
- (4) Any bottles of solution shall be labeled as to contents and used according to manufacturer's directions.
- (5) Use of clippers is recommended for removal of unwanted hair. After use, clippers shall be cleaned with detergent and water and then disinfected with seventy percent ethyl or isopropyl alcohol for ten (10) minutes or quaternary ammonium compounds as directed on the product label.
- (6) Razors shall be single patron use and disposable.
- (7) Topical ointments shall be for single patron use.
- (8) All equipment shall be maintained in a clean and sanitary condition.

4.05.060 — Procedures.

- (a) For privacy purposes at the patron's request, there shall be in place, or readily available, a panel or other barrier of sufficient height and width to effectively separate the patron from any unwanted observers or waiting patrons. Panels or other barriers may be affixed or movable, rigid, or flexible.
- (b) Tattoo and body piercing artists shall scrub their hands thoroughly before beginning the tattoo. Hands shall be dried with individual single-use towels.
- (c) Tattoo and body piercing artists shall wear clean outer garments. It is required that sterile latex gloves be worn by the tattoo and body piercing artists during the procedure. Gloves are to be changed after each tattoo or body piercing. Hands are to be washed after gloves are removed.
- (d) The skin area to be tattooed shall first be cleansed with soap and water. Single-use towels or sponges (gauze) shall be used during the cleansing procedure.
- (e) Before placing the tattoo design on or piercing the patron's skin, the tattoo or body piercing artist shall prepare the skin with an antiseptic such as seventy percent ethyl or isopropyl alcohol or ten (10) percent iodophor solution.
- (f) Tattooing or body piercing shall not be performed on any area where there is evidence of skin infection.
- (g) After the tattooing is completed, a dressing shall be applied to the tattoo area.

(h) Persons tattooed shall be provided with printed instructions regarding tattoo care during the healing process and shall be instructed to consult a physician if sign and symptoms of an infection develop.

4.05.070—Application for permit—Fees:

- (a) A person shall not own, control and lease, act as an agent for, conduct, manage, or operate an establishment to practice the art of tattooing or body piercing or engage in the practice of tattooing or body piercing without first applying for and receiving a permit from the department of public health.
- (b) No tattoo or body piercing establishment shall be operated in the city of Council Bluffs without having a permit to operate issued by the department of public health.
- (c) Each person acquiring or establishing a tattoo or body piercing establishment shall apply for a permit prior to beginning operation.
- (d) Permits to operate will be issued to a new establishment when the establishment has successfully completed an on-site inspection by the director of public health or the director's designee.
- (e) Applications are available upon request from the department of public health.
- (f) An annual, nonrefundable application fee as set forth in the current schedule of fees as adopted by the city council, shall be remitted when the initial or renewal tattoo or body piercing establishment application.
- (g) The annual fee for each tattoo or body piercing artist permit shall be as set forth in the current schedule of fees as adopted by the city council.
- (h) Tattoo and body piercing artist permits and tattoo and body piercing establishment permits are non-transferable.
- (i) All permits shall expire on December 31 of each year, regardless of date of issue. Permits shall be renewed annually upon acceptance of a renewal application provided by the department of public health and receipt of renewal fee.
- (j) The owner of the tattoo or body piercing establishment shall be billed for each tattoo or body piercing establishment inspection at the rate set forth in the current schedule of fees as adopted by the city council.
- (k) Permits shall be posted in a conspicuous place in the tattoo or body piercing establishment.
- (l) Records shall be maintained for a period of five years, and shall be available for inspection by the director of public health or the director's designee upon twenty-four hours notice.

4.05.080—Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

“CHAPTER 4.15 – ABANDONED AND JUNK VEHICLES, MACHINERY, TRAILERS AND PARTS.”

4.15.010 - Purpose.

The city council of the city of Council Bluffs makes, finds and declares that the accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles, machinery, trailers, or parts thereof, on private or public property is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harbor for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, or dismantled or inoperative vehicle, or part thereof, on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance, which may be abated as such in accordance with the provisions of this chapter.

4.15.020 - Definitions.

For the purpose of this chapter the following definitions shall apply:

- (a) "Vehicle" means any device by which any person or property may be propelled, moved, or drawn upon a street, except a device which is designed to be exclusively moved by human power or used exclusively upon stationary rails or tracks. The term vehicle shall include, but is not limited to, an automobile, truck, van, sports utility vehicle, motorcycle, trailer, watercraft, boat, canoe, jet skis or aircraft.
- (b) "Machinery" is synonymous with and means the same as 'machine' as defined by the current edition of Webster's New Collegiate Dictionary.
- (c) "Trailer" means any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.
- (d) "Parts" means any mechanical, structural, body or decorative part of any vehicle, machinery or trailer.
- (e) "Junk vehicle" means any vehicle, machinery, trailer, or parts thereof, located within the corporate limits of the city of Council Bluffs, which, as to a vehicle or trailer, does not properly display license plates or stickers indicating current registration and/or, as to any vehicle, machinery, trailer, or parts thereof, which has any one or more of the following characteristics:
 - (1) Lacks an engine, wheel, tire, properly installed battery or other structural parts which renders the vehicle inoperable for use as designed by the manufacturer; provided, that if there is more than one vehicle on the real property, there shall be the necessary number of engines, wheels, tires, batteries and other structural parts for each respective vehicle;
 - (2) Has a broken or cracked windshield, window, headlight, taillight, or any other cracked or broken glass;
 - (3) Has a broken or missing fender, door, bumper, hood, exterior door handle, running board, steering wheel, trunk top, trunk handle, tail pipe, muffler, driver's seat, fuel tank, driveshaft, differential, generator, alternator or other structural piece;
 - (4) Has become or the potential to become the breeding ground or habitat of rats, mice, snakes, mosquitoes or other vermin, rodents or insects, or is otherwise used for the storage, harbor, caging or dwelling for an animal of any kind;

(5) Has heavy growth of weeds or other noxious vegetation over eighteen (18) inches in height under or immediately next to it;

(6) Has become a point of collection for stagnant water;

(7) Has junk, garbage, refuse, gasoline or fuel other than in its fuel tank, paper, cardboard, wood or other combustible materials, solid waste or other hazardous material present in it or which is primarily used for storage of any materials;

(8) Has become a source of danger for children through entrapment in areas of confinement that cannot be opened from inside, through a danger of the vehicle falling or turning over, or through possible injury from exposed surfaces of metal, glass or other rigid materials;

(9) Has become a potential source of contamination of the soil from petroleum products or other toxic liquids being discharged or leaking from the vehicle;

(10) Has become illegal to operate on the public streets because it is missing one or more parts required by law;

(11) Is an abandoned vehicle; or

(12) Because of its defective, deteriorated or obsolete condition in any other way constitutes a nuisance or a threat to the public's health or safety.

(f) "Abandoned vehicle" means any of the following. For the purposes of this subsection, the word 'vehicle' includes a vehicle, machinery, trailer or parts thereof:

(1) A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration, plates, or one or more wheels/tires or other parts which renders the vehicle totally inoperable;

(2) A vehicle that has remained illegally parked on public property for more than twenty-four hours;

(3) A vehicle that has been unlawfully parked on private real property or has been placed on private property without the consent of the real property owner or person in control of the property for more than twenty-four hours;

(4) A vehicle that has been legally impounded by order of a law enforcement authority and has not been reclaimed for a period often days. However, a law enforcement authority may declare the vehicle abandoned within the ten-day period by commencing the notification process in section 321.89 of the Code of Iowa;

(5) Any vehicle parked on a street determined by a law enforcement authority to create a hazard to other vehicle traffic;

(6) A vehicle that has been impounded pursuant to Section 321J.4B by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

(g) "Law enforcement authority" means a peace officer or any city, state or federal department or agency operating with arrest authority in Council Bluffs, Iowa, which employs peace officers.

(h) "Responsible parties" means

(1) the private real property owner, as indicated in the records of the county auditor, upon which the junk vehicle is located, if applicable and

(2) if ascertainable, the last known registered owner of the junk vehicle as indicated in the official records of the state of Iowa Department of Transportation or a sister state division of transportation or motor vehicles.

(i) For the purposes of this chapter, a vehicle is presumed to be operated on the public roadway if it contains fuel or gasoline and there is no fuel or gasoline storage or pumping facilities on the same parcel of real property.

4.15.030 - Exemptions.

This chapter shall not apply to the following:

- (a) A vehicle or part thereof which is completely enclosed within a garage, shed, barn, hangar, boathouse or other similar permanent structure with walls and ceiling designed for the storage of vehicles in a lawful manner, and where the vehicle is not visible from the street or other public or private property;
- (b) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, an auto body shop, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise on land which such business or enterprise is authorized by the city's zoning regulations; or
- (c) A vehicle which was recently involved in a collision, duly documented by a timely report filed with the appropriate law enforcement agency or the state department of transportation, or its equivalent in a sister state, shall not be deemed a junk vehicle unless the owner/operator of said vehicle fails to repair the same within a reasonable period of time after said collision.
- (d) Nothing in this chapter shall authorize the maintenance of a public or a private nuisance as defined under provisions of law.

4.15.040 - Junk vehicle deemed nuisance.

The keeping, maintaining or allowing a junk vehicle to be on public or private property, except as provided by Section 4.15.030 above, shall constitute a nuisance. The owner of a junk vehicle and the owner of private property upon which the junk vehicle is located shall be responsible for the maintaining or keeping of a nuisance in violation of Chapter 8.54 of this code.

4.15.050 - Administration and enforcement.

Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the ~~health director~~administrative authority designated by the mayor and/or the police chief, or their respective designees, hereinafter collectively referred to as 'enforcement officer.' The enforcement officer and any person designated by the enforcement officer to abate the nuisance pursuant to this code or court order, are hereby authorized access to any property upon which a junk vehicle is located for the purpose of carrying out any and all actions necessary to enforce this chapter.

4.15.060 - Administration costs.

The city council shall determine and fix the administrative fee, an amount to be assessed as administrative costs under this chapter. Said administrative fee shall be in addition to the actual costs incurred regarding towing, storage and disposal of the vehicle. The administrative fee shall be as set forth in the current schedule of fees contained in Chapter 2.08 of this code.

4.15.070 - Notices of intention to abate and remove—Mailing—Form of notices.

- (a) A seven-day notice of intention to abate and remove the vehicle or parts thereof as a public nuisance shall be given to the owner of the land and/or to the owner of the vehicle, if known. The notices of intention shall be in a form promulgated by the health director, and shall provide the following information at a minimum:

(1) A description of the vehicle or parts which constitute(s) a nuisance under the provisions of the Council Bluffs Municipal Code;

(2) That the nuisance must be abated within seven calendar days, to-wit: the junk vehicle must be either

(i) Brought into a condition that it no longer is defined as a junk vehicle,

(ii) Placed in a proper enclosure, or

(iii) Removed from the property and properly disposed of or removed from the city; and

(3) Failure to properly abate said nuisance as prescribed shall be sufficient cause for the removal of the junk vehicle by the enforcement authority or his/her duly designated agent as set forth by the municipal code.

(b) The notice required by this section shall be served in any one of the following manners:

(1) Certified or registered mail, return receipt requested, to the owner of the property as indicated by the records of the county auditor at the address listed on said records and to the last registered-owner of said vehicle, if ascertainable, at the address listed in the state's records concerning ownership of the vehicle (for the purposes of this provision service shall be deemed to have been perfected the day after the notice is mailed); or

(2) Posting notice on or near the junk vehicle(s) in question and by posting a copy of the notice by the front entrance to the main building on the subject real property; or, if there is no building on said real property, by mailing a copy of the notice via first-class United States mail to the owner of the property as indicated by the records of the county auditor and at the address listed on the records of the county auditor and to the last registered-owner of said vehicle, if ascertainable, at the address listed on the state's records concerning ownership of the vehicle (for the purposes of this provision, service shall be deemed to have been perfected the day the notice is posted on or near the junk vehicle); or

(3) Any method allowed by law for service of original notice in a civil lawsuit (for the purposes of this provision service shall be deemed to have been perfected in the same manner as for original notice).

4.15.080 - Appeal to the ~~board of health~~City Council.

Any interested party may appeal the decision of the enforcement officer by filing a written notice of appeal with the ~~health director~~administrative authority within five calendar days after service of notice as required by Section 4.15.070. Such appeal shall be heard by the ~~board of health~~City Council which may affirm, amend or reverse the notice/order or take other action deemed appropriate. The ~~health director~~City Clerk shall give at least five days' written notice of the time and place of the hearing to the appellant by first-class mail or personal service. In conducting the hearing the ~~board of health~~City Council shall not be limited by the technical rules of evidence.

4.15.090 - Abatement and removal.

(a) The responsible party, after service of notice is perfected, shall abate the nuisance within seven calendar days of service being perfected. Abatement shall consist of:

(1) (i) Providing for the current registration of each and every vehicle including the affixing the registration plate or current sticker to the vehicle;

(ii) Repairing any and all conditions which cause such vehicle(s) to be a nuisance under the provisions of the municipal code; and

(iii) Having all of the required equipment and parts for each vehicle which was described in the notice; or

(2) Removing the junk vehicle or causing the junk vehicle to be removed to a licensed dismantler, salvage yard, licensed vehicle dealer, a junk dealer, an auto body shop or to any other location provided the same complies with all applicable provisions of the municipal code.

(b) If the responsible parties fail to abate the nuisance as prescribed, the city, through the enforcement officer, may abate such nuisance by causing the junk vehicle(s) to be removed, impounded and sold or disposed of as provided for abandoned vehicles under the laws of the state of Iowa. All costs of such abatement and the administrative fee provided by this chapter shall be charged to the responsible parties, jointly and severally.

4.15.100 - Disposition of vehicle after notice or appeal.

Seven calendar days after declaring the vehicle or parts thereof to be a public nuisance, or five calendar days after action of the ~~board of health~~City Council authorizing removal following appeal, the vehicle or parts thereof may be removed and disposed of as provided by law. ~~After a vehicle has been removed, it shall not thereafter be reconstructed or made operable.~~

4.15.110 - Assessment of costs against the land.

The administrative fee and the cost of removal and disposition which are charged against the owner of a parcel of land pursuant to this chapter shall be assessed against the parcel of land pursuant to Iowa Code and shall be transmitted by the city clerk to the tax collector for collection. Said assessment shall have the same priority as other city taxes.

4.15.120 - Illegal off-street parking.

(a) No person shall park a vehicle onto or upon privately owned real property or area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of said property or facility.

(b) No person shall park a vehicle onto or upon publicly owned real property or area developed as an off-street parking facility, if said property is not properly designated and signed for parking of private vehicles; contrary to any signs set forth upon said property or facility; or contrary to the laws of the state of Iowa, county of Pottawattamie or the city of Council Bluffs without proper consent of said state, county or city.

(c) Any vehicle parked in violation of this section shall be deemed an abandoned vehicle.

4.15.130 - Continuing notice.

A notice issued as provided in Section 4.15.070 above shall be deemed a continuing notice regarding the vehicle(s) described in the notice for a period of one year from the date of service and is valid for all locations within the city of Council Bluffs. No further notice by an enforcement officer or seven-day period to abate is necessary to abate a nuisance created by said vehicle(s) within the one year period.

4.15.140 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a

violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

4.15.150 - Nonexclusivity of this chapter.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city of Council Bluffs. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the city, state, or any other legal entity or agency having jurisdiction.

ORDINANCE NO. 6355

AN ORDINANCE TO AMEND TITLE 4 “HEALTH AND SANITATION” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING “CHAPTER 4.15 – ABANDONED AND JUNK VEHICLES, MACHINERY, TRAILERS AND PARTS.”

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 4 “Health and Sanitation” Chapter 4.15 “Abandoned and Junk Vehicles, Machinery, Trailers and Parts” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

4.15.010 - Purpose.

The city council of the city of Council Bluffs makes, finds and declares that the accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles, machinery, trailers, or parts thereof, on private or public property is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harbor for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, or dismantled or inoperative vehicle, or part thereof, on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance, which may be abated as such in accordance with the provisions of this chapter.

4.15.020 - Definitions.

For the purpose of this chapter the following definitions shall apply:

- (a) "Vehicle" means any device by which any person or property may be propelled, moved, or drawn upon a street, except a device which is designed to be exclusively moved by human power or used exclusively upon stationary rails or tracks. The term vehicle shall include, but is not limited to, an automobile, truck, van, sports utility vehicle, motorcycle, trailer, watercraft, boat, canoe, jet skis or aircraft.
- (b) "Machinery" is synonymous with and means the same as 'machine' as defined by the current edition of Webster's New Collegiate Dictionary.
- (c) "Trailer" means any vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle.
- (d) "Parts" means any mechanical, structural, body or decorative part of any vehicle, machinery or trailer.
- (e) "Junk vehicle" means any vehicle, machinery, trailer, or parts thereof, located within the corporate limits of the city of Council Bluffs, which, as to a vehicle or trailer, does not properly display license plates or stickers indicating current registration and/or, as to any vehicle, machinery, trailer, or parts thereof, which has any one or more of the following characteristics:
 - (1) Lacks an engine, wheel, tire, properly installed battery or other structural parts which

renders the vehicle inoperable for use as designed by the manufacturer; provided, that if there is more than one vehicle on the real property, there shall be the necessary number of engines, wheels, tires, batteries and other structural parts for each respective vehicle;

(2) Has a broken or cracked windshield, window, headlight, taillight, or any other cracked or broken glass;

(3) Has a broken or missing fender, door, bumper, hood, exterior door handle, running board, steering wheel, trunk top, trunk handle, tail pipe, muffler, driver's seat, fuel tank, driveshaft, differential, generator, alternator or other structural piece;

(4) Has become or the potential to become the breeding ground or habitat of rats, mice, snakes, mosquitoes or other vermin, rodents or insects, or is otherwise used for the storage, harbor, caging or dwelling for an animal of any kind;

(5) Has heavy growth of weeds or other noxious vegetation over eighteen (18) inches in height under or immediately next to it;

(6) Has become a point of collection for stagnant water;

(7) Has junk, garbage, refuse, gasoline or fuel other than in its fuel tank, paper, cardboard, wood or other combustible materials, solid waste or other hazardous material present in it or which is primarily used for storage of any materials;

(8) Has become a source of danger for children through entrapment in areas of confinement that cannot be opened from inside, through a danger of the vehicle falling or turning over, or through possible injury from exposed surfaces of metal, glass or other rigid materials;

(9) Has become a potential source of contamination of the soil from petroleum products or other toxic liquids being discharged or leaking from the vehicle;

(10) Has become illegal to operate on the public streets because it is missing one or more parts required by law;

(11) Is an abandoned vehicle; or

(12) Because of its defective, deteriorated or obsolete condition in any other way constitutes a nuisance or a threat to the public's health or safety.

(f) "Abandoned vehicle" means any of the following. For the purposes of this subsection, the word 'vehicle' includes a vehicle, machinery, trailer or parts thereof:

(1) A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration, plates, or one or more wheels/tires or other parts which renders the vehicle totally inoperable;

(2) A vehicle that has remained illegally parked on public property for more than twenty-four hours;

(3) A vehicle that has been unlawfully parked on private real property or has been placed on private property without the consent of the real property owner or person in control of the property for more than twenty-four hours;

(4) A vehicle that has been legally impounded by order of a law enforcement authority and has not been reclaimed for a period often days. However, a law enforcement authority may declare the vehicle abandoned within the ten-day period by commencing the notification process in section 321.89 of the Code of Iowa;

(5) Any vehicle parked on a street determined by a law enforcement authority to create a hazard to other vehicle traffic;

(6) A vehicle that has been impounded pursuant to Section 321J.4B by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

(g) "Law enforcement authority" means a peace officer or any city, state or federal department or agency operating with arrest authority in Council Bluffs, Iowa, which employs peace officers.

(h) "Responsible parties" means

(1) the private real property owner, as indicated in the records of the county auditor, upon which the junk vehicle is located, if applicable and

(2) if ascertainable, the last known registered owner of the junk vehicle as indicated in the official records of the state of Iowa Department of Transportation or a sister state division of transportation or motor vehicles.

(i) For the purposes of this chapter, a vehicle is presumed to be operated on the public roadway if it contains fuel or gasoline and there is no fuel or gasoline storage or pumping facilities on the same parcel of real property.

4.15.030 - Exemptions.

This chapter shall not apply to the following:

(a) A vehicle or part thereof which is completely enclosed within a garage, shed, barn, hangar, boathouse or other similar permanent structure with walls and ceiling designed for the storage of vehicles in a lawful manner, and where the vehicle is not visible from the street or other public or private property;

(b) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, an auto body shop, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise on land which such business or enterprise is authorized by the city's zoning regulations; or

(c) A vehicle which was recently involved in a collision, duly documented by a timely report filed with the appropriate law enforcement agency or the state department of transportation, or its equivalent in a sister state, shall not be deemed a junk vehicle unless the owner/operator of said vehicle fails to repair the same within a reasonable period of time after said collision.

(d) Nothing in this chapter shall authorize the maintenance of a public or a private nuisance as defined under provisions of law.

4.15.040 - Junk vehicle deemed nuisance.

The keeping, maintaining or allowing a junk vehicle to be on public or private property, except as provided by Section 4.15.030 above, shall constitute a nuisance. The owner of a junk vehicle and the owner of private property upon which the junk vehicle is located shall be responsible for the maintaining or keeping of a nuisance in violation of Chapter 8.54 of this code.

4.15.050 - Administration and enforcement.

Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the administrative authority designated by the mayor and/or the police chief, or their respective designees, hereinafter collectively referred to as 'enforcement officer.' The enforcement officer and any person designated by the enforcement officer to abate the nuisance pursuant to this code or court order, are hereby authorized access to any property upon which a junk vehicle is located for the purpose of carrying out any and all actions necessary to enforce this chapter.

4.15.060 - Administration costs.

The city council shall determine and fix the administrative fee, an amount to be assessed as administrative costs under this chapter. Said administrative fee shall be in addition to the actual costs incurred regarding towing, storage and disposal of the vehicle. The administrative fee shall be as set forth in the current schedule of fees contained in Chapter 2.08 of this code.

4.15.070 - Notices of intention to abate and remove—Mailing—Form of notices.

(a) A seven-day notice of intention to abate and remove the vehicle or parts thereof as a public nuisance shall be given to the owner of the land and/or to the owner of the vehicle, if known. The notices of intention shall be in a form promulgated by the health director, and shall provide the following information at a minimum:

(1) A description of the vehicle or parts which constitute(s) a nuisance under the provisions of the Council Bluffs Municipal Code;

(2) That the nuisance must be abated within seven calendar days, to-wit: the junk vehicle must be either

(i) Brought into a condition that it no longer is defined as a junk vehicle,

(ii) Placed in a proper enclosure, or

(iii) Removed from the property and properly disposed of or removed from the city; and

(3) Failure to properly abate said nuisance as prescribed shall be sufficient cause for the removal of the junk vehicle by the enforcement authority or his/her duly designated agent as set forth by the municipal code.

(b) The notice required by this section shall be served in any one of the following manners:

(1) Certified or registered mail, return receipt requested, to the owner of the property as indicated by the records of the county auditor at the address listed on said records and to the last registered-owner of said vehicle, if ascertainable, at the address listed in the state's records concerning ownership of the vehicle (for the purposes of this provision service shall be deemed to have been perfected the day after the notice is mailed); or

(2) Posting notice on or near the junk vehicle(s) in question and by posting a copy of the notice by the front entrance to the main building on the subject real property; or, if there is no building on said real property, by mailing a copy of the notice via first-class United States mail to the owner of the property as indicated by the records of the county auditor and at the address listed on the records of the county auditor and to the last registered-owner of said vehicle, if ascertainable, at the address listed on the state's records concerning ownership of the vehicle (for the purposes of this provision, service shall be deemed to have been perfected the day the notice is posted on or near the junk vehicle); or

(3) Any method allowed by law for service of original notice in a civil lawsuit (for the purposes of this provision service shall be deemed to have been perfected in the same manner as for original notice).

4.15.080 - Appeal to the City Council.

Any interested party may appeal the decision of the enforcement officer by filing a written notice of appeal with the administrative authority within five calendar days after service of notice as required by Section 4.15.070. Such appeal shall be heard by the City Council which may affirm, amend or reverse the notice/order or take other action deemed appropriate. The City Clerk shall

give at least five days' written notice of the time and place of the hearing to the appellant by first-class mail or personal service. In conducting the hearing the City Council shall not be limited by the technical rules of evidence.

4.15.090 - Abatement and removal.

(a) The responsible party, after service of notice is perfected, shall abate the nuisance within seven calendar days of service being perfected. Abatement shall consist of:

(1) (i) Providing for the current registration of each and every vehicle including the affixing the registration plate or current sticker to the vehicle;

(ii) Repairing any and all conditions which cause such vehicle(s) to be a nuisance under the provisions of the municipal code; and

(iii) Having all of the required equipment and parts for each vehicle which was described in the notice; or

(2) Removing the junk vehicle or causing the junk vehicle to be removed to a licensed dismantler, salvage yard, licensed vehicle dealer, a junk dealer, an auto body shop or to any other location provided the same complies with all applicable provisions of the municipal code.

(b) If the responsible parties fail to abate the nuisance as prescribed, the city, through the enforcement officer, may abate such nuisance by causing the junk vehicle(s) to be removed, impounded and sold or disposed of as provided for abandoned vehicles under the laws of the state of Iowa. All costs of such abatement and the administrative fee provided by this chapter shall be charged to the responsible parties, jointly and severally.

4.15.100 - Disposition of vehicle after notice or appeal.

Seven calendar days after declaring the vehicle or parts thereof to be a public nuisance, or five calendar days after action of the City Council authorizing removal following appeal, the vehicle or parts thereof may be removed and disposed of as provided by law.

4.15.110 - Assessment of costs against the land.

The administrative fee and the cost of removal and disposition which are charged against the owner of a parcel of land pursuant to this chapter shall be assessed against the parcel of land pursuant to Iowa Code and shall be transmitted by the city clerk to the tax collector for collection. Said assessment shall have the same priority as other city taxes.

4.15.120 - Illegal off-street parking.

(a) No person shall park a vehicle onto or upon privately owned real property or area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of said property or facility.

(b) No person shall park a vehicle onto or upon publicly owned real property or area developed as an off-street parking facility, if said property is not properly designated and signed for parking of private vehicles; contrary to any signs set forth upon said property or facility; or contrary to the laws of the state of Iowa, county of Pottawattamie or the city of Council Bluffs without proper consent of said state, county or city.

(c) Any vehicle parked in violation of this section shall be deemed an abandoned vehicle.

4.15.130 - Continuing notice.

A notice issued as provided in Section 4.15.070 above shall be deemed a continuing notice regarding the vehicle(s) described in the notice for a period of one year from the date of service and is valid for all locations within the city of Council Bluffs. No further notice by an enforcement officer or seven-day period to abate is necessary to abate a nuisance created by said vehicle(s) within the one year period.

4.15.140 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

4.15.150 - Nonexclusivity of this chapter.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city of Council Bluffs. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the city, state, or any other legal entity or agency having jurisdiction.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____

“CHAPTER 4.19 – WEED NUISANCES.”

4.19.010 - Owner to cut weed nuisance.

- (a) Owners or occupants of all lots and parcels of ground within the city shall immediately cut or otherwise destroy all weeds on their respective lots or parcels of ground which would constitute a nuisance as defined in Section 1.97.030 of this code.
- (b) Upon the failure of the owner or occupant to cut or otherwise destroy weeds which constitute a nuisance, it shall be the duty of the administrative authority to cause the same to be done.
- (c) The administrative authority is authorized to designate an independent contractor retained by the city to perform the duties, or any of the duties, required by this chapter.

4.19.020 - Notice to property owner.

At least seven days prior to the abatement of the growth as authorized by this chapter, the ~~mayor or his or her designee~~administrative authority shall give notice of the proposed action in one of the following manners:

- (1) By publication in a daily newspaper of general circulation in the city, notifying such property owners that unless such weeds, vines, brush, bushes, nonpurposefully planted trees less than three inches in diameter and noxious weeds as defined by the State Code, or other growths are cut or destroyed before the dates stated in the notice, the city will cut or destroy such weeds, vines, brush, bushes, nonpurposefully planted trees less than three inches in diameter, and noxious weeds as defined by the State Code, or other growths and assess the cost thereof to the owner of the lot or parcel of ground. The city clerk shall cause the notice to be published.
- (2) By causing a dated and signed placard to be posted in a conspicuous place on each parcel of property found to be in violation of this chapter, the placard to state that the parcel is in violation of this chapter, and that failure of the owner to abate the growths within seven days of the date stated on the placard will result in the city abating the weeds and assessing the actual costs and an administrative fee against the property; and
- (3) By regular mail to the owner of the property as shown by the records of the county auditor, the notice to state that the referred parcel of land is in violation of this chapter, and that failure of the owner to abate the growth within seven days of the date of the notice will result in the city abating the weeds and assessing the actual costs and an administrative fee against the property.

4.19.030 - Payment or assessment of costs.

- (a) Upon completion of the abatement of a weed nuisance under the authority of this chapter, the property owner shall be charged a fee to cover the costs of abatement. The fee shall be as set forth in the current schedule of fees as adopted by the city council. The fee shall include the actual cost paid to the contractor plus an administrative fee for assigning and overseeing the work.
- (b) The administrative authority shall demand payment of such fee from the property owner by mailing a statement of the fee to the last-known address of the owner and/or person in possession by ordinary mail. Such statement shall be due and payable upon mailing, and shall be delinquent if not paid within ten (10) days of mailing.
- (c) Any fees for the abatement of a weed nuisance which are delinquent may be assessed against the property for collection in the same manner as a property tax, pursuant to the provisions of Section 364.12 of the Code of Iowa. An additional administrative fee shall be added to each

delinquent account if it is certified for collection by the county auditor. The additional administrative fee shall be as set forth in the current schedule of fees as adopted by the city council.

4.19.040 - Duty.

It is the duty of property owners and persons in possession of real property which abuts public right-of-way to maintain all property outside the lot and property lines and inside the curb lines upon the public streets and to the center of alleyways, and to keep such property free from weed nuisances.

4.19.050 - Exceptions.

(a) The following shall be exceptions to Section 4.19.010:

(1) Vegetable Garden. Purposefully planted vegetable gardens shall be permitted to exceed eighteen (18) inches in height if they are maintained free from weeds.

(2) Flower Garden. Purposefully planted flower gardens shall include ornamental grasses as well as natural grasses, shall be permitted to exceed eighteen (18) inches in height if they are maintained free from weeds.

(3) Wood Perennials. Purposefully planted wood perennials shall be permitted to exceed eighteen (18) inches in height if they are planted and maintained in compliance with Chapter 10.52 and Title 15 of this code.

(4) Weeds and other growth shall be permitted to exceed eighteen (18) inches in height upon those properties or portions of properties within the city upon which development has never occurred, which due to terrain and the natural growth of trees are not amenable to weed control by any practical means, and which are not located in such proximity to developed areas that uncontrolled weed growth thereon will not constitute a nuisance or hazard to developed areas.

(b) This section shall not be construed so as to permit the growing of noxious weeds as defined in Chapter 317 of the Code of Iowa.

(5) Vegetative growth necessary to combat soil erosion on an active construction site may be permitted to exceed 18 inches on a temporary basis. A construction site shall not be considered active unless there is a current building permit or no work has been performed in the past 60 days.

4.19.060 - Unlawful.

It is unlawful for any owner or person in possession of any lot, place, area or tract of ground situated within the city of Council Bluffs, to permit a weed nuisance to exist thereon or upon any abutting public right-of-way identified in Section 4.19.040.

4.19.070 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution. At the

discretion of the city attorney, the provisions of this chapter may be enforced through the provisions of Chapter 8.56 of this code.

ORDINANCE NO. 6356

AN ORDINANCE TO AMEND TITLE 4 “HEALTH AND SANITATION” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING “CHAPTER 4.19 – WEED NUISANCES.”

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 4 “Health and Sanitation” Chapter 4.19 “Weed Nuisances” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

4.19.010 - Owner to cut weed nuisance.

(a) Owners or occupants of all lots and parcels of ground within the city shall immediately cut or otherwise destroy all weeds on their respective lots or parcels of ground which would constitute a nuisance as defined in Section 1.97.030 of this code.

(b) Upon the failure of the owner or occupant to cut or otherwise destroy weeds which constitute a nuisance, it shall be the duty of the administrative authority to cause the same to be done.

(c) The administrative authority is authorized to designate an independent contractor retained by the city to perform the duties, or any of the duties, required by this chapter.

4.19.020 - Notice to property owner.

At least seven days prior to the abatement of the growth as authorized by this chapter, the administrative authority shall give notice of the proposed action in one of the following manners:

(1) By publication in a daily newspaper of general circulation in the city, notifying such property owners that unless such weeds, vines, brush, bushes, nonpurposefully planted trees less than three inches in diameter and noxious weeds as defined by the State Code, or other growths are cut or destroyed before the dates stated in the notice, the city will cut or destroy such weeds, vines, brush, bushes, nonpurposefully planted trees less than three inches in diameter, and noxious weeds as defined by the State Code, or other growths and assess the cost thereof to the owner of the lot or parcel of ground. The city clerk shall cause the notice to be published.

(2) By causing a dated and signed placard to be posted in a conspicuous place on each parcel of property found to be in violation of this chapter, the placard to state that the parcel is in violation of this chapter, and that failure of the owner to abate the growths within seven days of the date stated on the placard will result in the city abating the weeds and assessing the actual costs and an administrative fee against the property; and

(3) By regular mail to the owner of the property as shown by the records of the county auditor, the notice to state that the referred parcel of land is in violation of this chapter, and that failure of the owner to abate the growth within seven days of the date of the notice will result in the city abating the weeds and assessing the actual costs and an administrative fee against the property.

4.19.030 - Payment or assessment of costs.

(a) Upon completion of the abatement of a weed nuisance under the authority of this chapter, the property owner shall be charged a fee to cover the costs of abatement. The fee shall be as set forth in the current schedule of fees as adopted by the city council. The fee shall include the actual cost paid to the contractor plus an administrative fee for assigning and overseeing the work.

(b) The administrative authority shall demand payment of such fee from the property owner by mailing a statement of the fee to the last-known address of the owner and/or person in possession by ordinary mail. Such statement shall be due and payable upon mailing, and shall be delinquent if not paid within ten (10) days of mailing.

(c) Any fees for the abatement of a weed nuisance which are delinquent may be assessed against the property for collection in the same manner as a property tax, pursuant to the provisions of Section 364.12 of the Code of Iowa. An additional administrative fee shall be added to each delinquent account if it is certified for collection by the county auditor. The additional administrative fee shall be as set forth in the current schedule of fees as adopted by the city council.

4.19.040 - Duty.

It is the duty of property owners and persons in possession of real property which abuts public right-of-way to maintain all property outside the lot and property lines and inside the curb lines upon the public streets and to the center of alleyways, and to keep such property free from weed nuisances.

4.19.050 - Exceptions.

(a) The following shall be exceptions to Section 4.19.010:

(1) Vegetable Garden. Purposefully planted vegetable gardens shall be permitted to exceed eighteen (18) inches in height if they are maintained free from weeds.

(2) Flower Garden. Purposefully planted flower gardens shall include ornamental grasses as well as natural grasses, shall be permitted to exceed eighteen (18) inches in height if they are maintained free from weeds.

(3) Wood Perennials. Purposefully planted wood perennials shall be permitted to exceed eighteen (18) inches in height if they are planted and maintained in compliance with Chapter 10.52 and Title 15 of this code.

(4) Weeds and other growth shall be permitted to exceed eighteen (18) inches in height upon those properties or portions of properties within the city upon which development has never occurred, which due to terrain and the natural growth of trees are not amenable to weed control by any practical means, and which are not located in such proximity to developed areas that uncontrolled weed growth thereon will not constitute a nuisance or hazard to developed areas.

(b) This section shall not be construed so as to permit the growing of noxious weeds as defined in Chapter 317 of the Code of Iowa.

(5) Vegetative growth necessary to combat soil erosion on an active construction site may be permitted to exceed 18 inches on a temporary basis. A construction site shall not be considered active unless there is a current building permit or no work has been performed in the past 60 days.

4.19.060 - Unlawful.

It is unlawful for any owner or person in possession of any lot, place, area or tract of ground situated within the city of Council Bluffs, to permit a weed nuisance to exist thereon or upon any abutting public right-of-way identified in Section 4.19.040.

4.19.070 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution. At the discretion of the city attorney, the provisions of this chapter may be enforced through the provisions of Chapter 8.56 of this code.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

“CHAPTER 4.20 – ANIMAL CONTROL.”

Article I. - Humane Animal Treatment and Control

4.20.010 - Administration and enforcement.

(a) The ~~director of the department of public health~~Administrative Authority, under the supervision of the mayor, shall be responsible for the administration of the provisions of this chapter. ~~The mayor, director, chief animal control officer, animal control officers, staff members of the department of public health, chief of police, or any peace officer, and/or any other designee of the mayor, shall be responsible for the enforcement of the provisions of this chapter.~~ Those persons charged with enforcing the provisions of this chapter shall have the authority to seize and impound animals pursuant to the provisions of this chapter, and shall have the authority to write and serve enforcement/impoundment fee tickets as provided in this chapter; provided, that the ~~director of public health~~administrative authority and any of his or her assistants may be sworn as officers by the mayor for the purpose of enforcing the provisions of this chapter, and as such, shall have the authority of peace officers, including the authority to issue misdemeanor citations for violations of this chapter.

It shall be the duty of those persons charged with enforcing the provisions of this chapter to impound any animals found running at large in violation of the terms of this chapter. It shall further be the duty of the director or his or her designee to investigate all animal bites reported to the ~~board of health or department of public health~~City, and to impound and quarantine the biting animal as provided in this chapter.

References to the ~~director~~administrative authority contained herein shall be deemed to include ~~the director's~~his or hers duly appointed designee.

(b) Any conduct in this chapter defined as a misdemeanor may, at the discretion of the city attorney, be handled as a municipal infraction pursuant to the terms of Chapter 1.95 of this code. (c) Each separate occurrence of a violation of a particular section shall constitute a separate and distinct violation. If the violation is of a continuing nature, then each and every day that the violation is allowed to exist shall be deemed a separate and distinct violation.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.020 - Definitions.

For use in this chapter, the following terms shall have the following meanings:

(1) “Administrative authority”~~(1)~~ means the Director of Community Development or his/her designee. The Chief Animal Control Officer or his/her designee, or anyone else duly authorized by the Mayor.

(2) "Animal" means every wild, tame or domestic member of the animal kingdom other than the genus and species Homo sapiens.

~~(23)~~ "Animal shelter" means the premises and/or building which the mayor or his or her designee may from time to time designate as the location for the impoundment of animals.

(34) "At large," "running at large," or "being at large" means any licensed or unlicensed animal found off the premises of its owner and either: (A) Not on a leash; (B) Not restrained within a vehicle so as to prevent it leaving the vehicle; or (C) Not housed in a veterinary hospital or kennel.

(45) "Bite" means any puncture, laceration, abrasion, scratch or any other break in the skin of a human, caused by an animal.

~~(5) "Board of health" means the local board of health as constituted under Chapter 137 of the Code of Iowa.~~

(6) "Board of Review" shall be an ad hoc board made up of the Mayor or his/her designee, the Police Chief or his/her designee and the Fire Chief or his/her designee. This board will only meet as needed and will conduct its hearings pursuant to Robert's Rules of Order and in compliance with Iowa's open meeting law.

(67) "Cat" means both male and female animals of the feline species, whether neutered or not.

(78) "Dangerous animal" or "dangerous animal, per se" means:

(A) Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so;

(B) Any animals declared to be dangerous by the ~~board of health~~Board of Review or the mayor or his or her designee;

(C) The following animals which shall be deemed to be dangerous animals, per se:

Artiodactyla of the family Antilocapridae, which includes pronghorns;

Artiodactyla of the family Cervidae, which includes moose and caribou;

Artiodactyla of the family Suidae and the genus and species *Sus scrofa* (domestic swine and wild boar), which includes all male and female wild boars;

Bovidae—males only (bulls);

Carnivora of the family Canidae, which includes wolves, foxes, and hybrids, but excludes domestic dogs;

Carnivora of the family Felidae, which includes lions, lynx, bobcats, and hybrids, but excludes domestic cats;

Carnivora of the family Mustelidae, which includes badgers, wolverines, weasels and skunks, except ferrets;

Carnivora of the family Procyonidae, which includes raccoons;

Carnivora of the family Ursidae, which includes bears;

Chelonia of the family Chelydridae (snapping turtles);

Crocodylia which includes crocodiles and alligators;

Chiroptera (bats);

Proboscidae (elephants);

Rodentia of the family Cricetidae (mice), except white mice kept as household pets;

Rodentia of the family Muridae (rats), except white rats kept as household pets;

Scorpiones of the family Buthidae (scorpions);

Squamata of the suborder Ophidia (snakes) which are venomous or constrictors, not to include any nonvenomous snake indigenous to the state of Iowa.

(89) (A) "Dangerous dog" means:

(i) Any dog with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;

(ii) Any dog that has been cited for running at large three times in one year; or

(iii) Any dog that has attacked another animal once while at large.

(B) A dangerous dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises which shall be set back at least ten (10) feet from the nearest property line of the person described in Section 4.20.110(b). Such pen or structure must have secure sides and a secure top. The sides must be embedded into the ground no less than one foot or secured into a concrete slab.

(910) "Dart" means the process whereby a drug of a sedative nature is delivered to and injected into an animal by means of a projectile shot from a rifle, gun, or blowgun, or from a bow or crossbow, for the purpose of subduing or rendering unconscious an animal for capture.

~~(10) "Department of public health," "public health department," or "health department" means the health department of the city of Council Bluffs, Iowa.~~

~~(11) "Director of public health" or "health officer" means the director and employees of the Council Bluffs Health Department.~~

(1211) "Dog" means both male and female animals of the canine species, whether neutered or not.

(1312) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or which demands immediate action to protect the public health, safety and/or welfare, or the safety or welfare of an animal.

(1413) "Farm animal" means every wild, tame or domestic animal kept or raised for the purpose of meat, milk, breeding, furbearing, work, recreation, sport, hobby, experimentation, or income, excluding domestic dogs and cats; any and all animals of the following orders shall be deemed to be farm animals, per se:

Anseriforms, which includes ducks and geese;

Artiodactyla, which includes all members of the families Suida (swine) and Bovidae (cattle, sheep and goats);

Carnivoras, which includes mink and skunks, but excluding domestic dogs and cats;

Columbiformes, which includes doves and pigeons;

Falconiformes, which includes hawks and falcons;

Galliformes, which includes chickens, turkeys and fowl-like birds;

Lagomorpha, which includes hares and rabbits;

Perissodactyla, which includes all members of the family Equidae (horses, ponies, asses, and mules);

Rodentia, which includes squirrels, rats and mice.

(~~1514~~) "Hybrid" means any offspring produced by breeding a domestic cat or domestic dog to an animal listed as a "dangerous animal, per se."

(~~1615~~) "Kennel" means "boarding kennel," "commercial kennel," as defined in Chapter 162 of the Code of Iowa.

(~~1716~~) "Kennel dogs" means dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint in a kennel pursuant to Chapter 162 of the Code of Iowa.

(~~1817~~) "Killer trap" or "conibear trap" means a type of trap designed to apprehend and instantaneously kill an animal, but shall not include jaw, leghold or snare-type traps, regardless if set underwater.

(~~1918~~) "Live trap" means a process whereby an animal is apprehended alive and uninjured by means of a cage-type device, the door or entrance to which closes after the animal enters, preventing escape. Jaw, leghold, or snare-type traps, designed to pinch trap an animal's head or extremities, shall not be considered a live trap.

(~~2019~~) "Noise disturbance" means any sound which: (A) Endangers or injures the safety or health of humans or animals; (B) Annoys or disturbs a reasonable person of normal sensitivities; or (C) Endangers or damages personal or real property.

(~~2120~~) "Owner" or "owner of animal" means any person or persons, firm, association, or corporation owning, keeping, sheltering or harboring an animal with a current city pet license.

(~~2221~~) "Owner" or "person or entity in lawful possession and control of any premises" means the fee title owner of any property or premises, or the person or entity in actual possession or control of such premises under a lease or real estate contract.

(~~2322~~) "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, agent or agency thereof.

(~~2423~~) "Service animals" means any animal which is owned by a person who is disabled, and that has been properly trained at a special school to guide its owner in going from place to place.

(~~2524~~) "Vicious animal" means any animal, except for a dangerous animal, per se, as listed above, which has attacked or bitten any person without provocation or which has attacked or bitten any domestic animal or fowl on more than two occasions within a twelve-month period, any dog or other animal

owned or harbored primarily or in part for the purpose of fighting or any dog trained for dog fighting, or which has been found to possess such a propensity by the ~~board of health~~Board of Review.

(~~26~~25) Meaning of certain words. Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine and the feminine the masculine.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.030 - Cruel treatment of animals prohibited.

(a) Physical Abuse. It shall be unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object; mutilate, burn, or scald with any substance, or otherwise cruelly set upon any animal, except that reasonable force may be employed to drive off vicious, trespassing or aggressive animals. It shall further be unlawful for any person to knowingly, intentionally, or carelessly cause or allow any animal to endure unreasonable or unjustifiable pain, suffering, or injury.

(b) It shall be unlawful for any person or entity keeping, harboring, or caring for any animal to fail, refuse or neglect to provide such animal with proper food, drink, shade, shelter, physical maintenance and veterinary care. Proper food, drink, shade, shelter, physical maintenance and veterinary care shall require that:

(1) Each animal shall, at suitable intervals and at least once every twenty-four (24) hours, receive a quantity of food suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal.

(2) Each animal shall have available at all times an adequate supply of clean, fresh, potable water. If water pans or dishes are to be used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping.

(3) Each animal shall have convenient access to adequate shelter throughout the year. Any shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and shall be of sufficient size to permit the animal to enter, stand, turn around, and lie down in a natural manner. Any shelter which does not protect the animal from temperature extremes or precipitation, excessive ammonia levels, or which does not provide adequate ventilation or drainage, shall not comply with this section. Animals kept outdoors for a period of time exceeding thirty (30) minutes must be provided the following:

(A) The shelter must be a well-constructed structure with a roof, enclosed sides, one of which must contain an entry way and a solid, level floor raised at least two inches from the ground. The entry way openings shall not comprise an entire side of the structure.

(B) The shelter must have no cracks or openings other than the entrance.

(C) The shelter must be small enough to allow an animal to warm the interior of the structure and maintain body heat, but large enough to allow the animal to stand, turn and lie down.

(D) Between November 1 and March 31 and whenever the real or effective temperature is forty (40) degrees Fahrenheit or lower, the entryway must be protected by a self-closing door, an offset outer door, or a flexible flap, and a sufficient amount of dry bedding material consisting of hay,

straw or cedar shavings must be provided to insulate against cold and damp. Blankets, rags and newspapers are prohibited due to their tendency to hold moisture and freeze.

(E) The shelter must be placed where it will be adequately shaded in hot weather and protected from the wind in cold weather.

(4) Each animal shall receive care and medical treatment for injuries, parasites, and diseases, sufficient to maintain the animal in good health and to minimize suffering.

(5) No animals shall be hitched, tied, or fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that must be tied, hitched or fastened to restrain them must wear a properly fitted collar or harness, not of the choker type, provided that the proper use of choker collars in the training of animals shall not be prohibited. The tying device shall be attached to the animal's collar or harness and shall be at least ten (10) feet in length.

(6) Any enclosure in which an animal is kept shall be constructed of material, and in a manner to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition. When a dog is confined outside a residence, the following minimum space requirements shall be used:

Size of Dog	Pen Size (square feet)
Extra-large (over 26 inches at withers or over 75 lbs.)	48
Large (over 20 inches and up to 26 inches at withers or not over 75 lbs.)	40
Medium (over 12 inches and up to 20 inches at withers or not over 50 lbs.)	32
Small (12 inches or less at withers or not over 20 lbs.)	24

An additional sixteen (16) square feet shall be required for each dog sharing the pen with another. The minimum pen size includes a shelter.

(7) It shall be unlawful for any person to place or confine or allow an animal to be confined in such a manner that it remain in a motor vehicle or trailer under such conditions or for such periods of time as may endanger the health or well-being of the animal due to heat, lack of food or water, or any circumstances which may cause suffering, disability, or death. Any animal control officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that its

health is endangered after making reasonable attempt to contact the owner. The animal will be impounded and may be taken to a veterinarian for any care needed and then placed at the ~~Midlands Humane Society~~Animal shelter. A written notice will be left attached to the vehicle with the time, date, location of where the animal is being held and a contact number to call. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, and impound, including any repairs to vehicle or removal costs.

(8) It shall be unlawful for any person to abandon any animal within the city. Abandonment shall mean leaving an animal for a period in excess of twenty-four (24) hours without appropriate provisions having been made for the feeding, watering, and care of such animal. If an animal is restrained or confined out of doors without food, water or proper care, the ~~director~~administrative authority or his designee may enter upon any such property where the animal is restrained or confined and supply it with the necessary food, water and care so long as it remains there.

(9) Except as hereinafter provided in Section 4.20.040, it shall be prohibited and a misdemeanor for any person, firm, or corporation to trap, poison, shoot, harm, treat cruelly, injure, torture, or destroy any animal within the city of Council Bluffs, Iowa.

(10) Any person or persons violating this section shall bear full cost and expenses incurred by the city of Council Bluffs, Iowa, in the care, medical treatment, impoundment cost, and disposal of said animals.

(11) Failure to perform any of these duties shall constitute a misdemeanor.

(12) The ~~director~~administrative authority or his designee shall promptly investigate all reported cases of neglect, injury, or cruelty, and shall take the following actions as necessary, provided a violation of this section is present:

(A) If said animal is located outside the residence, it shall be removed and impounded at the ~~Midlands Humane Society~~Animal shelter or veterinarian if in imminent danger or further injury may occur. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(B) If said animal is located outside the residence, but is not in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the caretaker. Failure to comply with said corrective measures shall result in the animal being removed from the residence and impounded at the ~~Midlands Humane Society~~Animal shelter or veterinarian. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(C) If said animal is located within the residence, a search warrant shall be obtained to gain legal entry of the residence and said animal shall be removed and impounded at the ~~Midlands Humane Society~~Animal shelter or veterinarian if in imminent danger or further injury may occur. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(D) If said animal is located within the residence, a search warrant shall be obtained to gain legal entry of the residence. If said animal is found not to be in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the caretaker. Failure to comply

with said corrective measures shall result in the animal being removed from the residence and impounded at the ~~Midlands Humane Society~~Animal shelter or veterinarian upon service of an additional search warrant. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(E) Any person who owns, keeps, harbors, maintains or controls any animal impounded in accordance with this section, shall pay a bond in the amount set forth in the schedule of fees (two hundred fifty dollars (\$250.00)) prior to the expiration of five calendar days after the date of impoundment. If said payment is not made prior to the expiration of this five-day period, the animal shall become the property of the city of Council Bluffs, Iowa, to be disposed of as deemed appropriate by the ~~director of public health~~administrative authority, or his/her designee.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.040 - Trappings, poisoning and destruction of animals.

(a) The owner or person or entity in lawful possession and control of any premises:

(1) May trap, poison or destroy in otherwise permissible manner any mole or rodent (rat, mouse or gopher) found upon the premises, with the exception of tree squirrels;

(2) May trap, poison or destroy in otherwise permissible manner any pigeons which congregate on such premises in such a manner as to create a hazard to public health or cause damage to property;

(3) May trap or destroy in otherwise permissible manner, any dangerous animal found at large upon the premises and constituting an immediate threat to the safety or health of any person;

(4) May trap, poison, or destroy in otherwise permissible manner, any animal which has entered the occupied portion of any building, or which has entered or nested in the attic, eaves, drainage or plumbing vent piping of any building, thereby creating a nuisance which cannot otherwise be abated, except that animals regulated pursuant to Chapters 456A, 481A and 481B of the Iowa Code may not be trapped, poisoned, or destroyed pursuant hereto unless permission has first been obtained from the Iowa Department of Natural Resources;

(5) May utilize live traps to apprehend animals on any premises, regardless of the zone, if such animals constitute a nuisance due to the destruction of property, and if the method and location of such trapping is done with the concurrence and under the direction of either the Iowa Department of Natural Resources or the department of public health. If such trapping is done with the concurrence of and under the direction of the Iowa Department of Natural Resources, killer traps may be utilized.

(b) The owner, person, or entity in lawful possession and control of any premises may trap, or give permission to trap, game animals or fur-bearing animals utilizing leghold traps, live traps, or killer traps in accordance with the provisions of Chapters 456A, 481A, and 481B of the Iowa Code, upon the following described properties:

(1) A-1/Open space conservation districts and A-2/parks, estates and agricultural districts, but excluding:

(A) City-owned properties in such zones unless permission is obtained therefore pursuant to subsection (C) hereof;

(B) Those portions of such zones which lie within one thousand (1,000) feet of any residential district; and

(C) Those portions of A-1 and A-2 zones adjacent to the Missouri River and the Missouri River levees which lie between the Union Pacific Railroad Bridge on the south and the intersection of North 37th Street extended and the Missouri River on the north and which are not owned by the state of Iowa, or are not under the exclusive jurisdiction and control of the Iowa Department of Natural Resources;

(2) G-M, general manufacturing districts which lie south of West Broadway and East Broadway streets, but excluding:

(A) City-owned properties in such zones unless permission is obtained therefore pursuant to subsection (C) hereof; and

(B) Those portions of such zones which lie within one thousand (1,000) feet of any residential district; and

In the event that the ~~board of health~~County Board of Health determines that game animal or fur-bearing animal populations pose a significant threat to public health or safety, or property anywhere within the city, the board may authorize trapping by licensed pest control operators or by commercial trappers who do not own the properties to be trapped, provided the written permission of such property owners is first obtained, utilizing leghold traps, live traps, or killer traps in accordance with the provisions of Chapters 456A and 481A of the Iowa Code.

It shall be the duty of every person maintaining a trap pursuant to this provision to plainly label the trap or traps with a metal tag displaying the owner's name and address, and to inspect the trap or traps at least once every twenty-four (24) hours. Failure to do so shall constitute a misdemeanor. All animals trapped pursuant to the provisions of this section shall be promptly disposed of or destroyed in a humane manner. Traps which are placed or used in violation of this provision may be seized by the mayor his or her designee.

(c) The ~~director~~administrative authority may allow any person eighteen (18) years of age or older to trap game animals and/or fur-bearing animals in accordance with Chapters 456A and 481A of the Iowa Code, and under the same terms and conditions as set forth above in subsection (b) upon city-owned property, if the ~~director~~administrative authority determines that such trapping is necessary either to prevent animal over-population of those premises, or to promote the public health, welfare, and safety, or to abate a nuisance caused by such animal population.

(d) Nothing contained herein shall prohibit the operation of a pest control business within the city of Council Bluffs by licensed pest control technicians, provided that the pest control methods used meet with the approval of the United States Environmental Protection Agency. A licensed pest control technician may perform any of the acts set forth in subsections (a)(1) through (5) and (b) above, if done in accordance with the requirements therein set forth and if authorized to do so by the owner or person in possession and control of the premises.

(e) Nothing herein shall limit the authority of the ~~director~~administrative authority to apprehend by any means animals found at large in violation of this chapter, or to apprehend by any

means or destroy any animal found at large which constitutes an immediate threat to public health, welfare, or safety.

(f) Nothing herein shall limit the authority of the Iowa Department of Natural Resources to trap, or allow trapping, upon property owned by the state of Iowa or under the exclusive jurisdiction and control of the Iowa Department of Natural Resources.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.045 - Pet shops.

(a) It shall be unlawful for any person who owns, conducts, manages or operates any commercial animal establishment for which a license is required by the state of Iowa, to fail to comply with each of the following conditions:

(1) Every dog and cat offered for sale shall have been vaccinated against distemper. A certificate providing the name of the veterinarian and the date and treatment must be provided to the purchaser at the time of sale.

(2) No animal shall be transported by a pet shop or dealer, whether by private or public means, unless housed in a container appropriate for the size for the animal, and designed for that purpose including provisions for adequate ventilation, food and water.

(3) Each animal shall at suitable intervals and at least once every twenty-four (24) hours, receive a quantity of wholesome foodstuff suitable for the specie's physical condition and age, sufficient to maintain an adequate level of nutrition for the animal.

(4) Each animal shall have available at all times an adequate supply of clean, fresh, potable water.

(5) Reasonable precautions shall be used to insure that animals are not teased, abused, mistreated, annoyed, tormented or in a manner made to suffer by any person or means.

(6) Sick animals shall be sufficiently isolated so as not to endanger the health of other animals.

(7) Every building or enclosure wherein animals are maintained, shall be constructed of material easily cleaned, shall be kept in a sanitary condition and shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required, according to the physical needs of the animal, with sufficient light to allow observation of animals and sanitation.

(8) Any animal shall be taken to a veterinarian for treatment if the animal control officer orders the owner or custodian to do so as necessary to maintain the health of the animal.

(9) All animal rooms, cages, shipping containers, and runs shall be of sufficient size to provide adequate and proper accommodations and protection from the weather for the animals kept therein. At a minimum, sufficient space must be provided for every animal within an enclosure to separately and together, stand up, lie down, and turn around in a natural position.

(10) No animals bearing evidence of malnutrition, ill health, infectious disease, unhealed injury or having been kept in an unsanitary condition shall be displayed or sold to the public.

(b) Records pertaining to the sale, purchase, transfer and medical treatment, including vaccinations, for all animals shall be open and available for inspection by the ~~director of public health~~administrative authority or his/her designee during reasonable hours. All such records shall be maintained on the premises for a minimum period of twelve (12) months after the date of sale or transfer of any animal. Records shall include the source of the animal sold/transferred, the date of sale/transfer, identification and sex of the animal sold/transferred, and the name and address of the purchaser.

(c) No pet shop shall sell a dangerous animal or dangerous animal, per se, as defined in Section 4.20.020(7) of this code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.050 - Animals at large.

(a) The owner of any animal shall at all times restrain such animal to prevent it from being or running at large. Failure to do so shall constitute a simple misdemeanor subject to the penalty provisions of Section 8.02.020 of this code. An animal found at large by the ~~director~~administrative authority shall be seized and impounded. If the animal is unable to be apprehended, or if the owner of the animal refuses to relinquish the same, the ~~director~~administrative authority shall serve the owner a ticket requiring payment of an enforcement/impounded fee as set forth in the current schedule fees as adopted by the city council.

(b) An owner of a cat bearing a current rabies vaccination tag and license must restrain such animal from running at large to the extent necessary to prevent it from causing damage to either public or private property. Failure to do so shall constitute a simple misdemeanor. A cat found at large by the ~~director~~administrative authority not bearing current rabies vaccination tag and license, or a cat wearing such vaccination tag and license but causing property damage, may in the discretion of the ~~director~~administrative authority be seized and impounded. If the ~~director~~administrative authority is unable to apprehend such cat, or if the owner of the cat refuses to relinquish same, the ~~director~~administrative authority may serve the owner a ticket requiring payment of an enforcement/impounded fee as set forth in the current schedule of fees as adopted by the city council.

(c) It is lawful for any person who finds an animal at large to seize and hold the animal. Any person seizing and holding an animal may confine it within a fenced yard, house, garage or other structure owned by them, or by physically restraining such animal on a harness, collar or leash. The person seizing and holding the animal shall be responsible for the humane treatment of the animal while it is under that person's custody, and shall notify the division of animal control within forty-eight (48) hours that the animal is in their custody. An animal control officer shall scan the dog for the presence of a microchip. Should a microchip be found, the last known owner shall be contacted and arrangements be made for the dog's return. Should a microchip not be found, the person harboring the dog may maintain custody until an owner is identified or for a period of thirty (30) days. Upon holding the animal for thirty (30) days, the finder may acquire ownership of the animal by purchasing a pet license for said animal. The provisions of this chapter shall not infringe upon any right or duty created by Section 351.25 or Section 351.27 of the Iowa Code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.060 - Impoundment.

(a) Animals which are impounded shall be placed in the ~~Midlands Humane Society~~Animal shelter, licensed kennel, or other suitable place as directed by the ~~director~~administrative authority. The ~~department of public health~~City shall register every impounded animal, noting the species, breed, color and sex of such animal, and whether or not it is wearing a license tag.

(b) When an animal has been apprehended and impounded, the ~~director~~administrative authority shall give notice of such impoundment to the owner, if known, within two days. If an impounded animal is not claimed within three days, excluding legal holidays, of the giving of notice, or if the owner of the animal cannot be determined within three days of the date of impoundment, the animal may be disposed of as provided in this chapter; provided, however, that an animal which is being held under quarantine shall not be released for ten (10) days. The cost of impoundment, board and keep, and any other related costs, shall be billed to the owner, if known or later identified.

(c) Redemption. Any animal held or impounded at the ~~Midlands Humane Society~~Animal shelter may be redeemed to the owner thereof upon:

(1) Proof of ownership;

(2) Payment of the board and keep fee, enforcement/impoundment fee, and any other related costs incurred;

(3) Presentation of the city license for the current year, if required by law, or by purchasing such license, which shall not be issued until proof of a current rabies vaccination is presented;

(4) Showing proof in the form of a certificate issued and signed by a licensed veterinarian that such animal has been properly vaccinated for rabies, if required by law;

(5) Any dog or cat that has been impounded shall have an identifying microchip inserted under its skin at its owner's expense prior to being released to the owner. The fee for this procedure shall be at current pricing as set forth by the ~~Midlands Humane Society~~Animal shelter.

(d) For purposes of this section, the ~~director~~administrative authority may give notice to the owner either orally, or by posting a notice at the owner's residence, or by mail. Any animal not redeemed under the provisions of this section shall become property of the city of Council Bluffs.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.070 - Disposition of impounded animals.

After the expiration of the applicable three-day impoundment period, or ten (10) days quarantine, except as otherwise provided, an unredeemed animal, whether licensed or unlicensed may, at the discretion of the ~~director~~administrative authority, transfer the city's interest of ownership to that of the ~~Midlands Humane Society~~Animal shelter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.080 - Injured animals at large.

(a) In the event that an injured animal, licensed pursuant to the provisions of this title, is found at large, the ~~director~~administrative authority shall impound such animal. Upon impounding an injured animal, the ~~director~~administrative authority shall attempt as soon as practicable to notify the owner of the

animal's location and condition. Upon being so notified, the owner of such animal shall either immediately take custody of such animal or cause said animal to be transported to a veterinarian, or authorize its destruction in a humane manner.

(b) In the event an injured animal at large cannot be apprehended, or if it displays vicious tendencies which would make its capture unduly hazardous, or in the event that an animal is found at large so seriously injured as to make its recovery improbable, or its condition deteriorates to that point, the ~~director~~administrative authority may immediately destroy such animal in a humane manner in the interest of humane treatment.

(c) In the event an animal regulated by Chapters 481A or 481B of the Iowa Code is found injured at large, the ~~director~~administrative authority shall, if practicable, consult with an officer of the Department of Natural Resources before destroying such animal.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.082 - Dangerous animal designation.

The ~~director~~administrative authority or ~~the director's~~his or her designee may designate an animal to be a dangerous animal under any of the following conditions:

(1) Any animal which is not naturally tame or gentle and which is of a wild nature or disposition and capable of killing, inflicting serious injury, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so;

(2) Any animal which has attacked another animal while at large.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.084 - Dangerous animal/dog designation.

(a) The ~~director~~administrative authority or the ~~director~~administrative authority's designee may designate any animal/dog to be a dangerous animal/dog under any of the following circumstances:

(1) An animal/dog with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;

(2) An animal/dog that the ~~director~~administrative authority or the ~~director~~administrative authority's designee makes a finding that said animal/dog has been running at large or was at large on three occasions in a twelve-month period; or

(3) An animal/dog, while not at large, that without provocation bites or attacks a human being or domestic animal.

(b) An animal deemed to be dangerous, per se, shall by operation of law be designated a dangerous animal by the ~~director~~administrative authority or the ~~director~~administrative authority's designee.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.086 - Appeal of dangerous animal/dog designation.

The decision of the ~~director~~administrative authority or the ~~director~~administrative authority's designee declaring an animal/dog as dangerous may be appealed by the owner to the ~~board of health~~Board of Review under the provisions of this chapter; provided, that there shall be no appeal to the board of the dangerous, per se, designation.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.088 - Irresponsible animal ownership.

(a) Any animal owner that has been convicted of any violation of this chapter on two occasions in a twelve-month period shall be designated an irresponsible animal owner.

If an animal owner is convicted of a third violation of this chapter in a twelve-month period, all animals may be confiscated and disposed of at the discretion of the ~~director of public health~~administrative authority, and no animal licenses shall be issued to anyone at the irresponsible animal owner's residence for a period of thirty-six (36) months.

(b) Any animal owner that has been convicted of a violation of Section 4.20.030 or 4.20.140(j) on one occasion in a twelve-month period shall be designated an irresponsible animal owner.

If an animal owner is convicted of a violation of Section 4.20.030 or 4.20.140(j) on a second occasion in a twelve-month period, all animals may be confiscated and disposed of, at the discretion of the ~~director of public health~~administrative authority, and no animal licenses shall be issued to the irresponsible animal owner for a period of thirty-six (36) months.

(c) No person designated as an irresponsible animal owner shall sell or otherwise transfer ownership of any animal to another person residing at the same address.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.089 - Irresponsible animal owner—Designation removed.

Any person designated as an irresponsible animal owner who is not convicted of another violation of this chapter for a period of thirty-six (36) months shall have the irresponsible animal owner designation removed. Any further violations of this chapter may result in immediate confiscation and disposal of any animals, at the discretion of the ~~director of public health~~administrative authority.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.090 - Keeping of dangerous animals prohibited.

No person shall keep, shelter, or harbor as a pet, guardian, or for any other purpose within the city, a dangerous animal as defined herein except as provided by this code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.100 - Exceptions.

The prohibition contained in Section 4.20.090 shall not apply to the keeping of dangerous animals in the following circumstances:

- (1) The keeping of bulls of any of the family Bovidae, or domestic swine of the family Suidae for farm purposes in a Class A-2, agricultural district;
 - (2) The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, museum or other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
 - (3) The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, show, or licensed pet shop;
 - (4) The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment;
 - (5) Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A or 481B of the Iowa Code.
- (Ord. No. 6304, § 1, 9-25-2017).

4.20.110 - Regulation of keeping of dangerous animals.

(a) Every person, firm, or corporation owning, keeping, sheltering or harboring a dangerous animal pursuant to Section 4.20.100 shall report such fact to the department of public health, together with the following information:

- (1) The species name of each animal;
- (2) The number of such animals of each such species kept on the premises;
- (3) A physical description of each such animal, including any pet names to which it might respond;
- (4) The location of such animal or animals within the city, including the location of the cage or place of confinement upon or in the premises wherein the animal or animals are kept;
- (5) In the case of poisonous dangerous animals, the location of the nearest source of anti-venom for that species.

(b) Every person, firm or corporation keeping, sheltering or harboring a dangerous animal shall at all times keep such animal securely confined within a cage or other enclosure.

(c) Every person, firm, or corporation keeping, sheltering or harboring a poisonous dangerous animal shall be required to keep ten (10) doses of anti-venom on hand and current at all times.

(d) No person, firm, or corporation owning, keeping, sheltering or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined. The ~~director~~administrative authority may authorize the display or exhibit of dangerous animals upon public property, park property, or public right-of-way, provided it is determined that such display or exhibit will not be contrary to the public interest. The authorization to display or exhibit such animals may be conditioned upon the provision of adequate public liability insurance and the execution of an indemnity and hold harmless agreement in favor of the city of Council Bluffs by the party seeking such authorization.

(e) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, thereby creating a hazard to life or property, such animal may, in the discretion of the ~~director~~administrative authority, or the chief of police, be destroyed if it cannot be confined or captured. The city of Council Bluffs shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, and shall have no duty to notify the owner of such animal prior to its destruction.

(f) No person owning, harboring, or having the care of a dangerous dog shall suffer or permit such animal to go unconfined on the premises of such person.

(1) Said dangerous dog shall be confined in a securely enclosed and locked pen or structure upon the premises which shall be set back at least ten (10) feet from the nearest property line of said premises. Such pen or structure must have secure sides at least six feet in height, embedded into the ground no less than one foot or secured into a concrete slab, and a secure top. Said pen or structure must be constructed of materials which will prevent the dangerous dog from biting or otherwise attacking a person wholly outside of the pen or structure.

(2) No person owning, harboring, or having care of a dangerous dog shall suffer or permit such dog to be beyond the premises of such person unless such dog is securely leashed and muzzled by a responsible adult, or otherwise securely restrained in a kennel or other enclosure.

(3) No owner or other person shall sell, give away, or trade any dangerous dog without first giving written notification as to the name, address, and telephone number of the potential purchaser to the ~~director~~administrative authority. Said notice to the ~~director~~administrative authority shall include a copy of written notification signed by the potential purchaser, that the dog has been declared dangerous, and the restrictions of this chapter which shall apply.

(g) Order to Remove. In the event that the ~~director~~administrative authority determines that a dangerous animal is being kept, sheltered, or harbored by any individual or entity in violation of the provisions of this chapter, the ~~director~~administrative authority may in his or her discretion have such individual or entity prosecuted for such violation, and/or he or she may order such individual or entity to remove such dangerous animal from the city or destroy it. Such order shall be contained in a notice to remove dangerous animal, which notice shall be given in writing, directed to such individual or entity, and delivered personally or by certified mail. Such order of the ~~director~~administrative authority may be appealed as set forth in Section 4.20.132.

(h) If the ~~board of health~~Board of Review affirms the action of the ~~director~~administrative authority, the board shall also order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal, remove such animal from the city or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the order is not complied with within seven days of its issuance, the ~~director~~administrative authority is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the ~~board of health~~Board of Review was issued has not petitioned the Pottawattamie County District Court for a review of the order, the ~~director~~administrative authority shall cause the animal to be disposed of by sale or destroyed in a humane manner. Failure to comply with an order of the ~~board of health~~Board of Review issued pursuant

hereto shall constitute a misdemeanor and shall be subject to the penalty provisions of Section 8.02.020 of this code.

(i) Every order of the ~~board of health~~Board of Review issued pursuant to the provisions of this section shall set forth the language of subsection (h) of this section.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.112 - Pit bulls prohibited.

(a) It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city of Council Bluffs, Iowa, any pit bull.

(b) Definitions. For the purposes of this section:

(1) An "owner" is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.

(2) A "pit bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the ~~director of public health~~administrative authority.

(3) "Muzzled" means that the jaws of the pit bull are confined by a device that prevents the pit bull from biting.

(4) A "secure temporary enclosure" is an enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the pit bull. Such enclosure must be constructed so that the pit bull cannot exit the enclosure on its own.

(c) Exceptions. Failure by the owner to comply and remain in compliance with any of the terms of any applicable exception shall subject the pit bull to immediate impoundment and disposal pursuant to subsection (e) of this section, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution under subsection (a).

(1) The owner of a pit bull currently licensed as of the date of publication of the ordinance codified in this section and who maintains the pit bull at all times in compliance with the requirements of subsection (d) of this section and all other applicable requirements of this chapter, may keep a pit bull within the city.

(2) The city animal shelter may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this chapter.

(3) A licensed veterinarian may temporarily harbor any pit bull for the purpose of care and treatment of the animal.

(4) A person may temporarily transport into and hold in the city a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by a dog club association

or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from the ~~director of public health~~administrative authority, must obtain any other permits or licenses required by city ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public at least seven days prior to said exhibition, contest or show. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the city to and from the place of exhibition, contest, or show, keep the pit bull confined in a "secure temporary enclosure" as defined in subsection (b)(4).

(d) The owner of any pit bull, currently licensed as of the date of publication of the ordinance codified in this section, shall be allowed to keep such pit bull within the city only if the owner complies with and provides sufficient evidence that the owner is in compliance with all of the following regulations:

(1) The owner of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee who is at least eighteen (18) years of age.

(2) The owner of a pit bull must be at least eighteen (18) years of age.

(3) The owner shall present to the ~~director of public health~~administrative authority proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury that may be caused by a pit bull during the duration of its license. The policy shall contain a provision requiring the insurance company to provide written notice to the ~~director of public health~~administrative authority not less than fifteen (15) days prior to any cancellation, termination or expiration of the policy.

(4) The owner shall, at the owner's own expense, have the pit bull spayed or neutered and shall present to the ~~director of public health~~administrative authority written proof from a licensed veterinarian that this sterilization has been performed.

(5) The owner shall bring the pit bull to the Council Bluffs Animal Shelter, where a person authorized by the ~~director of public health~~administrative authority shall cause an identifying microchip to be inserted beneath the skin of the pit bull. The ~~director of public health~~administrative authority shall maintain a file containing the registration numbers and names of the pit bulls and the names and addresses of the owners. The owner shall notify the ~~director of public health~~administrative authority of any change of address.

(6) At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull "confined" as that term is defined in Section 4.20.110(f)(1). At all times when a pit bull is away from the property of the owner the owner shall keep the pit bull, either securely leashed with a leash of a fixed length no longer than four feet, and muzzled, or in a "secure temporary enclosure," as that term is defined in subsection (b)(4) of this section.

(7) The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family who is at least eighteen (18) years of age, who will then become the owner and will be subject to all of the provisions of this section. The owner shall notify the ~~director of public health~~administrative authority within five days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the ~~Midlands Humane Society~~Animal shelter for destruction or permanently remove the puppies from Council Bluffs and

provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in Council Bluffs a pit bull puppy born after the date of publication of the ordinance codified in this section, that is more than eight weeks old. Any pit bull puppies kept contrary to the provisions of this section are subject to immediate impoundment and disposal pursuant to subsection (e) of this section.

(8) The owner shall have posted at each possible entrance to the owner's property where the pit bull is kept, a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight inches by ten (10) inches in rectangular dimensions and shall contain only the words "PIT BULL DOG" in lettering not less than two inches in height.

(e) Notwithstanding any provisions to the contrary, the ~~director of public health~~administrative authority is authorized to immediately impound any pit bull found in the city of Council Bluffs which does not fall within the exceptions listed in subsection (c) above, and the ~~Midlands Humane Society~~Animal shelter may house or dispose of such pit bull in such manner as the ~~director of public health~~administrative authority may deem appropriate, except as the procedures in subsection (f) below otherwise require.

(f) When the ~~director of public health~~administrative authority has impounded any pit bull dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may file a written petition with the ~~director of public health~~administrative authority for a hearing concerning such classification no later than seven days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The ~~director of public health~~administrative authority will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. When no written request from the owner for a hearing is received by the ~~director of public health~~administrative authority within seven days of impoundment, the pit bull shall be humanely destroyed.

The hearing, if any, will be held before the ~~director of public health~~administrative authority or a hearing officer designated by the ~~director~~administrative authority. The appellant-owner of such dog shall bear the burden of proof. Any facts that the petitioner wishes to be considered shall be submitted under oath or affirmation, either in writing or orally at the hearing. The ~~director of public health~~administrative authority or hearing officer shall make a final determination whether the dog is a pit bull as defined in subsection (b)(2) of this section. Such final determination shall be considered a final order of the ~~director of public health~~administrative authority subject to review as provided in Section 4.20.132.

If the dog is found to be a pit bull, it shall be humanely destroyed, unless the owner produces evidence deemed sufficient by the ~~director of public health~~administrative authority that the pit bull is to be permanently taken out of Council Bluffs, and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner.

The procedures in this subsection shall not apply, and the owner is not entitled to such a hearing with respect to any dog that was impounded as the immediate result of an attack or bite. In those instances, the dog shall be handled, and the procedures governed by the provisions of Section 4.20.120.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.120 - Keeping of vicious animals prohibited—Proceedings to determine—Seizure and/or destruction authorized.

(a) No person shall keep, shelter, or harbor for any reason within the city, a vicious animal as defined herein, except as provided in Section 4.20.130.

(b) Any animal which has attacked or bitten any person without provocation on one occasion, or which has attacked or bitten any domestic animal or fowl on two or more occasions shall be deemed a vicious animal without necessity for hearing by the ~~board of health~~Board of Review. This decision may, however, be appealed to the ~~board of health~~Board of Review, by presenting a written notice of appeal to the ~~director~~administrative authority within ten (10) days after receiving written notice of said decision. If the decision of the ~~board of health~~Board of Review is appealed to the District Court of Iowa, an appeal bond in an amount set forth in the current schedule of fees shall be paid to and held by the ~~Midlands Humane Society~~Animal shelter pending the outcome of the appeal.

(c) The ~~director~~administrative authority, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal may, when said animal does not meet the criteria set out in subsection (b) of this section, initiate proceedings to declare such animal a vicious animal as defined in Section 4.20.020(25). Said proceeding shall be conducted by the ~~board of health~~Board of Review. The person, firm, or corporation owning, keeping, sheltering, or harboring the animal in question shall be given not less than twenty-four (24) hours written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question, and the basis for the allegation of viciousness, and shall also indicate that if the animal is determined to be vicious, the owner shall have three days to have the animal destroyed and present proof thereof. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on the premises if no adult is present to accept service.

(d) If an animal meets the criteria set forth in subsection (b) above or, if after hearing, the board determines that an animal is vicious, the ~~director~~administrative authority shall order the person, firm, or corporation owning, sheltering, harboring or keeping the animal to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three days of its issuance, the ~~director~~administrative authority shall cause the animal to be destroyed.

(e) Failure to comply with an order issued pursuant hereto shall constitute a misdemeanor and shall be subject to the penalty provisions of Section 8.02.020 of this code.

(f) Every order issued pursuant to the provisions of this section shall include a copy of Section 4.20.120.

(g) Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the ~~director~~administrative authority shall immediately destroy it, or unless its ownership is not ascertainable, in which case the ~~director~~administrative authority shall destroy it after three days impoundment.

(h) Any animal which is alleged to be vicious and which is under impoundment or quarantine at the ~~Midlands Humane Society~~Animal shelter or a veterinary facility shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing.

(i) All costs of such impoundment or quarantine shall be paid by the owner, regardless of whether or not the animal is determined to be vicious.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.128 - Seizure/destruction of animal.

Upon declaration of a vicious animal, the owner shall immediately surrender the animal to the animal control division of ~~the department of public health~~Community Development. If the owner refuses to surrender said animal, animal control officers and/or police officers are authorized to seize said animal.

A vicious animal shall be placed in quarantine by the animal control division of Community Development ~~the department of public health~~ for a period of ten (10) calendar days. Said quarantine may be at the ~~Midlands Humane Society Animal shelter~~, a veterinarian's office, or other place approved by the ~~director~~administrative authority.

Upon completion of the ten-day quarantine, the ~~director~~administrative authority may order the destruction of said animal.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.130 - Exceptions: Guard dogs.

The prohibition contained in Section 4.20.120 shall not apply to the keeping of guard dogs. However, guard dogs must be kept within a structure or a fenced enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 4.20.120. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "guard dog," "vicious dog," or words of similar import, and the owner of such premises shall inform the department of health that a guard dog is on duty at the premises.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.132 - Administrative appeal procedure.

The following process shall apply to the appeal of any actions or declarations of the ~~director of public health~~Community Development or his/her designee pursuant to this chapter.

Appeal. Any individual or entity desiring to appeal an order issued by the ~~director of public health~~director of Community Development to the ~~board of health~~Board of Review may do so by filing a written notice of appeal with the ~~director of public health~~Director of Community Development within ten (10) days after notification of the ~~director's~~director's order. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the ~~director of public health~~director of Community Development.

(1) Within ten (10) days of receiving the written notice of appeal, the ~~director~~administrative authority shall set the date for the hearing of the appeal. Said hearing shall be not less than five days nor more than thirty-six (36) days from the date that the hearing date is set.

(2) Notice of the hearing may be personally served on the owner, a duly designated representative, the owner's attorney, or an adult member of the owner's household. Notice may also be served by first-class U.S. mail to the address listed on the notice of appeal at least five days prior to the hearing date.

(3) The hearing on appeal shall be open to the public and conducted informally. The rules of evidence shall not strictly apply.

(4) The city may be represented before the board by the city attorney's office or the ~~director~~Director of Community Development ~~of the department of public health~~. The owner may represent him or herself or may be represented by an attorney.

(5) The city shall have the burden to prove by a preponderance of the evidence that the action of the ~~director~~administrative authority or his or her designee should be affirmed.

(6) Each party will be given the opportunity to present their side of the matter, including the presentation of witnesses and exhibits. Any exhibits given to the board members to examine shall become part of the permanent record and will not be returned to the party submitting the same. At the conclusion of the parties' presentations, the board may make a determination or may take the matter under advisement. Ultimately, the ~~board of health~~Board of Review, by majority vote of those present and voting, may affirm, modify or reverse the determination of the ~~director~~administrative authority.

(7) The proceedings before the board shall be recorded by one of the following methods: Electronic audio or video recording, certified court reporter, or extensive notes of the testimony kept by a person designated by the board.

(8) The decision of the board shall be deemed final upon the announcement of the vote of the board at an open meeting of the board. The decision does not have to be reduced to writing, but shall be noted in the minutes of the board's meeting. If the order is reduced to writing, it shall still be deemed to have been the final order of the board at the time of announcement.

(9) The final decision of the board may be appealed in the district court of Iowa in accordance with the provisions of the Iowa Administrative Code. If such an appeal is undertaken, and the animal is being held in the custody of the city, then an appeal bond in the amount set forth in the current schedule of fees shall be paid to and held by the Council Bluffs animal control division pending the outcome of the appeal.

(10) Upon finalization of the appeal, the animal control division shall utilize the appeal bond to pay the ~~Midlands Humane Society~~Animal shelter for costs associated with boarding and care of the animal(s) in question. Remaining funds, if any, shall be returned to the owner. The owner shall be responsible for all remaining fees and costs associated with board and keep that is in excess of the amount of the appeal bond.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.140 - General prohibitions and duties.

(a) No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such persons' property or that of another, by opening any gate, door, or window, by making an opening in any fence, enclosure, or structure, or by unleashing such animal.

(b) It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove, and dispose of the feces deposited by such animal upon public property, park property, public right-of-way, or the property of another, as provided in subsection (i) of this section. Failure to do so shall constitute a misdemeanor.

(c) It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall constitute a misdemeanor.

(1) The use of underground electric fencing systems shall satisfy physical restraint so long as the owner is present with his/her dog and assures:

(A) The underground electric fence system is in working order;

(B) The dog is trained in accordance with the fencing system;

(C) The dog is wearing a functional fence collar,

(D) The property is clearly and prominently marked indicating the existence of the underground electronic fencing system with a minimum of two signs on each side of the property to which the fence is applied.

(2) The underground electronic fencing system shall not allow the dog to progress beyond a line parallel to the front of the residential structure. Residential structures on corner lots shall not allow the dog to progress beyond a line parallel to both the front and the side (street side) of the residential structure.

(3) Any dog found to be at-large while being restrained by underground electronic fencing shall no longer be allowed to be restrained in such manner.

(4) Underground electronic fencing is prohibited for:

(A) Dogs deemed to be dangerous pursuant to Section 4.20.082 and Section 4.20.084;

(B) Dogs deemed to be a "pit bull" pursuant to Section 4.20.112.

(d) No person owning or having an animal under his or her control or within his or her care or custody, shall permit such animal to create a noise disturbance as defined in Chapter 4.50 "Noise Control," or to bark or make any loud or unusual noises during times which such owner knows or should expect that such noise will disturb one or more neighbors, or otherwise disturb the peace. Kennels, veterinary clinics, animal hospitals, and animal shelters located within properly zoned areas shall be eligible for a variance from this requirement pursuant to the provisions of Section 4.50.070.

(e) It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the city, so as to hinder, delay, or prevent his or her executing his or her duties in relation to the matters and things contained in this chapter.

(f) It is unlawful for any person owning, controlling, or caring for any animal that has died from any cause to allow the carcass to lie about the owner's premises or upon the premises of another person or upon any public property or right-of-way. It shall be the duty of such person to cause such carcass to be removed and properly disposed of by burying it in an approved animal cemetery, cremating in an approved incinerator, desiccation, removal by a licensed animal disposal company, or by delivering to a licensed veterinarian, or the city animal shelter, within twenty-four (24) hours after the death of the

animal. It is unlawful for any person to bury an animal on private premises within the city, or for the owner of any property to allow an animal to be buried thereon, except in time of emergency as declared by the ~~board of health~~Board of Review when such action is necessary to protect the public health. The owner, possessor and all persons having knowledge of any dead animal in the city shall report the same to the department of public health, giving the name of the person who owned or had possession or control of the animal prior to its death, and the place where the animal may be found. The ~~department of public health~~administrative authority shall immediately notify the person who owned or had possession and control of such animal to cause the same to be removed and properly disposed of as herein provided.

(g) Regardless of the provisions of subsection (f) of this section, it shall be unlawful for any owner or other person to dispose of any dead animal or allow it to be collected for disposal by any person except authorized representatives of the city if such animal has attacked, bitten, or caused a skin abrasion on any person, or if the animal is suspected of being infected with rabies, until permission for disposal has been given by the ~~director of public health~~administrative authority or his or her designee.

(h) It is unlawful for any person owning, controlling or caring for any animal to fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house or the person's dwelling or other structure where the animal is at any time kept. At least once every twenty-four (24) hours or more often if odors or health problems arise, such person shall pick up any and all feces so as to prevent its accumulation and same shall be properly disposed of. Feces shall be held in watertight and fly-tight containers pending disposal and shall be disposed of at least once weekly. Feces shall be disposed of by depositing same in a proper receptacle for disposal as solid waste by a licensed private refuse hauler pursuant to the requirements of Chapter 4.12 of this code. The animal and place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food and water shall be stored and placed for the animal's consumption in such a manner so that it will not become food for rodents and other vermin.

(i) It is unlawful for any owner or other person to abandon, turn loose, or leave any animal within the corporate limits of the city or so that the animal may find its way into the corporate limits of the city, or to abandon or leave any animal upon or in any premises unattended for a period in excess of twenty-four (24) hours.

(j) It is unlawful for any person to willfully allow animals to bite, fight, purposely scare or attack other animals or humans.

(k) No person driving a motor vehicle shall transport any animal in the back of the vehicle in a space intended for any load, including, but not limited to, the cargo bed of a truck or the trunk of an automobile, except an animal may be transported in the cargo bed of a truck if the space is enclosed, or the vehicle has installed means of preventing the animal from being discharged, or the animal is cross tethered to the vehicle, or is protected by a secured container or cage, in a manner which will prevent the animal from being thrown, falling, or jumping from the vehicle. This section shall not apply to the transportation of livestock.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.150 - Fees.

(a) In the event that an animal is observed at large but cannot be captured for impoundment, or in the event its owner refuses to relinquish possession of such animal for impoundment, an enforcement/impoundment fee ticket may be issued to its owner requiring the payment of a fee for the city's cost in attempting to impound the animal and enforce the provisions of Section 4.20.050.

(b) In the event that an animal required to be licensed pursuant to Section 4.20.230 is not licensed, or does not display the license tag as required by Section 4.20.170, an enforcement/impoundment ticket may be issued to its owner requiring the payment of a fee for the city's cost in enforcing said provisions.

(c) In the event that an animal required to be vaccinated for rabies pursuant to Section 4.20.160 is not vaccinated as required, or does not display a rabies vaccination tab as required by Section 4.20.170, an enforcement/impoundment fee ticket may be issued to its owner requiring the payment of a fee for the city's cost in enforcing said provisions.

(d) In the event the owner of an animal has been served a ticket for the payment of the enforcement/impoundment fee and fails to pay the required amount due to the city treasurer within thirty (30) days of the date of issuance of the ticket, the amount of the enforcement/impoundment fee shall double from its original amount, and the individual who issued the enforcement/impoundment fee ticket shall cause a criminal complaint to be filed in the Iowa District Court for a violation of the appropriate section of this chapter. For purposes of this subsection, an enforcement/impoundment fee ticket may be served by either delivering the ticket personally to the owner, or posting the ticket at the residence of the owner.

(e) The enforcement/impoundment fees shall be as provided in the current schedule of fees adopted by the city council.

(f) The fee for boarding and keeping any animal, for removing a dead animal from any premises, for disposing of a dead animal, for humanely destroying an animal, for taking custody of unwanted animals, for trap rental, or for pest control shall be as provided in the current schedule of fees adopted by the city council.

(Ord. No. 6304, § 1, 9-25-2017).

Article II. - Rabies Control and Licensing

4.20.160 - Vaccination for rabies.

The owners of all dogs and cats, six months of age or older, and other animals required by state law to be licensed, which are permanently or temporarily within the corporate limits of the city, are required to have a vaccination against rabies for such animals. It is unlawful for any person to keep or harbor an animal which is not vaccinated as required. The rabies vaccination shall be administered in accordance with Chapter 351, Code of Iowa. A current certificate of vaccination for rabies signed by a licensed veterinarian administering the vaccine shall be required for all animals for which the vaccination is required by this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.170 - Display of rabies tag and license.

The owner of an animal shall at all times cause the current rabies vaccination tag, and current license tag if a license is required pursuant to Section 4.20.230, to be displayed on a collar, harness or chain attached to the dog, cat, or other animal. Failure to do so shall constitute a misdemeanor.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.180 - Rabies control—Emergency.

If the local ~~board of health~~Board of Review believes rabies to be epidemic, or believes there is threat of epidemic, within the city of Council Bluffs, it may declare a quarantine in all or part of the city and such declaration shall be reported to the city council and the Iowa Department of Health. During the period of quarantine, any person owning or having a dog in his or her possession in the quarantined area shall keep such animal securely enclosed or on a lease for the duration of the quarantine period. Any animal or dog running at large during the time of his or her declaration shall be seized and impounded unless noticeably infected with rabies. All animals or dogs so noticeably infected with rabies, and in the opinion of the ~~director~~administrative authority, are displaying vicious propensities, may be killed by the ~~director~~administrative authority without notice to the owner. Dogs or other animals impounded during this declaration shall be disposed of as provided in this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.190 - Reporting of bites, attacks and diseases.

(a) It shall be the duty of the owner of any dog, cat or other animal which has bitten or attacked a person, or any other person having knowledge of such bite or attack, including physicians, nurses, and veterinarians, to report such act to the city health department.

(b) It shall be the duty of physicians, veterinarians, and the owner of any animal, to report to the ~~city health department~~administrative authority the existence of any animal known or suspected to be suffering from rabies.

(c) Any report required by this section to the ~~city health department~~administrative authority shall be considered to be a report to the ~~local board of health~~Board of Review, as required by Section 351.38 of the Iowa Code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.200 - Procedure when person bitten by animal—Quarantine.

(a) Whenever an animal bites any person, it shall be the duty of the ~~director~~administrative authority to have such animal immediately removed from the owner's premises and either taken to the ~~Midlands Humane Society~~Animal shelter or a veterinary hospital for quarantine, or destroyed for examination if the animal appears to be diseased. If not destroyed, such animal must be placed under quarantine for a period of ten (10) days. It is the duty of the owner of the animal that has bitten any person to deliver or surrender the possession of such animal to the city for a quarantine when so ordered by the ~~director~~administrative authority. Any confinement of an animal under quarantine shall be at the expense of the owner of such animal.

If an animal is held by a veterinarian, it may not be released until the expiration of the ten-day quarantine period without express written permission of the ~~director~~administrative authority. If for any

reason a veterinarian determines that he or she may no longer continue to hold the animal, it may be surrendered only to the ~~Midlands Humane Society~~Animal shelter to be held for the remainder of the ten-day quarantine period.

(b) If any animal that has bitten any person is suspected of having rabies, the ~~director~~administrative authority may destroy the animal and have the carcass examined in lieu of quarantine. A wild or stray animal that has bitten any person may be destroyed immediately by the ~~director~~administrative authority.

(c) The owner of any animal that has bitten a person may apply to the ~~director~~administrative authority to release the animal for the purpose of allowing quarantine at the home of the owner for a period of ten (10) days. The application may be made at any time during the quarantine period and shall be on a form supplied by the department of public health. Home quarantine shall not be permitted unless all of the following conditions have been fully met:

(1) The animal must have been vaccinated against rabies at least three weeks prior to the bite, and such vaccination must be valid for at least one month after the bite. A certification of rabies vaccination shall be produced by the owner of the animal. This vaccination certificate must bear the description of the animal, the type of vaccine used, the expiration of the vaccine, and the signature of the veterinarian administering the vaccination. The animal must also have a current city license, if required by Section 4.20.230, at the time of the bite.

(2) The animal was not running at large at the time of the bite.

(3) Prior to approval of home quarantine, the owner shall have the animal examined by an animal control officer that is an employee of the city of Council Bluffs or a veterinarian, licensed in the state of Iowa, who shall certify that the animal appears to be free of rabies or any other zoonosis. If an animal cannot be immediately examined, it shall be quarantined at the ~~Midlands Humane Society~~Animal shelter until the owner can make arrangements for such examination.

(4) The person bitten or, if a minor, that person's parents or guardians, must sign the application indicating that they have been advised of the risks of rabies, and that if the animal disappears during the home quarantine, the person bitten may have to undergo anti-rabies treatment, that they do not object to home quarantine, and relieving the ~~Ccity of Council Bluffs, and the local~~the board of healthBoard of Review, the department of public health, and its agents from any liability if the animal disappears during the quarantine period.

(5) The owner of the animal must demonstrate to the satisfaction of the ~~director of public health~~administrative authority or his or her designee that they have the proper facilities and the ability to adequately and properly confine the animal to their home or property during the quarantine period.

(6) The owner shall agree to immediately notify the department of public health of any changes in the animal's health or disposition, to allow representatives of the department of public health or its agents to enter upon their property and to examine the animal at any time and to immediately take the animal to a licensed veterinarian for examination at any time when directed by personnel of the department of public health or its agents.

(7) At the end of the quarantine period, the owner shall have the animal examined by an animal control officer that is employed by the city of Council Bluffs or a licensed veterinarian who shall certify that the animal still appears to be free of rabies or other zoonosis, and the quarantine should be terminated.

(8) The owner shall pay all costs of impoundment, board and quarantine to the ~~Midlands Humane Society~~Animal shelter before it is released, and shall agree to pay all costs of examination by a veterinarian during the quarantine period.

(9) The owner shall further agree to immediately surrender the animal at any time the ~~director of public health~~administrative authority or his or her designee determines the home quarantine should be terminated, or any at time that any provisions or conditions of the home quarantine are violated, and the animal shall be returned to the custody of the department of public health, its agents, or a licensed veterinarian in the state of Iowa.

(10) The ~~Council Bluffs local board of health~~Board of Review may establish additional rules pertaining to home quarantine.

(d) In the event any person is bitten by an animal other than a dog or cat, exposure management shall follow recommendations as put forth by the Iowa Department of Public Health.

(e) In the event the circumstances of the squirrel bite are such that the offending squirrel cannot be readily captured, the person bitten or, in the case of a minor, the parent or guardian thereof, shall have the right to use whatever methods deemed necessary to secure the squirrel having bitten, and the person shall then take or cause to be taken the squirrel to a veterinarian for observation or investigation. In the event of the circumstances occurring in this subsection, the cost of such observation or investigation shall be borne by the person taking or causing the squirrel to be taken to the veterinarian.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.210 - Report of condition during quarantine.

(a) It shall be the duty of any veterinarian or owner of other place at which an animal is placed under quarantine for any reason to report at once any noticeable change in the physical condition of such animal and to report at once if such animal should die.

(b) It shall be the duty of the ~~director~~administrative authority to cause at least one examination at the end of the quarantine period and such other examinations as may be deemed necessary to insure that the animal is alive and well and not apparently infected with rabies. If deemed necessary, the ~~director~~administrative authority may order such examinations done by a licensed veterinarian, and the owner of the animal shall pay all costs of such examinations.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.220 - Payment of quarantine and examination costs.

(a) The owner of any animal quarantined may redeem such animal after any quarantine period upon the payment in full of all costs of confinement, including reasonable costs of food and care of such animal, and medical examination before the animal is released. If the animal is not claimed after the ten-day

quarantine period, whether the owner is known or unknown, the animal may be disposed of pursuant to this chapter.

(b) When an animal dies during quarantine, the owner, if known, shall be billed for all costs of confinement to date of death and for all examinations including post mortem or laboratory tests for rabies.

(c) If the owner of an animal or any other person or organization specifically requests a post mortem or laboratory examination of an animal for rabies, then the person making such request shall pay all examination costs.

(d) If the owner of an animal elects to surrender ownership prior to or after completion of the quarantine period, the owner shall be responsible for all costs of confinement, including reasonable costs of food and care of such animal, and any medical examination associated with quarantine.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.230 - License required—Exception.

All dogs or cats six months old or older kept, harbored or maintained by the owners in the city of Council Bluffs, Iowa, shall be licensed annually by their owners as provided in this chapter, and it is unlawful for the owner of any dog or cat to fail to properly license the animal, except that the following dogs or cats need not be licensed, provided they are properly immunized against rabies:

(1) Service animals owned by disabled person;

(2) Dogs or cats that are under the control of the owner or handlers, and which are in transit or are to be exhibited if they are to be within the city for less than thirty (30) days.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.235 - Animal owners—Minimum age.

(a) No dog or cat may be licensed unless at least one of the registered owners of said animal is at least eighteen (18) years of age. All registered owners eighteen (18) years of age or older shall be personally, jointly and severally liable for compliance with all of the provisions of this chapter.

(b) In regard to an unlicensed dog, cat or other animal, whether or not a license is required, all residents of the premise eighteen (18) years of age or older shall be presumed to be the joint owners of said animals and shall be jointly and severally liable for compliance with the provisions of this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.240 - License application—Procedure and fees.

(a) The owner of a dog or cat for which a license is required shall on or before January 1st of each year apply to the animal control division, or designee, for a license for each dog and/or cat owned by him/her.

(b) Such application shall be in writing on forms provided by the city, and shall state the breed, sex, age, color, markings and name, if any, of the dog and/or cat, and the name, address and telephone number of the owner, and be signed by the owner.

(c) Before a license is issued for any dog and/or cat, the owner must present evidence with the application that the dog and/or cat has been vaccinated against rabies. Such evidence shall be a certificate of vaccination signed by a licensed veterinarian, and the certificate shall show that the vaccination is valid for a minimum of thirty (30) days from the date the license is purchased.

(d) The annual license fee for each dog and cat shall be as provided by the current schedule of fees adopted by the city council.

(e) All licenses shall expire on December 31st of each calendar year.

(f) The annual license fee shall become delinquent on March 15th of the year in which the same is due and payable, and a penalty as provided in the current schedule of fees shall be added to each unpaid license fee on and after such date. All licenses due for a dog or cat which has come into the possession or ownership of the applicant, or reached six months of age after March 15th, as required in this section, shall be considered delinquent thirty (30) days after such animal has come into the possession of the owner or reached six months of age; and a penalty, as provided in the current schedule of fees, shall be added to the cost of each unpaid license fee on and after such date.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.250 - Transfer or change of ownership.

When the permanent ownership of a dog or cat is transferred, the new owner shall within ten (10) working days from the date of change of ownership make application for a new license as provided under the provisions of this section, and shall pay the annual fee. It is unlawful for the new owner of any dog or cat to fail to make application for a new license within the time herein specified.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.260 - Tags displayed.

Upon an application and payment of the license fee a license tag shall be issued to the owner. Said license tag shall be used year after year in perpetuity. The tag shall have stamped thereon a unique number specific to each pet. Every owner shall be required to provide each dog with a substantial collar or harness to which the license tag shall be affixed, and the owner shall see that collar or harness bearing the license tag is constantly worn. It is unlawful for an owner to fail to insure that the license tag is at all times worn by the dog and any dog found not wearing a license tag shall be deemed not to be licensed and not have a current rabies vaccination and shall be treated as unlicensed and unvaccinated under the terms of the city and state laws.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.270 - Duplicate tag.

Upon the filing of an affidavit with the animal control division, or designee, that a license tag has been lost or destroyed, the owner may obtain another tag upon the payment of a fee as provided in the prevailing schedule of fees.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.272 - Stray cats.

No person shall allow any stray cat to habitually remain or to be lodged or fed within his or her house, store, yard or enclosure, but shall turn such cat over to the animal control division or ~~Midlands Humane Society~~Animal shelter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.273 - Number restricted.

It is unlawful for any person to own, keep, or harbor at any time more than four cats or four dogs or any combination of more than six animals over the age of six months per dwelling unit in the city; provided, however, this section shall not apply to catteries or kennels as licensed under this chapter.

Noncommercial catteries/kennels shall be limited to a maximum of six animals per dwelling. All currently licensed, noncommercial catteries/kennels shall be allowed to keep the current number of animals, as depicted in the license. Through attrition, the total number of animals will be reduced to the maximum number of six animals per dwelling. No new animals shall be allowed to replace any deceased animals until the number of animals kept falls below the maximum of six.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.274 - Cattery/kennel license—Required.

(a) Any person engaged in the commercial business of buying, selling, breeding or boarding more than four cats shall be classified as a commercial cattery and shall obtain a commercial cattery license from the city. All pet shops and boarding facilities shall be exempt from license fees, but shall be subject to yearly inspections by the Council Bluffs Animal Control Division.

Any person not engaged in the commercial business of breeding, buying, selling or boarding cats, but who keeps, owns, harbors or breeds more than four cats shall obtain a noncommercial cattery license from the city.

(b) Any person engaged in the commercial business of buying, selling breeding or boarding more than four dogs shall obtain a commercial kennel license from the city.

There shall be no number limitations regulating commercial catteries/kennels that are located within the appropriate zoning designation. Commercial catteries/kennels located in a residential zone shall abide by the same regulations set out in Section 4.20.273; provided the activities of the commercial cattery/kennel be conducted within the dwelling itself, as outlined in Section 15.03.340, entitled "Home occupation."

Commercial catteries/kennels that are located in a residential zone, in which the activities of such an establishment are conducted outside the dwelling shall not be allowed.

Any person not engaged in the commercial business of breeding, buying, selling or boarding dogs, but who keeps, owns, harbors, or breeds more than four dogs shall obtain a noncommercial kennel license from the city.

(c) All adult animals (six months of age or older) that are owned by the proprietors of a cattery or kennel must be licensed by the city of Council Bluffs.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.275 - Cattery/kennel license—Application.

Written application for a commercial or noncommercial cattery and/or kennel license shall be made to the animal control division. The application shall contain the following information:

- (1) Verification that each cat or dog is currently licensed with the city of Council Bluffs;
- (2) The name and address of the owner;
- (3) The name, breed, color, age and sex of the cats and/or dogs;
- (4) Whether such cats and/or dogs are neutered, spayed, or intact;
- (5) Such other information as may identify the cats and/or dogs;
- (6) Rabies immunization that is valid for a period of not less than thirty (30) days from the date of application;
- (7) Certification from the city's planning division and health department or animal control division that the proposed cattery or kennel complies with all applicable laws, chapters, and regulations.

The applicant shall certify that the information contained in the application is true, under penalty of law for the willful making of false statements.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.276 - Cattery/kennel license—Inspection.

Applicants for and holders of, cattery or kennel licenses shall permit inspection of the cattery or kennel by representatives of the health department, animal control division and planning department to determine compliance with all applicable laws, chapters and regulations. All catteries and kennels shall be maintained in a clean and sanitary manner. Kennels shall comply with the most recently adopted rules of the Iowa Agriculture and Land Stewardship Department regarding animal welfare, as set out in the Iowa Administrative Code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.277 - Cattery/kennel license—Denial or revocation.

(a) An application for a cattery or kennel license may be denied for failure to meet any of the requirements of this chapter, or for creating excessive noise, odor, unsanitary conditions or nuisance. An applicant may appeal a denial of a license by filing written notice of appeal with the ~~board of~~

~~health~~Board of Review within seven days of the denial. The ~~board of health~~Board of Review shall notify the applicant of the time and place of the hearing either by personal service or by certified mail.

(b) A cattery or kennel license may be revoked for failure to meet any of the requirements of this chapter, or for creating excessive noise, odor, unsanitary conditions or nuisances. The license holder may appeal any revocation by filing written appeal with the ~~board of health~~Board of Review within seven days of receipt of revocation notice. The ~~board of health~~Board of Review shall notify the licensee of the time and place of the revocation hearing, either by personal service, certified mail return receipt requested or by posting notice on the premises if service is not otherwise possible.

(c) The ~~board of health~~Board of Review may affirm, modify or overturn a decision to deny or revoke a license. The board may order seizure, impoundment or humane destruction of any animals as otherwise provided in this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.278 - Cattery/kennel license—When due.

(a) A cattery/kennel license shall be procured on or before the fifteenth (15) day of March of the license year; provided: (1) If a dog or cat is acquired by an owner after that date, the license shall be acquired within thirty (30) days after the date of the acquisition of such dog or cat; (2) If the owner moves to the city after March 15th, the owner shall acquire the license within thirty (30) days after moving to the city.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.279 - Hobby breeder.

"Hobby breeder" means any person who owns more than four intact purebred dogs or cats over the age of six months that are habitually boarded and lodged within the person's domicile or ancillary structure located upon the same property as the domicile; and who, furthermore, provides a fenced and/or totally enclosed exercise area; and provided, furthermore, that such animals are at all times kept in the fenced or enclosed area, except when under the personal and immediate control of the owner. To be considered a hobby breeder, a person must be a member in good standing of any recognized AKC club/association or cat fancier's club/association; and provided, furthermore, that the purpose and intent of breeding the animals is as a hobby and for the sole improvement of the breed. The hobby breeder shall be limited to a maximum of fifteen (15) animals.

In order to qualify for the hobby breeder license, a resident must comply with the following:

(1) License every animal with the Council Bluffs Animal Control Division on an annual basis;

(2) Apply for a hobby breeder's license with the Council Bluffs Animal Control Division:

(A) Pay the annual fee as set out in the schedule of fees; and

(B) Submit to annual inspection of domicile by the Council Bluffs Animal Control Division;

(3) Provide a current copy of the state of Iowa commercial breeder's license;

(4) Provide a current copy of state of Iowa inspection; and

(5) Provide a list of recognized AKC club/association or cat fancier's club/association of which the hobby breeder is a member in good standing.

(Ord. No. 6304, § 1, 9-25-2017).

Article III. - Regulation of Farm Animals

4.20.280 - Permit required.

(a) No person, firm, association or corporation in the city of Council Bluffs shall have in their possession or control, or keep or harbor any farm animals, as defined in Section 4.20.020, without having first obtained a permit to do so from the ~~director~~administrative authority, which permit shall be issued only after payment of the required fee and after inspection of the premises by the ~~director~~administrative authority for compliance with Title 15, "Zoning," and the sanitation requirements of this chapter or any other applicable state or local law. A permit for the keeping of farm animals shall be in effect for one year from the date of its issuance. Application for such permits shall be made upon forms furnished by the city.

(b) Upon expiration, such permit may be renewed by any person, firm, association or corporation to whom it has been issued, by filing an application for a renewal thereof with the ~~director~~administrative authority upon forms to be provided by the city. Approval of the application for renewal of a permit shall be made and the permit issued for the succeeding annual period only after payment of the required fee and after inspection of the premises for compliance with Title 15, "Zoning," and the sanitation requirements of this chapter or any other applicable state or local law. Every permit so renewed shall be for a period of one year from and after the date of the renewal, and shall be subject to revocation in the same manner as the original permit.

(c) Persons keeping canaries, doves, pigeons, parrots, parakeets, gerbils, hamsters, goldfish, tropical fish, or other similar small animals, caged, or otherwise confined as household pets within a residence, shall be exempt from the permit requirements of this section.

(d) Exception: In areas zoned A-1 or A-2, where farm animals are kept on property that exceeds five acres in total area, no permits for keeping farm animals shall be required. However, no person, firm, association or corporation keeping or harboring farm animals in such areas shall allow the animals to be closer than seventy-five (75) feet from any dwelling other than the dwelling of the owner of such animals.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.290 - Permit fee.

The fee for the initial issuance and any renewal of a permit for the keeping of farm animals shall be as provided in the city's prevailing schedule of fees as adopted by the city council. The fee shall not be refundable if the permit is denied or revoked, or if the farm animals are removed or die.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.300 - Revocation of permit.

The ~~director~~administrative authority may revoke a permit for the keeping of farm animals for any violation of the provisions of this chapter, or any other pertinent sections of this municipal code, or any statute of the state of Iowa pertaining to the keeping of farm animals. Notice of revocation shall be given in writing, delivered personally or by certified mail to the holder of such permit. The notice shall state the grounds upon which the permit has been revoked, and shall state that the holder of the permit is required to remove all farm animals from the premises concerned within fifteen (15) days after receipt of notice of revocation. The notice shall also inform the permit holder of the right to appeal such revocation.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.310 - Appeal of revocation.

(a) Any person, firm, association, or corporation whose permit for the keeping of farm animals has been revoked pursuant to the provisions of Section 4.20.030 may appeal such revocation as set forth in Section 4.20.132.

(b) If the board of public health affirms the revocation of a permit for the keeping of farm animals, the board shall also order in its written decision that the person, firm, association or corporation owning, sheltering, harboring, or keeping such farm animals remove them from the city, or to other premises covered by a proper permit hereunder. If such farm animals are diseased, ill, or injured, the board may order their destruction in the interests of humane treatment. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as a notice of revocation. If the order is not complied with within seven days of its issuance, the ~~director~~administrative authority is authorized to seize and impound such farm animal or animals. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the ~~board of health~~Board of Review was issued has not petitioned the Pottawattamie County district court for review of the order, the ~~director~~administrative authority shall cause the animal to be disposed of by sale or destroyed in a humane manner. Failure to comply with an order of the board of public health issued pursuant hereto shall constitute a misdemeanor and shall be subject to the penalty provisions of Section 8.02.020 of this code.

(c) Every order of the board of public health issued pursuant to the provisions of this section shall set forth the language of subsection (b) of this section.

(d) All costs incurred by the city in impounding animals pursuant to this section, shall be paid by the owner of such animals, regardless whether such animals are returned or destroyed.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.320 - Nontransferable.

Any permit issued pursuant to this chapter shall not be sold, assigned, or transferred, and shall apply only to the premises designated and the person, firm, association or corporation to whom issued. A violation of this provision shall be cause for revocation of any such permit.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.340 - Disposal of refuse.

(a) All manure and spilled grain shall be removed from the premises, or any enclosure or structure thereon, at least once every twenty-four (24) hours, and shall be placed in suitable watertight and fly-tight containers until disposed of. Such materials shall be disposed of by causing same to be picked up by a licensed private refuse hauler in accordance with the requirements of Chapter 4.12.

(b) This section will not apply to pastureland of two acres or more in areas zoned A-1 or A-2.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.350 - Fence required.

Any person keeping farm animals within the city of Council Bluffs shall keep the premises upon which the same are kept so fenced as to keep such animals from leaving the premises and as to restrain such animals from being or running at large upon the public streets or ways or upon the property of other persons. Failure to do so shall constitute a misdemeanor.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.360 - Distance from dwellings.

(a) No person within the city of Council Bluffs, Iowa, shall keep any farm animals within one hundred fifty (150) feet of any dwelling, other than the dwelling of the owner of such animals.

(b) If the owner of the farm animals is able to obtain the written consent of the owner and occupant of a dwelling, the one hundred fifty (150) foot requirement may be waived as to that dwelling, so long as the owner and occupant of said dwelling continues to consent to said waiver.

(c) (1) Under no circumstances will farm animals from the following orders be permitted to be kept within twenty-five (25) feet of any dwelling:

(A) Artiodactyla, which includes all members of the families Suida (swine) and Bovidae (cattle, sheep and goats);

(B) Perissodactyla, which includes all members of the family Equidae (horses, ponies, asses and mules).

(2) Under no circumstances will farm animals from the following orders be permitted to be kept within ten (10) feet of any dwelling:

(A) Anseriforms, which includes ducks and geese;

(B) Carnivoras, which includes mink and skunks, but excluding domestic dogs and cats;

(C) Columiformes, which includes doves and pigeons;

(D) Falconiformes, which includes hawks and falcons;

(E) Galliformes, which includes chicks, turkeys and fowl-like birds;

(F) Lagomorpha, which includes hares and rabbits;

(G) Rodentia, which includes squirrels, rats and guinea pigs.

(d) Exception. In areas zoned A-1 or A-2, no person shall keep any farm animal within seventy-five (75) feet of any dwelling other than the dwelling of the owner of such animal.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.370 - Numbers limited.

The following types of farm animals shall be limited in density to a maximum of two per acre, and one if there is less than one acre of ground:

(1) Artiodactyla, which includes all members of the families Suida (swine) and Bovidae (cattle, sheep, and goats);

(2) Perissodactyla, which includes all members of the family Equidae (horses, ponies, asses, and mules).

(Ord. No. 6304, § 1, 9-25-2017).

4.20.390 - Food storage.

(a) All grains and grain supplements intended for use as food for farm animals shall be kept and stored in a rodent-tight building or container.

(b) All hay and straw must be stored at least sixteen (16) inches off the ground. However, this subsection shall not apply in areas zoned as A-1 or A-2.

(c) Insilage or silage may be kept and stored outside of a rodent-tight building or container in areas zoned A-1 or A-2, but only if stored on a concrete or asphalt slab.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.400 - Nonapplicability.

The provisions of Sections 4.20.280 through and including 4.20.390 shall not be applicable to circuses, carnivals, agricultural shows or exhibits and other such enterprises which are operated only for less than seven days once each six months.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.410 - Penalty.

Any person firm, partnership, corporation or any legal entity found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.420 - Waiver.

Any educational or research institution located or operating within the city of Council Bluffs, Iowa, may apply to the ~~director of public health~~administrative authority for a waiver in regard to any of the provisions of this chapter. The ~~director of public health~~administrative authority, in his or her discretion is

authorized to waive any provisions of Chapter 4.20 in regard to educational or research institutions upon such conditions, terms, and provisions as the ~~director of public health~~administrative authority deems appropriate or necessary. Any education or research institution making such an application may appeal the ~~director of public health~~administrative authority's ruling to the ~~board of health~~Board of Review. The ~~board of health~~Board of Review may affirm, reverse, remand or modify the ~~director of public health~~administrative authority's ruling.

(Ord. No. 6304, § 1, 9-25-2017).

ORDINANCE NO. 6357

**AN ORDINANCE TO AMEND TITLE 4 “HEALTH AND SANITATION” OF THE
2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING
“CHAPTER 4.20 – ANIMAL CONTROL.”**

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 4 “Health and Sanitation” Chapter 4.20 “Animal Control” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

Article I. - Humane Animal Treatment and Control

4.20.010 - Administration and enforcement.

(a) The Administrative Authority, under the supervision of the mayor, shall be responsible for the administration of the provisions of this chapter. Those persons charged with enforcing the provisions of this chapter shall have the authority to seize and impound animals pursuant to the provisions of this chapter, and shall have the authority to write and serve enforcement/impoundment fee tickets as provided in this chapter; provided, that the administrative authority and any of his or her assistants may be sworn as officers by the mayor for the purpose of enforcing the provisions of this chapter, and as such, shall have the authority of peace officers, including the authority to issue misdemeanor citations for violations of this chapter.

It shall be the duty of those persons charged with enforcing the provisions of this chapter to impound any animals found running at large in violation of the terms of this chapter. It shall further be the duty of the director or his or her designee to investigate all animal bites reported to the City, and to impound and quarantine the biting animal as provided in this chapter.

References to the administrative authority contained herein shall be deemed to include his or hers duly appointed designee.

(b) Any conduct in this chapter defined as a misdemeanor may, at the discretion of the city attorney, be handled as a municipal infraction pursuant to the terms of Chapter 1.95 of this code. (c) Each separate occurrence of a violation of a particular section shall constitute a separate and distinct violation. If the violation is of a continuing nature, then each and every day that the violation is allowed to exist shall be deemed a separate and distinct violation.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.020 - Definitions.

For use in this chapter, the following terms shall have the following meanings:

(1) "Administrative authority" means the Director of Community Development or his/her designee. The Chief Animal Control Officer or his/her designee, or anyone else duly authorized by the Mayor.

(2) "Animal" means every wild, tame or domestic member of the animal kingdom other than the genus and species *Homo sapiens*.

(3) "Animal shelter" means the premises and/or building which the mayor or his or her designee may from time to time designate as the location for the impoundment of animals.

(4) "At large," "running at large," or "being at large" means any licensed or unlicensed animal found off the premises of its owner and either: (A) Not on a leash; (B) Not restrained within a vehicle so as to prevent it leaving the vehicle; or (C) Not housed in a veterinary hospital or kennel.

(5) "Bite" means any puncture, laceration, abrasion, scratch or any other break in the skin of a human, caused by an animal.

(6) "Board of Review" shall be an ad hoc board made up of the Mayor or his/her designee, the Police Chief or his/her designee and the Fire Chief or his/her designee. This board will only meet as needed and will conduct its hearings pursuant to Robert's Rules of Order and in compliance with Iowa's open meeting law.

(7) "Cat" means both male and female animals of the feline species, whether neutered or not.

(8) "Dangerous animal" or "dangerous animal, per se" means:

(A) Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so;

(B) Any animals declared to be dangerous by the Board of Review or the mayor or his or her designee;

(C) The following animals which shall be deemed to be dangerous animals, per se:

Artiodactyla of the family Antilocapridae, which includes pronghorns;

Artiodactyla of the family Cervidae, which includes moose and caribou;

Artiodactyla of the family Suidae and the genus and species *Sus scrofa* (domestic swine and wild boar), which includes all male and female wild boars;

Bovidae—males only (bulls);

Carnivora of the family Canidae, which includes wolves, foxes, and hybrids, but excludes domestic dogs;

Carnivora of the family Felidae, which includes lions, lynx, bobcats, and hybrids, but excludes domestic cats;

Carnivora of the family Mustelidae, which includes badgers, wolverines, weasels and skunks, except ferrets;

Carnivora of the family Procyonidae, which includes raccoons;

Carnivora of the family Ursidae, which includes bears;

Chelonia of the family Chelydridae (snapping turtles);

Crocodylia which includes crocodiles and alligators;

Chiroptera (bats);

Proboscidae (elephants);

Rodentia of the family Cricetidae (mice), except white mice kept as household pets;

Rodentia of the family Muridae (rats), except white rats kept as household pets;

Scorpiones of the family Buthidae (scorpions);

Squamata of the suborder Ophidia (snakes) which are venomous or constrictors, not to include any nonvenomous snake indigenous to the state of Iowa.

(9) (A) "Dangerous dog" means:

(i) Any dog with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;

(ii) Any dog that has been cited for running at large three times in one year; or

(iii) Any dog that has attacked another animal once while at large.

(B) A dangerous dog is "unconfined" as the term is used in this section if such dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises which shall be set back at least ten (10) feet from the nearest property line of the person described in Section 4.20.110(b). Such pen or structure must have secure sides and a secure top. The sides must be embedded into the ground no less than one foot or secured into a concrete slab.

(10) "Dart" means the process whereby a drug of a sedative nature is delivered to and injected into an animal by means of a projectile shot from a rifle, gun, or blowgun, or from a bow or crossbow, for the purpose of subduing or rendering unconscious an animal for capture.

(11) "Dog" means both male and female animals of the canine species, whether neutered or not.

(12) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or which demands immediate action to protect the public health, safety and/or welfare, or the safety or welfare of an animal.

(13) "Farm animal" means every wild, tame or domestic animal kept or raised for the purpose of meat, milk, breeding, furbearing, work, recreation, sport, hobby, experimentation, or income, excluding domestic dogs and cats; any and all animals of the following orders shall be deemed to be farm animals, per se:

Anseriforms, which includes ducks and geese;

Artiodactyla, which includes all members of the families Suidae (swine) and Bovidae (cattle, sheep and goats);

Carnivora, which includes mink and skunks, but excluding domestic dogs and cats;

Columbiformes, which includes doves and pigeons;

Falconiformes, which includes hawks and falcons;

Galliformes, which includes chickens, turkeys and fowl-like birds;

Lagomorpha, which includes hares and rabbits;

Perissodactyla, which includes all members of the family Equidae (horses, ponies, asses, and mules);

Rodentia, which includes squirrels, rats and mice.

(14) "Hybrid" means any offspring produced by breeding a domestic cat or domestic dog to an animal listed as a "dangerous animal, per se."

(15) "Kennel" means "boarding kennel," "commercial kennel," as defined in Chapter 162 of the Code of Iowa.

(16) "Kennel dogs" means dogs which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint in a kennel pursuant to Chapter 162 of the Code of Iowa.

(17) "Killer trap" or "conibear trap" means a type of trap designed to apprehend and instantaneously kill an animal, but shall not include jaw, leghold or snare-type traps, regardless if set underwater.

(18) "Live trap" means a process whereby an animal is apprehended alive and uninjured by means of a cage-type device, the door or entrance to which closes after the animal enters, preventing escape. Jaw, leghold, or snare-type traps, designed to pinch trap an animal's head or extremities, shall not be considered a live trap.

(19) "Noise disturbance" means any sound which: (A) Endangers or injures the safety or health of humans or animals; (B) Annoys or disturbs a reasonable person of normal sensitivities; or (C) Endangers or damages personal or real property.

(20) "Owner" or "owner of animal" means any person or persons, firm, association, or corporation owning, keeping, sheltering or harboring an animal with a current city pet license.

(21) "Owner" or "person or entity in lawful possession and control of any premises" means the fee title owner of any property or premises, or the person or entity in actual possession or control of such premises under a lease or real estate contract.

(22) "Person" means any individual, association, partnership, or corporation, and includes any officer, employee, agent or agency thereof.

(23) "Service animals" means any animal which is owned by a person who is disabled, and that has been properly trained at a special school to guide its owner in going from place to place.

(24) "Vicious animal" means any animal, except for a dangerous animal, per se, as listed above, which has attacked or bitten any person without provocation or which has attacked or bitten any domestic animal or fowl on more than two occasions within a twelve-month period, any dog or other animal owned or harbored primarily or in part for the purpose of fighting or any dog trained for dog fighting, or which has been found to possess such a propensity by the Board of Review.

(25) Meaning of certain words. Words used in the singular include the plural, and the plural the singular, the masculine gender includes the feminine and the feminine the masculine.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.030 - Cruel treatment of animals prohibited.

(a) Physical Abuse. It shall be unlawful for any person to willfully or maliciously kill, maim, disfigure, torture, beat with a stick, chain, club or other object; mutilate, burn, or scald with any substance, or otherwise cruelly set upon any animal, except that reasonable force may be employed to drive off vicious, trespassing or aggressive animals. It shall further be unlawful for any person to knowingly, intentionally, or carelessly cause or allow any animal to endure unreasonable or unjustifiable pain, suffering, or injury.

(b) It shall be unlawful for any person or entity keeping, harboring, or caring for any animal to fail, refuse or neglect to provide such animal with proper food, drink, shade, shelter, physical maintenance and veterinary care. Proper food, drink, shade, shelter, physical maintenance and veterinary care shall require that:

(1) Each animal shall, at suitable intervals and at least once every twenty-four (24) hours, receive a quantity of food suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal.

(2) Each animal shall have available at all times an adequate supply of clean, fresh, potable water. If water pans or dishes are to be used, such pans or dishes shall have weighted bottoms or be mounted or secured in a manner that prevents tipping.

(3) Each animal shall have convenient access to adequate shelter throughout the year. Any shelter shall be structurally sound and maintained in good repair to protect the animal from injury and from the elements, and shall be of sufficient size to permit the animal to enter, stand, turn around, and lie down in a natural manner. Any shelter which does not protect the animal from temperature extremes or precipitation, excessive ammonia levels, or which does not provide adequate ventilation or drainage, shall not comply with this section. Animals kept outdoors for a period of time exceeding thirty (30) minutes must be provided the following:

(A) The shelter must be a well-constructed structure with a roof, enclosed sides, one of which must contain an entry way and a solid, level floor raised at least two inches from the ground. The entry way openings shall not comprise an entire side of the structure.

(B) The shelter must have no cracks or openings other than the entrance.

(C) The shelter must be small enough to allow an animal to warm the interior of the structure and maintain body heat, but large enough to allow the animal to stand, turn and lie down.

(D) Between November 1 and March 31 and whenever the real or effective temperature is forty (40) degrees Fahrenheit or lower, the entryway must be protected by a self-closing door, an offset outer door, or a flexible flap, and a sufficient amount of dry bedding material consisting of hay, straw or cedar shavings must be provided to insulate against cold and damp. Blankets, rags and newspapers are prohibited due to their tendency to hold moisture and freeze.

(E) The shelter must be placed where it will be adequately shaded in hot weather and protected from the wind in cold weather.

(4) Each animal shall receive care and medical treatment for injuries, parasites, and diseases, sufficient to maintain the animal in good health and to minimize suffering.

(5) No animals shall be hitched, tied, or fastened by any rope, chain or cord that is directly attached to the animal's neck. Animals that must be tied, hitched or fastened to restrain them must wear a properly fitted collar or harness, not of the choker type, provided that the proper use of choker collars in the training of animals shall not be prohibited. The tying device shall be attached to the animal's collar or harness and shall be at least ten (10) feet in length.

(6) Any enclosure in which an animal is kept shall be constructed of material, and in a manner to minimize the risk of injury to the animal, and shall encompass sufficient usable space to keep the animal in good condition. When a dog is confined outside a residence, the following minimum space requirements shall be used:

Size of Dog	Pen Size (square feet)
Extra-large (over 26 inches at withers or over 75 lbs.)	48
Large (over 20 inches and up to 26 inches at withers or not over 75 lbs.)	40
Medium (over 12 inches and up to 20 inches at withers or not over 50 lbs.)	32
Small (12 inches or less at withers or not over 20 lbs.)	24

An additional sixteen (16) square feet shall be required for each dog sharing the pen with another. The minimum pen size includes a shelter.

(7) It shall be unlawful for any person to place or confine or allow an animal to be confined in such a manner that it remain in a motor vehicle or trailer under such conditions or for such periods of

time as may endanger the health or well-being of the animal due to heat, lack of food or water, or any circumstances which may cause suffering, disability, or death. Any animal control officer or police officer is authorized to use reasonable force to remove the animal from the vehicle whenever it appears that its health is endangered after making reasonable attempt to contact the owner. The animal will be impounded and may be taken to a veterinarian for any care needed and then placed at the Animal shelter. A written notice will be left attached to the vehicle with the time, date, location of where the animal is being held and a contact number to call. Any person violating this section shall bear the full cost and expense incurred by the city in the care, medical treatment, and impound, including any repairs to vehicle or removal costs.

(8) It shall be unlawful for any person to abandon any animal within the city. Abandonment shall mean leaving an animal for a period in excess of twenty-four (24) hours without appropriate provisions having been made for the feeding, watering, and care of such animal. If an animal is restrained or confined out of doors without food, water or proper care, the administrative authority or his designee may enter upon any such property where the animal is restrained or confined and supply it with the necessary food, water and care so long as it remains there.

(9) Except as hereinafter provided in Section 4.20.040, it shall be prohibited and a misdemeanor for any person, firm, or corporation to trap, poison, shoot, harm, treat cruelly, injure, torture, or destroy any animal within the city of Council Bluffs, Iowa.

(10) Any person or persons violating this section shall bear full cost and expenses incurred by the city of Council Bluffs, Iowa, in the care, medical treatment, impoundment cost, and disposal of said animals.

(11) Failure to perform any of these duties shall constitute a misdemeanor.

(12) The administrative authority or his designee shall promptly investigate all reported cases of neglect, injury, or cruelty, and shall take the following actions as necessary, provided a violation of this section is present:

(A) If said animal is located outside the residence, it shall be removed and impounded at the Animal shelter or veterinarian if in imminent danger or further injury may occur. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(B) If said animal is located outside the residence, but is not in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the caretaker. Failure to comply with said corrective measures shall result in the animal being removed from the residence and impounded at the Animal shelter or veterinarian. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(C) If said animal is located within the residence, a search warrant shall be obtained to gain legal entry of the residence and said animal shall be removed and impounded at the Animal shelter or veterinarian if in imminent danger or further injury may occur. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(D) If said animal is located within the residence, a search warrant shall be obtained to gain legal entry of the residence. If said animal is found not to be in imminent danger or further injury

will not occur to the animal, corrective measures may be placed upon the caretaker. Failure to comply with said corrective measures shall result in the animal being removed from the residence and impounded at the Animal shelter or veterinarian upon service of an additional search warrant. Notification of impound shall be given to the caretaker in person or in writing upon removing said animal.

(E) Any person who owns, keeps, harbors, maintains or controls any animal impounded in accordance with this section, shall pay a bond in the amount set forth in the schedule of fees (two hundred fifty dollars (\$250.00)) prior to the expiration of five calendar days after the date of impoundment. If said payment is not made prior to the expiration of this five-day period, the animal shall become the property of the city of Council Bluffs, Iowa, to be disposed of as deemed appropriate by the administrative authority, or his/her designee.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.040 - Trappings, poisoning and destruction of animals.

(a) The owner or person or entity in lawful possession and control of any premises:

(1) May trap, poison or destroy in otherwise permissible manner any mole or rodent (rat, mouse or gopher) found upon the premises, with the exception of tree squirrels;

(2) May trap, poison or destroy in otherwise permissible manner any pigeons which congregate on such premises in such a manner as to create a hazard to public health or cause damage to property;

(3) May trap or destroy in otherwise permissible manner, any dangerous animal found at large upon the premises and constituting an immediate threat to the safety or health of any person;

(4) May trap, poison, or destroy in otherwise permissible manner, any animal which has entered the occupied portion of any building, or which has entered or nested in the attic, eaves, drainage or plumbing vent piping of any building, thereby creating a nuisance which cannot otherwise be abated, except that animals regulated pursuant to Chapters 456A, 481A and 481B of the Iowa Code may not be trapped, poisoned, or destroyed pursuant hereto unless permission has first been obtained from the Iowa Department of Natural Resources;

(5) May utilize live traps to apprehend animals on any premises, regardless of the zone, if such animals constitute a nuisance due to the destruction of property, and if the method and location of such trapping is done with the concurrence and under the direction of either the Iowa Department of Natural Resources or the department of public health. If such trapping is done with the concurrence of and under the direction of the Iowa Department of Natural Resources, killer traps may be utilized.

(b) The owner, person, or entity in lawful possession and control of any premises may trap, or give permission to trap, game animals or fur-bearing animals utilizing leghold traps, live traps, or killer traps in accordance with the provisions of Chapters 456A, 481A, and 481B of the Iowa Code, upon the following described properties:

(1) A-1/Open space conservation districts and A-2/parks, estates and agricultural districts, but excluding:

(A) City-owned properties in such zones unless permission is obtained therefore pursuant to subsection (C) hereof;

(B) Those portions of such zones which lie within one thousand (1,000) feet of any residential district; and

(C) Those portions of A-1 and A-2 zones adjacent to the Missouri River and the Missouri River levees which lie between the Union Pacific Railroad Bridge on the south and the intersection of North 37th Street extended and the Missouri River on the north and which are not owned by the state of Iowa, or are not under the exclusive jurisdiction and control of the Iowa Department of Natural Resources;

(2) G-M, general manufacturing districts which lie south of West Broadway and East Broadway streets, but excluding:

(A) City-owned properties in such zones unless permission is obtained therefore pursuant to subsection (C) hereof; and

(B) Those portions of such zones which lie within one thousand (1,000) feet of any residential district; and

In the event that the County Board of Health determines that game animal or fur-bearing animal populations pose a significant threat to public health or safety, or property anywhere within the city, the board may authorize trapping by licensed pest control operators or by commercial trappers who do not own the properties to be trapped, provided the written permission of such property owners is first obtained, utilizing leghold traps, live traps, or killer traps in accordance with the provisions of Chapters 456A and 481A of the Iowa Code.

It shall be the duty of every person maintaining a trap pursuant to this provision to plainly label the trap or traps with a metal tag displaying the owner's name and address, and to inspect the trap or traps at least once every twenty-four (24) hours. Failure to do so shall constitute a misdemeanor. All animals trapped pursuant to the provisions of this section shall be promptly disposed of or destroyed in a humane manner. Traps which are placed or used in violation of this provision may be seized by the mayor his or her designee.

(c) The administrative authority may allow any person eighteen (18) years of age or older to trap game animals and/or fur-bearing animals in accordance with Chapters 456A and 481A of the Iowa Code, and under the same terms and conditions as set forth above in subsection (b) upon city-owned property, if the administrative authority determines that such trapping is necessary either to prevent animal over-population of those premises, or to promote the public health, welfare, and safety, or to abate a nuisance caused by such animal population.

(d) Nothing contained herein shall prohibit the operation of a pest control business within the city of Council Bluffs by licensed pest control technicians, provided that the pest control methods used meet with the approval of the United States Environmental Protection Agency. A licensed pest control technician may perform any of the acts set forth in subsections (a)(1) through (5) and (b) above, if done in accordance with the requirements therein set forth and if authorized to do so by the owner or person in possession and control of the premises.

(e) Nothing herein shall limit the authority of the administrative authority to apprehend by any means animals found at large in violation of this chapter, or to apprehend by any means or destroy any animal found at large which constitutes an immediate threat to public health, welfare, or safety.

(f) Nothing herein shall limit the authority of the Iowa Department of Natural Resources to trap, or allow trapping, upon property owned by the state of Iowa or under the exclusive jurisdiction and control of the Iowa Department of Natural Resources.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.045 - Pet shops.

(a) It shall be unlawful for any person who owns, conducts, manages or operates any commercial animal establishment for which a license is required by the state of Iowa, to fail to comply with each of the following conditions:

(1) Every dog and cat offered for sale shall have been vaccinated against distemper. A certificate providing the name of the veterinarian and the date and treatment must be provided to the purchaser at the time of sale.

(2) No animal shall be transported by a pet shop or dealer, whether by private or public means, unless housed in a container appropriate for the size for the animal, and designed for that purpose including provisions for adequate ventilation, food and water.

(3) Each animal shall at suitable intervals and at least once every twenty-four (24) hours, receive a quantity of wholesome foodstuff suitable for the specie's physical condition and age, sufficient to maintain an adequate level of nutrition for the animal.

(4) Each animal shall have available at all times an adequate supply of clean, fresh, potable water.

(5) Reasonable precautions shall be used to insure that animals are not teased, abused, mistreated, annoyed, tormented or in a manner made to suffer by any person or means.

(6) Sick animals shall be sufficiently isolated so as not to endanger the health of other animals.

(7) Every building or enclosure wherein animals are maintained, shall be constructed of material easily cleaned, shall be kept in a sanitary condition and shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required, according to the physical needs of the animal, with sufficient light to allow observation of animals and sanitation.

(8) Any animal shall be taken to a veterinarian for treatment if the animal control officer orders the owner or custodian to do so as necessary to maintain the health of the animal.

(9) All animal rooms, cages, shipping containers, and runs shall be of sufficient size to provide adequate and proper accommodations and protection from the weather for the animals kept therein. At a minimum, sufficient space must be provided for every animal within an enclosure to separately and together, stand up, lie down, and turn around in a natural position.

(10) No animals bearing evidence of malnutrition, ill health, infectious disease, unhealed injury or having been kept in an unsanitary condition shall be displayed or sold to the public.

(b) Records pertaining to the sale, purchase, transfer and medical treatment, including vaccinations, for all animals shall be open and available for inspection by the administrative authority or his/her designee during reasonable hours. All such records shall be maintained on the premises for a minimum period of twelve (12) months after the date of sale or transfer of any animal. Records shall include the source of the animal sold/transferred, the date of sale/transfer, identification and sex of the animal sold/transferred, and the name and address of the purchaser.

(c) No pet shop shall sell a dangerous animal or dangerous animal, per se, as defined in Section 4.20.020(7) of this code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.050 - Animals at large.

(a) The owner of any animal shall at all times restrain such animal to prevent it from being or running at large. Failure to do so shall constitute a simple misdemeanor subject to the penalty provisions of Section 8.02.020 of this code. An animal found at large by the administrative authority shall be seized and impounded. If the animal is unable to be apprehended, or if the owner of the animal refuses to relinquish the same, the administrative authority shall serve the owner a ticket requiring payment of an enforcement/impounded fee as set forth in the current schedule fees as adopted by the city council.

(b) An owner of a cat bearing a current rabies vaccination tag and license must restrain such animal from running at large to the extent necessary to prevent it from causing damage to either public or private property. Failure to do so shall constitute a simple misdemeanor. A cat found at large by the administrative authority not bearing current rabies vaccination tag and license, or a cat wearing such vaccination tag and license but causing property damage, may in the discretion of the administrative authority be seized and impounded. If the administrative authority is unable to apprehend such cat, or if the owner of the cat refuses to relinquish same, the administrative authority may serve the owner a ticket requiring payment of an enforcement/impounded fee as set forth in the current schedule of fees as adopted by the city council.

(c) It is lawful for any person who finds an animal at large to seize and hold the animal. Any person seizing and holding an animal may confine it within a fenced yard, house, garage or other structure owned by them, or by physically restraining such animal on a harness, collar or leash. The person seizing and holding the animal shall be responsible for the humane treatment of the animal while it is under that person's custody, and shall notify the division of animal control within forty-eight (48) hours that the animal is in their custody. An animal control officer shall scan the dog for the presence of a microchip. Should a microchip be found, the last known owner shall be contacted and arrangements be made for the dog's return. Should a microchip not be found, the person harboring the dog may maintain custody until an owner is identified or for a period of thirty (30) days. Upon holding the animal for thirty (30) days, the finder may acquire ownership of the animal by purchasing a pet license for said animal. The provisions of this chapter shall not infringe upon any right or duty created by Section 351.25 or Section 351.27 of the Iowa Code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.060 - Impoundment.

(a) Animals which are impounded shall be placed in the Animal shelter, licensed kennel, or other suitable place as directed by the administrative authority. The City shall register every impounded animal, noting the species, breed, color and sex of such animal, and whether or not it is wearing a license tag.

(b) When an animal has been apprehended and impounded, the administrative authority shall give notice of such impoundment to the owner, if known, within two days. If an impounded animal is not claimed within three days, excluding legal holidays, of the giving of notice, or if the owner of the animal cannot be determined within three days of the date of impoundment, the animal may be disposed of as provided in this chapter; provided, however, that an animal which is being held under quarantine shall not be released for ten (10) days. The cost of impoundment, board and keep, and any other related costs, shall be billed to the owner, if known or later identified.

(c) Redemption. Any animal held or impounded at the Animal shelter may be redeemed to the owner thereof upon:

(1) Proof of ownership;

(2) Payment of the board and keep fee, enforcement/impoundment fee, and any other related costs incurred;

(3) Presentation of the city license for the current year, if required by law, or by purchasing such license, which shall not be issued until proof of a current rabies vaccination is presented;

(4) Showing proof in the form of a certificate issued and signed by a licensed veterinarian that such animal has been properly vaccinated for rabies, if required by law;

(5) Any dog or cat that has been impounded shall have an identifying microchip inserted under its skin at its owner's expense prior to being released to the owner. The fee for this procedure shall be at current pricing as set forth by the Animal shelter.

(d) For purposes of this section, the administrative authority may give notice to the owner either orally, or by posting a notice at the owner's residence, or by mail. Any animal not redeemed under the provisions of this section shall become property of the city of Council Bluffs.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.070 - Disposition of impounded animals.

After the expiration of the applicable three-day impoundment period, or ten (10) days quarantine, except as otherwise provided, an unredeemed animal, whether licensed or unlicensed may, at the discretion of the administrative authority, transfer the city's interest of ownership to that of the Animal shelter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.080 - Injured animals at large.

(a) In the event that an injured animal, licensed pursuant to the provisions of this title, is found at large, the administrative authority shall impound such animal. Upon impounding an injured animal, the administrative authority shall attempt as soon as practicable to notify the owner of the animal's location and condition. Upon being so notified, the owner of such animal shall either immediately take custody of such animal or cause said animal to be transported to a veterinarian, or authorize its destruction in a humane manner.

(b) In the event an injured animal at large cannot be apprehended, or if it displays vicious tendencies which would make its capture unduly hazardous, or in the event that an animal is found at large so seriously injured as to make its recovery improbable, or its condition deteriorates to that point, the administrative authority may immediately destroy such animal in a humane manner in the interest of humane treatment.

(c) In the event an animal regulated by Chapters 481A or 481B of the Iowa Code is found injured at large, the administrative authority shall, if practicable, consult with an officer of the Department of Natural Resources before destroying such animal.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.082 - Dangerous animal designation.

The administrative authority or his or her designee may designate an animal to be a dangerous animal under any of the following conditions:

(1) Any animal which is not naturally tame or gentle and which is of a wild nature or disposition and capable of killing, inflicting serious injury, or causing disease among human beings or domestic animals, and having known tendencies as a species to do so;

(2) Any animal which has attacked another animal while at large.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.084 - Dangerous animal/dog designation.

(a) The administrative authority or the administrative authority's designee may designate any animal/dog to be a dangerous animal/dog under any of the following circumstances:

(1) An animal/dog with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals;

(2) An animal/dog that the administrative authority or the administrative authority's designee makes a finding that said animal/dog has been running at large or was at large on three occasions in a twelve-month period; or

(3) An animal/dog, while not at large, that without provocation bites or attacks a human being or domestic animal.

(b) An animal deemed to be dangerous, per se, shall by operation of law be designated a dangerous animal by the administrative authority or the administrative authority's designee.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.086 - Appeal of dangerous animal/dog designation.

The decision of the administrative authority or the administrative authority's designee declaring an animal/dog as dangerous may be appealed by the owner to the Board of Review under the provisions of this chapter; provided, that there shall be no appeal to the board of the dangerous, per se, designation.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.088 - Irresponsible animal ownership.

(a) Any animal owner that has been convicted of any violation of this chapter on two occasions in a twelve-month period shall be designated an irresponsible animal owner.

If an animal owner is convicted of a third violation of this chapter in a twelve-month period, all animals may be confiscated and disposed of at the discretion of the administrative authority, and no animal licenses shall be issued to anyone at the irresponsible animal owner's residence for a period of thirty-six (36) months.

(b) Any animal owner that has been convicted of a violation of Section 4.20.030 or 4.20.140(j) on one occasion in a twelve-month period shall be designated an irresponsible animal owner.

If an animal owner is convicted of a violation of Section 4.20.030 or 4.20.140(j) on a second occasion in a twelve-month period, all animals may be confiscated and disposed of, at the discretion of the administrative authority, and no animal licenses shall be issued to the irresponsible animal owner for a period of thirty-six (36) months.

(c) No person designated as an irresponsible animal owner shall sell or otherwise transfer ownership of any animal to another person residing at the same address.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.089 - Irresponsible animal owner—Designation removed.

Any person designated as an irresponsible animal owner who is not convicted of another violation of this chapter for a period of thirty-six (36) months shall have the irresponsible animal owner designation removed. Any further violations of this chapter may result in immediate confiscation and disposal of any animals, at the discretion of the administrative authority.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.090 - Keeping of dangerous animals prohibited.

No person shall keep, shelter, or harbor as a pet, guardian, or for any other purpose within the city, a dangerous animal as defined herein except as provided by this code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.100 - Exceptions.

The prohibition contained in Section 4.20.090 shall not apply to the keeping of dangerous animals in the following circumstances:

- (1) The keeping of bulls of any of the family Bovidae, or domestic swine of the family Suidae for farm purposes in a Class A-2, agricultural district;
 - (2) The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, museum or other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
 - (3) The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, show, or licensed pet shop;
 - (4) The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment;
 - (5) Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A or 481B of the Iowa Code.
- (Ord. No. 6304, § 1, 9-25-2017).

4.20.110 - Regulation of keeping of dangerous animals.

(a) Every person, firm, or corporation owning, keeping, sheltering or harboring a dangerous animal pursuant to Section 4.20.100 shall report such fact to the department of public health, together with the following information:

- (1) The species name of each animal;
- (2) The number of such animals of each such species kept on the premises;
- (3) A physical description of each such animal, including any pet names to which it might respond;
- (4) The location of such animal or animals within the city, including the location of the cage or place of confinement upon or in the premises wherein the animal or animals are kept;
- (5) In the case of poisonous dangerous animals, the location of the nearest source of anti-venom for that species.

(b) Every person, firm or corporation keeping, sheltering or harboring a dangerous animal shall at all times keep such animal securely confined within a cage or other enclosure.

(c) Every person, firm, or corporation keeping, sheltering or harboring a poisonous dangerous animal shall be required to keep ten (10) doses of anti-venom on hand and current at all times.

(d) No person, firm, or corporation owning, keeping, sheltering or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined. The administrative authority may authorize the display or exhibit of dangerous animals upon public property, park property, or public right-of-way, provided it is determined that such display or exhibit will not be contrary to the public interest. The authorization to display or exhibit such animals may be conditioned upon the provision of adequate public liability insurance and the execution of an indemnity and hold harmless agreement in favor of the city of Council Bluffs by the party seeking such authorization.

(e) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, thereby creating a hazard to life or property, such animal may, in the discretion of the administrative authority, or the chief of police, be destroyed if it cannot be confined or captured. The city of Council Bluffs shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, and shall have no duty to notify the owner of such animal prior to its destruction.

(f) No person owning, harboring, or having the care of a dangerous dog shall suffer or permit such animal to go unconfined on the premises of such person.

(1) Said dangerous dog shall be confined in a securely enclosed and locked pen or structure upon the premises which shall be set back at least ten (10) feet from the nearest property line of said premises. Such pen or structure must have secure sides at least six feet in height, embedded into the ground no less than one foot or secured into a concrete slab, and a secure top. Said pen or structure must be constructed of materials which will prevent the dangerous dog from biting or otherwise attacking a person wholly outside of the pen or structure.

(2) No person owning, harboring, or having care of a dangerous dog shall suffer or permit such dog to be beyond the premises of such person unless such dog is securely leashed and muzzled by a responsible adult, or otherwise securely restrained in a kennel or other enclosure.

(3) No owner or other person shall sell, give away, or trade any dangerous dog without first giving written notification as to the name, address, and telephone number of the potential purchaser to the administrative authority. Said notice to the administrative authority shall include a copy of written notification signed by the potential purchaser, that the dog has been declared dangerous, and the restrictions of this chapter which shall apply.

(g) Order to Remove. In the event that the administrative authority determines that a dangerous animal is being kept, sheltered, or harbored by any individual or entity in violation of the provisions of this chapter, the administrative authority may in his or her discretion have such individual or entity prosecuted for such violation, and/or he or she may order such individual or entity to remove such dangerous animal from the city or destroy it. Such order shall be contained in a notice to remove dangerous animal, which notice shall be given in writing, directed to such individual or entity, and delivered personally or by certified mail. Such order of the administrative authority may be appealed as set forth in Section 4.20.132.

(h) If the Board of Review affirms the action of the administrative authority, the board shall also order in its written decision that the individual or entity owning, sheltering, harboring, or keeping such dangerous animal, remove such animal from the city or destroy it. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the order is not complied with within seven days of its issuance, the administrative authority is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the Board of Review was issued has not petitioned the Pottawattamie County District Court for a review of the order, the administrative authority shall cause the animal to be disposed of by sale or destroyed in a humane manner. Failure to comply with an order

of the Board of Review issued pursuant hereto shall constitute a misdemeanor and shall be subject to the penalty provisions of Section 8.02.020 of this code.

(i) Every order of the Board of Review issued pursuant to the provisions of this section shall set forth the language of subsection (h) of this section.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.112 - Pit bulls prohibited.

(a) It shall be unlawful for any person to own, possess, keep, exercise control over, maintain, harbor, transport, or sell within the city of Council Bluffs, Iowa, any pit bull.

(b) Definitions. For the purposes of this section:

(1) An "owner" is defined as any person who owns, possesses, keeps, exercises control over, maintains, harbors, transports or sells an animal.

(2) A "pit bull" is defined as any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the administrative authority.

(3) "Muzzled" means that the jaws of the pit bull are confined by a device that prevents the pit bull from biting.

(4) A "secure temporary enclosure" is an enclosure used for purposes of transporting a pit bull and which includes a top and bottom permanently attached to the sides except for a "door" for removal of the pit bull. Such enclosure must be constructed so that the pit bull cannot exit the enclosure on its own.

(c) Exceptions. Failure by the owner to comply and remain in compliance with any of the terms of any applicable exception shall subject the pit bull to immediate impoundment and disposal pursuant to subsection (e) of this section, and shall operate to prevent the owner from asserting such exception as a defense in any prosecution under subsection (a).

(1) The owner of a pit bull currently licensed as of the date of publication of the ordinance codified in this section and who maintains the pit bull at all times in compliance with the requirements of subsection (d) of this section and all other applicable requirements of this chapter, may keep a pit bull within the city.

(2) The city animal shelter may temporarily harbor and transport any pit bull for purposes of enforcing the provisions of this chapter.

(3) A licensed veterinarian may temporarily harbor any pit bull for the purpose of care and treatment of the animal.

(4) A person may temporarily transport into and hold in the city a pit bull only for the purpose of showing such pit bull in a place of public exhibition, contest or show sponsored by a dog club association

or similar organization. However, the sponsor of the exhibition, contest, or show must receive written permission from the administrative authority, must obtain any other permits or licenses required by city ordinance, and must provide protective measures adequate to prevent pit bulls from escaping or injuring the public at least seven days prior to said exhibition, contest or show. The person who transports and holds a pit bull for showing shall, at all times when the pit bull is being transported within the city to and from the place of exhibition, contest, or show, keep the pit bull confined in a "secure temporary enclosure" as defined in subsection (b)(4).

(d) The owner of any pit bull, currently licensed as of the date of publication of the ordinance codified in this section, shall be allowed to keep such pit bull within the city only if the owner complies with and provides sufficient evidence that the owner is in compliance with all of the following regulations:

(1) The owner of the pit bull shall keep current the license for such pit bull through annual renewal. Such license is not transferable and shall be renewable only by the holder of the license or by a member of the immediate family of such licensee who is at least eighteen (18) years of age.

(2) The owner of a pit bull must be at least eighteen (18) years of age.

(3) The owner shall present to the administrative authority proof that the owner has procured liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), covering any damage or injury that may be caused by a pit bull during the duration of its license. The policy shall contain a provision requiring the insurance company to provide written notice to the administrative authority not less than fifteen (15) days prior to any cancellation, termination or expiration of the policy.

(4) The owner shall, at the owner's own expense, have the pit bull spayed or neutered and shall present to the administrative authority written proof from a licensed veterinarian that this sterilization has been performed.

(5) The owner shall bring the pit bull to the Council Bluffs Animal Shelter, where a person authorized by the administrative authority shall cause an identifying microchip to be inserted beneath the skin of the pit bull. The administrative authority shall maintain a file containing the registration numbers and names of the pit bulls and the names and addresses of the owners. The owner shall notify the administrative authority of any change of address.

(6) At all times when a pit bull is at the property of the owner, the owner shall keep the pit bull "confined" as that term is defined in Section 4.20.110(f)(1). At all times when a pit bull is away from the property of the owner the owner shall keep the pit bull, either securely leashed with a leash of a fixed length no longer than four feet, and muzzled, or in a "secure temporary enclosure," as that term is defined in subsection (b)(4) of this section.

(7) The owner shall not sell or otherwise transfer the pit bull to any person except a member of the owner's immediate family who is at least eighteen (18) years of age, who will then become the owner and will be subject to all of the provisions of this section. The owner shall notify the administrative authority within five days in the event that the pit bull is lost, stolen, dies, or has a litter. In the event of a litter, the owner must deliver the puppies to the Animal shelter for destruction or permanently remove the puppies from Council Bluffs and provide sufficient evidence of such removal by the time the puppies are weaned, but in no event shall the owner be allowed to keep in Council Bluffs a pit bull puppy born after the date of publication of the ordinance codified in this section, that is more

than eight weeks old. Any pit bull puppies kept contrary to the provisions of this section are subject to immediate impoundment and disposal pursuant to subsection (e) of this section.

(8) The owner shall have posted at each possible entrance to the owner's property where the pit bull is kept, a conspicuous and clearly legible pit bull sign. Such pit bull sign must be at least eight inches by ten (10) inches in rectangular dimensions and shall contain only the words "PIT BULL DOG" in lettering not less than two inches in height.

(e) Notwithstanding any provisions to the contrary, the administrative authority is authorized to immediately impound any pit bull found in the city of Council Bluffs which does not fall within the exceptions listed in subsection (c) above, and the Animal shelter may house or dispose of such pit bull in such manner as the administrative authority may deem appropriate, except as the procedures in subsection (f) below otherwise require.

(f) When the administrative authority has impounded any pit bull dog pursuant to this section, and the owner of such dog disputes the classification of such dog as a pit bull, the owner of such dog may file a written petition with the administrative authority for a hearing concerning such classification no later than seven days after impoundment. Such petition shall include the name and address, including mailing address, of the petitioner. The administrative authority will then issue a notice of hearing date by mailing a copy to the petitioner's address no later than ten (10) days prior to the date of the hearing. When no written request from the owner for a hearing is received by the administrative authority within seven days of impoundment, the pit bull shall be humanely destroyed.

The hearing, if any, will be held before the administrative authority or a hearing officer designated by the administrative authority. The appellant-owner of such dog shall bear the burden of proof. Any facts that the petitioner wishes to be considered shall be submitted under oath or affirmation, either in writing or orally at the hearing. The administrative authority or hearing officer shall make a final determination whether the dog is a pit bull as defined in subsection (b)(2) of this section. Such final determination shall be considered a final order of the administrative authority subject to review as provided in Section 4.20.132.

If the dog is found to be a pit bull, it shall be humanely destroyed, unless the owner produces evidence deemed sufficient by the administrative authority that the pit bull is to be permanently taken out of Council Bluffs, and the owner pays the cost of impoundment. If the dog is found not to be a pit bull, the dog shall be released to the owner.

The procedures in this subsection shall not apply, and the owner is not entitled to such a hearing with respect to any dog that was impounded as the immediate result of an attack or bite. In those instances, the dog shall be handled, and the procedures governed by the provisions of Section 4.20.120.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.120 - Keeping of vicious animals prohibited—Proceedings to determine—Seizure and/or destruction authorized.

(a) No person shall keep, shelter, or harbor for any reason within the city, a vicious animal as defined herein, except as provided in Section 4.20.130.

(b) Any animal which has attacked or bitten any person without provocation on one occasion, or which has attacked or bitten any domestic animal or fowl on two or more occasions shall be deemed a vicious animal without necessity for hearing by the Board of Review. This decision may, however, be appealed to the Board of Review, by presenting a written notice of appeal to the administrative authority within ten (10) days after receiving written notice of said decision. If the decision of the Board of Review is appealed to the District Court of Iowa, an appeal bond in an amount set forth in the current schedule of fees shall be paid to and held by the Animal shelter pending the outcome of the appeal.

(c) The administrative authority, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal may, when said animal does not meet the criteria set out in subsection (b) of this section, initiate proceedings to declare such animal a vicious animal as defined in Section 4.20.020(25). Said proceeding shall be conducted by the Board of Review. The person, firm, or corporation owning, keeping, sheltering, or harboring the animal in question shall be given not less than twenty-four (24) hours written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question, and the basis for the allegation of viciousness, and shall also indicate that if the animal is determined to be vicious, the owner shall have three days to have the animal destroyed and present proof thereof. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on the premises if no adult is present to accept service.

(d) If an animal meets the criteria set forth in subsection (b) above or, if after hearing, the board determines that an animal is vicious, the administrative authority shall order the person, firm, or corporation owning, sheltering, harboring or keeping the animal to cause it to be destroyed in a humane manner. The order shall immediately be served upon the individual or entity against whom issued in the same manner as the notice of hearing. If the order is not complied with within three days of its issuance, the administrative authority shall cause the animal to be destroyed.

(e) Failure to comply with an order issued pursuant hereto shall constitute a misdemeanor and shall be subject to the penalty provisions of Section 8.02.020 of this code.

(f) Every order issued pursuant to the provisions of this section shall include a copy of Section 4.20.120.

(g) Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot safely be apprehended, in which case the administrative authority shall immediately destroy it, or unless its ownership is not ascertainable, in which case the administrative authority shall destroy it after three days impoundment.

(h) Any animal which is alleged to be vicious and which is under impoundment or quarantine at the Animal shelter or a veterinary facility shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing.

(i) All costs of such impoundment or quarantine shall be paid by the owner, regardless of whether or not the animal is determined to be vicious.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.128 - Seizure/destruction of animal.

Upon declaration of a vicious animal, the owner shall immediately surrender the animal to the animal control division of Community Development. If the owner refuses to surrender said animal, animal control officers and/or police officers are authorized to seize said animal.

A vicious animal shall be placed in quarantine by the animal control division of Community Development for a period of ten (10) calendar days. Said quarantine may be at the Animal shelter, a veterinarian's office, or other place approved by the administrative authority.

Upon completion of the ten-day quarantine, the administrative authority may order the destruction of said animal.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.130 - Exceptions: Guard dogs.

The prohibition contained in Section 4.20.120 shall not apply to the keeping of guard dogs. However, guard dogs must be kept within a structure or a fenced enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 4.20.120. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "guard dog," "vicious dog," or words of similar import, and the owner of such premises shall inform the department of health that a guard dog is on duty at the premises.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.132 - Administrative appeal procedure.

The following process shall apply to the appeal of any actions or declarations of the Community Development or his/her designee pursuant to this chapter.

Appeal. Any individual or entity desiring to appeal an order issued by the director of Community Development to the Board of Review may do so by filing a written notice of appeal with the Director of Community Development within ten (10) days after notification of the director's order. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the director of Community Development.

(1) Within ten (10) days of receiving the written notice of appeal, the administrative authority shall set the date for the hearing of the appeal. Said hearing shall be not less than five days nor more than thirty-six (36) days from the date that the hearing date is set.

(2) Notice of the hearing may be personally served on the owner, a duly designated representative, the owner's attorney, or an adult member of the owner's household. Notice may also be served by first-class U.S. mail to the address listed on the notice of appeal at least five days prior to the hearing date.

(3) The hearing on appeal shall be open to the public and conducted informally. The rules of evidence shall not strictly apply.

(4) The city may be represented before the board by the city attorney's office or the Director of Community Development. The owner may represent him or herself or may be represented by an attorney.

(5) The city shall have the burden to prove by a preponderance of the evidence that the action of the administrative authority or his or her designee should be affirmed.

(6) Each party will be given the opportunity to present their side of the matter, including the presentation of witnesses and exhibits. Any exhibits given to the board members to examine shall become part of the permanent record and will not be returned to the party submitting the same. At the conclusion of the parties' presentations, the board may make a determination or may take the matter under advisement. Ultimately, the Board of Review, by majority vote of those present and voting, may affirm, modify or reverse the determination of the administrative authority.

(7) The proceedings before the board shall be recorded by one of the following methods: Electronic audio or video recording, certified court reporter, or extensive notes of the testimony kept by a person designated by the board.

(8) The decision of the board shall be deemed final upon the announcement of the vote of the board at an open meeting of the board. The decision does not have to be reduced to writing, but shall be noted in the minutes of the board's meeting. If the order is reduced to writing, it shall still be deemed to have been the final order of the board at the time of announcement.

(9) The final decision of the board may be appealed in the district court of Iowa in accordance with the provisions of the Iowa Administrative Code. If such an appeal is undertaken, and the animal is being held in the custody of the city, then an appeal bond in the amount set forth in the current schedule of fees shall be paid to and held by the Council Bluffs animal control division pending the outcome of the appeal.

(10) Upon finalization of the appeal, the animal control division shall utilize the appeal bond to pay the Animal shelter for costs associated with boarding and care of the animal(s) in question. Remaining funds, if any, shall be returned to the owner. The owner shall be responsible for all remaining fees and costs associated with board and keep that is in excess of the amount of the appeal bond.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.140 - General prohibitions and duties.

(a) No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such persons' property or that of another, by opening any gate, door, or window, by making an opening in any fence, enclosure, or structure, or by unleashing such animal.

(b) It shall be the duty of every person owning or having the custody or control of an animal to clean up, remove, and dispose of the feces deposited by such animal upon public property, park property, public right-of-way, or the property of another, as provided in subsection (i) of this section. Failure to do so shall constitute a misdemeanor.

(c) It shall be the duty of every person owning or having the custody or control of an animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall constitute a misdemeanor.

(1) The use of underground electric fencing systems shall satisfy physical restraint so long as the owner is present with his/her dog and assures:

(A) The underground electric fence system is in working order;

(B) The dog is trained in accordance with the fencing system;

(C) The dog is wearing a functional fence collar,

(D) The property is clearly and prominently marked indicating the existence of the underground electronic fencing system with a minimum of two signs on each side of the property to which the fence is applied.

(2) The underground electronic fencing system shall not allow the dog to progress beyond a line parallel to the front of the residential structure. Residential structures on corner lots shall not allow the dog to progress beyond a line parallel to both the front and the side (street side) of the residential structure.

(3) Any dog found to be at-large while being restrained by underground electronic fencing shall no longer be allowed to be restrained in such manner.

(4) Underground electronic fencing is prohibited for:

(A) Dogs deemed to be dangerous pursuant to Section 4.20.082 and Section 4.20.084;

(B) Dogs deemed to be a "pit bull" pursuant to Section 4.20.112.

(d) No person owning or having an animal under his or her control or within his or her care or custody, shall permit such animal to create a noise disturbance as defined in Chapter 4.50 "Noise Control," or to bark or make any loud or unusual noises during times which such owner knows or should expect that such noise will disturb one or more neighbors, or otherwise disturb the peace. Kennels, veterinary clinics, animal hospitals, and animal shelters located within properly zoned areas shall be eligible for a variance from this requirement pursuant to the provisions of Section 4.50.070.

(e) It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the city, so as to hinder, delay, or prevent his or her executing his or her duties in relation to the matters and things contained in this chapter.

(f) It is unlawful for any person owning, controlling, or caring for any animal that has died from any cause to allow the carcass to lie about the owner's premises or upon the premises of another person or upon any public property or right-of-way. It shall be the duty of such person to cause such carcass to be removed and properly disposed of by burying it in an approved animal cemetery, cremating in an approved incinerator, desiccation, removal by a licensed animal disposal company, or by delivering to a licensed veterinarian, or the city animal shelter, within twenty-four (24) hours after the death of the animal. It is unlawful for any person to bury an animal on private premises within the city, or for the owner of any property to allow an animal to be buried thereon, except in time of emergency as declared by the Board of Review when such action is necessary to protect the public health. The owner, possessor and all persons having knowledge of any dead animal in the city shall report the same to the department of public health, giving the name of the person who owned or had possession or control of the animal prior to its death, and the place where the animal may be found. The administrative authority shall

immediately notify the person who owned or had possession and control of such animal to cause the same to be removed and properly disposed of as herein provided.

(g) Regardless of the provisions of subsection (f) of this section, it shall be unlawful for any owner or other person to dispose of any dead animal or allow it to be collected for disposal by any person except authorized representatives of the city if such animal has attacked, bitten, or caused a skin abrasion on any person, or if the animal is suspected of being infected with rabies, until permission for disposal has been given by the administrative authority or his or her designee.

(h) It is unlawful for any person owning, controlling or caring for any animal to fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house or the person's dwelling or other structure where the animal is at any time kept. At least once every twenty-four (24) hours or more often if odors or health problems arise, such person shall pick up any and all feces so as to prevent its accumulation and same shall be properly disposed of. Feces shall be held in watertight and fly-tight containers pending disposal and shall be disposed of at least once weekly. Feces shall be disposed of by depositing same in a proper receptacle for disposal as solid waste by a licensed private refuse hauler pursuant to the requirements of Chapter 4.12 of this code. The animal and place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food and water shall be stored and placed for the animal's consumption in such a manner so that it will not become food for rodents and other vermin.

(i) It is unlawful for any owner or other person to abandon, turn loose, or leave any animal within the corporate limits of the city or so that the animal may find its way into the corporate limits of the city, or to abandon or leave any animal upon or in any premises unattended for a period in excess of twenty-four (24) hours.

(j) It is unlawful for any person to willfully allow animals to bite, fight, purposely scare or attack other animals or humans.

(k) No person driving a motor vehicle shall transport any animal in the back of the vehicle in a space intended for any load, including, but not limited to, the cargo bed of a truck or the trunk of an automobile, except an animal may be transported in the cargo bed of a truck if the space is enclosed, or the vehicle has installed means of preventing the animal from being discharged, or the animal is cross tethered to the vehicle, or is protected by a secured container or cage, in a manner which will prevent the animal from being thrown, falling, or jumping from the vehicle. This section shall not apply to the transportation of livestock.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.150 - Fees.

(a) In the event that an animal is observed at large but cannot be captured for impoundment, or in the event its owner refuses to relinquish possession of such animal for impoundment, an enforcement/impoundment fee ticket may be issued to its owner requiring the payment of a fee for the city's cost in attempting to impound the animal and enforce the provisions of Section 4.20.050.

(b) In the event that an animal required to be licensed pursuant to Section 4.20.230 is not licensed, or does not display the license tag as required by Section 4.20.170, an enforcement/impoundment ticket may be issued to its owner requiring the payment of a fee for the city's cost in enforcing said provisions.

(c) In the event that an animal required to be vaccinated for rabies pursuant to Section 4.20.160 is not vaccinated as required, or does not display a rabies vaccination tab as required by Section 4.20.170, an enforcement/impoundment fee ticket may be issued to its owner requiring the payment of a fee for the city's cost in enforcing said provisions.

(d) In the event the owner of an animal has been served a ticket for the payment of the enforcement/impoundment fee and fails to pay the required amount due to the city treasurer within thirty (30) days of the date of issuance of the ticket, the amount of the enforcement/impoundment fee shall double from its original amount, and the individual who issued the enforcement/impoundment fee ticket shall cause a criminal complaint to be filed in the Iowa District Court for a violation of the appropriate section of this chapter. For purposes of this subsection, an enforcement/impoundment fee ticket may be served by either delivering the ticket personally to the owner, or posting the ticket at the residence of the owner.

(e) The enforcement/impoundment fees shall be as provided in the current schedule of fees adopted by the city council.

(f) The fee for boarding and keeping any animal, for removing a dead animal from any premises, for disposing of a dead animal, for humanely destroying an animal, for taking custody of unwanted animals, for trap rental, or for pest control shall be as provided in the current schedule of fees adopted by the city council.

(Ord. No. 6304, § 1, 9-25-2017).

Article II. - Rabies Control and Licensing

4.20.160 - Vaccination for rabies.

The owners of all dogs and cats, six months of age or older, and other animals required by state law to be licensed, which are permanently or temporarily within the corporate limits of the city, are required to have a vaccination against rabies for such animals. It is unlawful for any person to keep or harbor an animal which is not vaccinated as required. The rabies vaccination shall be administered in accordance with Chapter 351, Code of Iowa. A current certificate of vaccination for rabies signed by a licensed veterinarian administering the vaccine shall be required for all animals for which the vaccination is required by this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.170 - Display of rabies tag and license.

The owner of an animal shall at all times cause the current rabies vaccination tag, and current license tag if a license is required pursuant to Section 4.20.230, to be displayed on a collar, harness or chain attached to the dog, cat, or other animal. Failure to do so shall constitute a misdemeanor.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.180 - Rabies control—Emergency.

If the local Board of Review believes rabies to be epidemic, or believes there is threat of epidemic, within the city of Council Bluffs, it may declare a quarantine in all or part of the city and such declaration shall be reported to the city council and the Iowa Department of Health. During the period of quarantine, any person owning or having a dog in his or her possession in the quarantined area shall keep such animal securely enclosed or on a lease for the duration of the quarantine period. Any animal or dog running at large during the time of his or her declaration shall be seized and impounded unless noticeably infected with rabies. All animals or dogs so noticeably infected with rabies, and in the opinion of the administrative authority, are displaying vicious propensities, may be killed by the administrative authority without notice to the owner. Dogs or other animals impounded during this declaration shall be disposed of as provided in this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.190 - Reporting of bites, attacks and diseases.

(a) It shall be the duty of the owner of any dog, cat or other animal which has bitten or attacked a person, or any other person having knowledge of such bite or attack, including physicians, nurses, and veterinarians, to report such act to the city health department.

(b) It shall be the duty of physicians, veterinarians, and the owner of any animal, to report to the administrative authority the existence of any animal known or suspected to be suffering from rabies.

(c) Any report required by this section to the administrative authority shall be considered to be a report to the Board of Review, as required by Section 351.38 of the Iowa Code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.200 - Procedure when person bitten by animal—Quarantine.

(a) Whenever an animal bites any person, it shall be the duty of the administrative authority to have such animal immediately removed from the owner's premises and either taken to the Animal shelter or a veterinary hospital for quarantine, or destroyed for examination if the animal appears to be diseased. If not destroyed, such animal must be placed under quarantine for a period of ten (10) days. It is the duty of the owner of the animal that has bitten any person to deliver or surrender the possession of such animal to the city for a quarantine when so ordered by the administrative authority. Any confinement of an animal under quarantine shall be at the expense of the owner of such animal.

If an animal is held by a veterinarian, it may not be released until the expiration of the ten-day quarantine period without express written permission of the administrative authority. If for any reason a veterinarian determines that he or she may no longer continue to hold the animal, it may be surrendered only to the Animal shelter to be held for the remainder of the ten-day quarantine period.

(b) If any animal that has bitten any person is suspected of having rabies, the administrative authority may destroy the animal and have the carcass examined in lieu of quarantine. A wild or stray animal that has bitten any person may be destroyed immediately by the administrative authority.

(c) The owner of any animal that has bitten a person may apply to the administrative authority to release the animal for the purpose of allowing quarantine at the home of the owner for a period of ten

(10) days. The application may be made at any time during the quarantine period and shall be on a form supplied by the department of public health. Home quarantine shall not be permitted unless all of the following conditions have been fully met:

(1) The animal must have been vaccinated against rabies at least three weeks prior to the bite, and such vaccination must be valid for at least one month after the bite. A certification of rabies vaccination shall be produced by the owner of the animal. This vaccination certificate must bear the description of the animal, the type of vaccine used, the expiration of the vaccine, and the signature of the veterinarian administering the vaccination. The animal must also have a current city license, if required by Section 4.20.230, at the time of the bite.

(2) The animal was not running at large at the time of the bite.

(3) Prior to approval of home quarantine, the owner shall have the animal examined by an animal control officer that is an employee of the city of Council Bluffs or a veterinarian, licensed in the state of Iowa, who shall certify that the animal appears to be free of rabies or any other zoonosis. If an animal cannot be immediately examined, it shall be quarantined at the Animal shelter until the owner can make arrangements for such examination.

(4) The person bitten or, if a minor, that person's parents or guardians, must sign the application indicating that they have been advised of the risks of rabies, and that if the animal disappears during the home quarantine, the person bitten may have to undergo anti-rabies treatment, that they do not object to home quarantine, and relieving the City of Council Bluffs, and the local Board of Review, from any liability if the animal disappears during the quarantine period.

(5) The owner of the animal must demonstrate to the satisfaction of the administrative authority or his or her designee that they have the proper facilities and the ability to adequately and properly confine the animal to their home or property during the quarantine period.

(6) The owner shall agree to immediately notify the department of public health of any changes in the animal's health or disposition, to allow representatives of the department of public health or its agents to enter upon their property and to examine the animal at any time and to immediately take the animal to a licensed veterinarian for examination at any time when directed by personnel of the department of public health or its agents.

(7) At the end of the quarantine period, the owner shall have the animal examined by an animal control officer that is employed by the city of Council Bluffs or a licensed veterinarian who shall certify that the animal still appears to be free of rabies or other zoonosis, and the quarantine should be terminated.

(8) The owner shall pay all costs of impoundment, board and quarantine to the Animal shelter before it is released, and shall agree to pay all costs of examination by a veterinarian during the quarantine period.

(9) The owner shall further agree to immediately surrender the animal at any time the administrative authority or his or her designee determines the home quarantine should be terminated, or any at time that any provisions or conditions of the home quarantine are violated, and the animal

shall be returned to the custody of the department of public health, its agents, or a licensed veterinarian in the state of Iowa.

(10) The local Board of Review may establish additional rules pertaining to home quarantine.

(d) In the event any person is bitten by an animal other than a dog or cat, exposure management shall follow recommendations as put forth by the Iowa Department of Public Health.

(e) In the event the circumstances of the squirrel bite are such that the offending squirrel cannot be readily captured, the person bitten or, in the case of a minor, the parent or guardian thereof, shall have the right to use whatever methods deemed necessary to secure the squirrel having bitten, and the person shall then take or cause to be taken the squirrel to a veterinarian for observation or investigation. In the event of the circumstances occurring in this subsection, the cost of such observation or investigation shall be borne by the person taking or causing the squirrel to be taken to the veterinarian.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.210 - Report of condition during quarantine.

(a) It shall be the duty of any veterinarian or owner of other place at which an animal is placed under quarantine for any reason to report at once any noticeable change in the physical condition of such animal and to report at once if such animal should die.

(b) It shall be the duty of the administrative authority to cause at least one examination at the end of the quarantine period and such other examinations as may be deemed necessary to insure that the animal is alive and well and not apparently infected with rabies. If deemed necessary, the administrative authority may order such examinations done by a licensed veterinarian, and the owner of the animal shall pay all costs of such examinations.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.220 - Payment of quarantine and examination costs.

(a) The owner of any animal quarantined may redeem such animal after any quarantine period upon the payment in full of all costs of confinement, including reasonable costs of food and care of such animal, and medical examination before the animal is released. If the animal is not claimed after the ten-day quarantine period, whether the owner is known or unknown, the animal may be disposed of pursuant to this chapter.

(b) When an animal dies during quarantine, the owner, if known, shall be billed for all costs of confinement to date of death and for all examinations including post mortem or laboratory tests for rabies.

(c) If the owner of an animal or any other person or organization specifically requests a post mortem or laboratory examination of an animal for rabies, then the person making such request shall pay all examination costs.

(d) If the owner of an animal elects to surrender ownership prior to or after completion of the quarantine period, the owner shall be responsible for all costs of confinement, including reasonable costs of food and care of such animal, and any medical examination associated with quarantine.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.230 - License required—Exception.

All dogs or cats six months old or older kept, harbored or maintained by the owners in the city of Council Bluffs, Iowa, shall be licensed annually by their owners as provided in this chapter, and it is unlawful for the owner of any dog or cat to fail to properly license the animal, except that the following dogs or cats need not be licensed, provided they are properly immunized against rabies:

(1) Service animals owned by disabled person;

(2) Dogs or cats that are under the control of the owner or handlers, and which are in transit or are to be exhibited if they are to be within the city for less than thirty (30) days.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.235 - Animal owners—Minimum age.

(a) No dog or cat may be licensed unless at least one of the registered owners of said animal is at least eighteen (18) years of age. All registered owners eighteen (18) years of age or older shall be personally, jointly and severally liable for compliance with all of the provisions of this chapter.

(b) In regard to an unlicensed dog, cat or other animal, whether or not a license is required, all residents of the premise eighteen (18) years of age or older shall be presumed to be the joint owners of said animals and shall be jointly and severally liable for compliance with the provisions of this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.240 - License application—Procedure and fees.

(a) The owner of a dog or cat for which a license is required shall on or before January 1st of each year apply to the animal control division, or designee, for a license for each dog and/or cat owned by him/her.

(b) Such application shall be in writing on forms provided by the city, and shall state the breed, sex, age, color, markings and name, if any, of the dog and/or cat, and the name, address and telephone number of the owner, and be signed by the owner.

(c) Before a license is issued for any dog and/or cat, the owner must present evidence with the application that the dog and/or cat has been vaccinated against rabies. Such evidence shall be a certificate of vaccination signed by a licensed veterinarian, and the certificate shall show that the vaccination is valid for a minimum of thirty (30) days from the date the license is purchased.

(d) The annual license fee for each dog and cat shall be as provided by the current schedule of fees adopted by the city council.

(e) All licenses shall expire on December 31st of each calendar year.

(f) The annual license fee shall become delinquent on March 15th of the year in which the same is due and payable, and a penalty as provided in the current schedule of fees shall be added to each unpaid license fee on and after such date. All licenses due for a dog or cat which has come into the possession or ownership of the applicant, or reached six months of age after March 15th, as required in this section, shall be considered delinquent thirty (30) days after such animal has come into the possession of the owner or reached six months of age; and a penalty, as provided in the current schedule of fees, shall be added to the cost of each unpaid license fee on and after such date.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.250 - Transfer or change of ownership.

When the permanent ownership of a dog or cat is transferred, the new owner shall within ten (10) working days from the date of change of ownership make application for a new license as provided under the provisions of this section, and shall pay the annual fee. It is unlawful for the new owner of any dog or cat to fail to make application for a new license within the time herein specified.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.260 - Tags displayed.

Upon an application and payment of the license fee a license tag shall be issued to the owner. Said license tag shall be used year after year in perpetuity. The tag shall have stamped thereon a unique number specific to each pet. Every owner shall be required to provide each dog with a substantial collar or harness to which the license tag shall be affixed, and the owner shall see that collar or harness bearing the license tag is constantly worn. It is unlawful for an owner to fail to insure that the license tag is at all times worn by the dog and any dog found not wearing a license tag shall be deemed not to be licensed and not have a current rabies vaccination and shall be treated as unlicensed and unvaccinated under the terms of the city and state laws.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.270 - Duplicate tag.

Upon the filing of an affidavit with the animal control division, or designee, that a license tag has been lost or destroyed, the owner may obtain another tag upon the payment of a fee as provided in the prevailing schedule of fees.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.272 - Stray cats.

No person shall allow any stray cat to habitually remain or to be lodged or fed within his or her house, store, yard or enclosure, but shall turn such cat over to the animal control division or Animal shelter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.273 - Number restricted.

It is unlawful for any person to own, keep, or harbor at any time more than four cats or four dogs or any combination of more than six animals over the age of six months per dwelling unit in the city; provided,

however, this section shall not apply to catteries or kennels as licensed under this chapter. Noncommercial catteries/kennels shall be limited to a maximum of six animals per dwelling. All currently licensed, noncommercial catteries/kennels shall be allowed to keep the current number of animals, as depicted in the license. Through attrition, the total number of animals will be reduced to the maximum number of six animals per dwelling. No new animals shall be allowed to replace any deceased animals until the number of animals kept falls below the maximum of six.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.274 - Cattery/kennel license—Required.

(a) Any person engaged in the commercial business of buying, selling, breeding or boarding more than four cats shall be classified as a commercial cattery and shall obtain a commercial cattery license from the city. All pet shops and boarding facilities shall be exempt from license fees, but shall be subject to yearly inspections by the Council Bluffs Animal Control Division.

Any person not engaged in the commercial business of breeding, buying, selling or boarding cats, but who keeps, owns, harbors or breeds more than four cats shall obtain a noncommercial cattery license from the city.

(b) Any person engaged in the commercial business of buying, selling breeding or boarding more than four dogs shall obtain a commercial kennel license from the city.

There shall be no number limitations regulating commercial catteries/kennels that are located within the appropriate zoning designation. Commercial catteries/kennels located in a residential zone shall abide by the same regulations set out in Section 4.20.273; provided the activities of the commercial cattery/kennel be conducted within the dwelling itself, as outlined in Section 15.03.340, entitled "Home occupation."

Commercial catteries/kennels that are located in a residential zone, in which the activities of such an establishment are conducted outside the dwelling shall not be allowed.

Any person not engaged in the commercial business of breeding, buying, selling or boarding dogs, but who keeps, owns, harbors, or breeds more than four dogs shall obtain a noncommercial kennel license from the city.

(c) All adult animals (six months of age or older) that are owned by the proprietors of a cattery or kennel must be licensed by the city of Council Bluffs.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.275 - Cattery/kennel license—Application.

Written application for a commercial or noncommercial cattery and/or kennel license shall be made to the animal control division. The application shall contain the following information:

- (1) Verification that each cat or dog is currently licensed with the city of Council Bluffs;
- (2) The name and address of the owner;
- (3) The name, breed, color, age and sex of the cats and/or dogs;

- (4) Whether such cats and/or dogs are neutered, spayed, or intact;
- (5) Such other information as may identify the cats and/or dogs;
- (6) Rabies immunization that is valid for a period of not less than thirty (30) days from the date of application;
- (7) Certification from the city's planning division and health department or animal control division that the proposed cattery or kennel complies with all applicable laws, chapters, and regulations.

The applicant shall certify that the information contained in the application is true, under penalty of law for the willful making of false statements.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.276 - Cattery/kennel license—Inspection.

Applicants for and holders of, cattery or kennel licenses shall permit inspection of the cattery or kennel by representatives of the health department, animal control division and planning department to determine compliance with all applicable laws, chapters and regulations. All catteries and kennels shall be maintained in a clean and sanitary manner. Kennels shall comply with the most recently adopted rules of the Iowa Agriculture and Land Stewardship Department regarding animal welfare, as set out in the Iowa Administrative Code.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.277 - Cattery/kennel license—Denial or revocation.

(a) An application for a cattery or kennel license may be denied for failure to meet any of the requirements of this chapter, or for creating excessive noise, odor, unsanitary conditions or nuisance. An applicant may appeal a denial of a license by filing written notice of appeal with the Board of Review within seven days of the denial. The Board of Review shall notify the applicant of the time and place of the hearing either by personal service or by certified mail.

(b) A cattery or kennel license may be revoked for failure to meet any of the requirements of this chapter, or for creating excessive noise, odor, unsanitary conditions or nuisances. The license holder may appeal any revocation by filing written appeal with the Board of Review within seven days of receipt of revocation notice. The Board of Review shall notify the licensee of the time and place of the revocation hearing, either by personal service, certified mail return receipt requested or by posting notice on the premises if service is not otherwise possible.

(c) The Board of Review may affirm, modify or overturn a decision to deny or revoke a license. The board may order seizure, impoundment or humane destruction of any animals as otherwise provided in this chapter.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.278 - Cattery/kennel license—When due.

(a) A cattery/kennel license shall be procured on or before the fifteenth (15) day of March of the license year; provided: (1) If a dog or cat is acquired by an owner after that date, the license shall be acquired

within thirty (30) days after the date of the acquisition of such dog or cat; (2) If the owner moves to the city after March 15th, the owner shall acquire the license within thirty (30) days after moving to the city.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.279 - Hobby breeder.

"Hobby breeder" means any person who owns more than four intact purebred dogs or cats over the age of six months that are habitually boarded and lodged within the person's domicile or ancillary structure located upon the same property as the domicile; and who, furthermore, provides a fenced and/or totally enclosed exercise area; and provided, furthermore, that such animals are at all times kept in the fenced or enclosed area, except when under the personal and immediate control of the owner. To be considered a hobby breeder, a person must be a member in good standing of any recognized AKC club/association or cat fancier's club/association; and provided, furthermore, that the purpose and intent of breeding the animals is as a hobby and for the sole improvement of the breed. The hobby breeder shall be limited to a maximum of fifteen (15) animals.

In order to qualify for the hobby breeder license, a resident must comply with the following:

- (1) License every animal with the Council Bluffs Animal Control Division on an annual basis;
- (2) Apply for a hobby breeder's license with the Council Bluffs Animal Control Division:
 - (A) Pay the annual fee as set out in the schedule of fees; and
 - (B) Submit to annual inspection of domicile by the Council Bluffs Animal Control Division;
- (3) Provide a current copy of the state of Iowa commercial breeder's license;
- (4) Provide a current copy of state of Iowa inspection; and
- (5) Provide a list of recognized AKC club/association or cat fancier's club/association of which the hobby breeder is a member in good standing.

(Ord. No. 6304, § 1, 9-25-2017).

Article III. - Regulation of Farm Animals

4.20.280 - Permit required.

(a) No person, firm, association or corporation in the city of Council Bluffs shall have in their possession or control, or keep or harbor any farm animals, as defined in Section 4.20.020, without having first obtained a permit to do so from the administrative authority, which permit shall be issued only after payment of the required fee and after inspection of the premises by the administrative authority for compliance with Title 15, "Zoning," and the sanitation requirements of this chapter or any other applicable state or local law. A permit for the keeping of farm animals shall be in effect for one year from the date of its issuance. Application for such permits shall be made upon forms furnished by the city.

(b) Upon expiration, such permit may be renewed by any person, firm, association or corporation to whom it has been issued, by filing an application for a renewal thereof with the administrative authority

upon forms to be provided by the city. Approval of the application for renewal of a permit shall be made and the permit issued for the succeeding annual period only after payment of the required fee and after inspection of the premises for compliance with Title 15, "Zoning," and the sanitation requirements of this chapter or any other applicable state or local law. Every permit so renewed shall be for a period of one year from and after the date of the renewal, and shall be subject to revocation in the same manner as the original permit.

(c) Persons keeping canaries, doves, pigeons, parrots, parakeets, gerbils, hamsters, goldfish, tropical fish, or other similar small animals, caged, or otherwise confined as household pets within a residence, shall be exempt from the permit requirements of this section.

(d) Exception: In areas zoned A-1 or A-2, where farm animals are kept on property that exceeds five acres in total area, no permits for keeping farm animals shall be required. However, no person, firm, association or corporation keeping or harboring farm animals in such areas shall allow the animals to be closer than seventy-five (75) feet from any dwelling other than the dwelling of the owner of such animals.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.290 - Permit fee.

The fee for the initial issuance and any renewal of a permit for the keeping of farm animals shall be as provided in the city's prevailing schedule of fees as adopted by the city council. The fee shall not be refundable if the permit is denied or revoked, or if the farm animals are removed or die.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.300 - Revocation of permit.

The administrative authority may revoke a permit for the keeping of farm animals for any violation of the provisions of this chapter, or any other pertinent sections of this municipal code, or any statute of the state of Iowa pertaining to the keeping of farm animals. Notice of revocation shall be given in writing, delivered personally or by certified mail to the holder of such permit. The notice shall state the grounds upon which the permit has been revoked, and shall state that the holder of the permit is required to remove all farm animals from the premises concerned within fifteen (15) days after receipt of notice of revocation. The notice shall also inform the permit holder of the right to appeal such revocation.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.310 - Appeal of revocation.

(a) Any person, firm, association, or corporation whose permit for the keeping of farm animals has been revoked pursuant to the provisions of Section 4.20.030 may appeal such revocation as set forth in Section 4.20.132.

(b) If the board of public health affirms the revocation of a permit for the keeping of farm animals, the board shall also order in its written decision that the person, firm, association or corporation owning, sheltering, harboring, or keeping such farm animals remove them from the city, or to other premises covered by a proper permit hereunder. If such farm animals are diseased, ill, or injured, the board may

order their destruction in the interests of humane treatment. The decision and order shall immediately be served upon the person or entity against whom rendered in the same manner as a notice of revocation. If the order is not complied with within seven days of its issuance, the administrative authority is authorized to seize and impound such farm animal or animals. An animal so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the individual or entity against whom the decision and order of the Board of Review was issued has not petitioned the Pottawattamie County district court for review of the order, the administrative authority shall cause the animal to be disposed of by sale or destroyed in a humane manner. Failure to comply with an order of the board of public health issued pursuant hereto shall constitute a misdemeanor and shall be subject to the penalty provisions of Section 8.02.020 of this code.

(c) Every order of the board of public health issued pursuant to the provisions of this section shall set forth the language of subsection (b) of this section.

(d) All costs incurred by the city in impounding animals pursuant to this section, shall be paid by the owner of such animals, regardless whether such animals are returned or destroyed.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.320 - Nontransferable.

Any permit issued pursuant to this chapter shall not be sold, assigned, or transferred, and shall apply only to the premises designated and the person, firm, association or corporation to whom issued. A violation of this provision shall be cause for revocation of any such permit.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.340 - Disposal of refuse.

(a) All manure and spilled grain shall be removed from the premises, or any enclosure or structure thereon, at least once every twenty-four (24) hours, and shall be placed in suitable watertight and fly-tight containers until disposed of. Such materials shall be disposed of by causing same to be picked up by a licensed private refuse hauler in accordance with the requirements of Chapter 4.12.

(b) This section will not apply to pastureland of two acres or more in areas zoned A-1 or A-2.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.350 - Fence required.

Any person keeping farm animals within the city of Council Bluffs shall keep the premises upon which the same are kept so fenced as to keep such animals from leaving the premises and as to restrain such animals from being or running at large upon the public streets or ways or upon the property of other persons. Failure to do so shall constitute a misdemeanor.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.360 - Distance from dwellings.

(a) No person within the city of Council Bluffs, Iowa, shall keep any farm animals within one hundred fifty (150) feet of any dwelling, other than the dwelling of the owner of such animals.

(b) If the owner of the farm animals is able to obtain the written consent of the owner and occupant of a dwelling, the one hundred fifty (150) foot requirement may be waived as to that dwelling, so long as the owner and occupant of said dwelling continues to consent to said waiver.

(c) (1) Under no circumstances will farm animals from the following orders be permitted to be kept within twenty-five (25) feet of any dwelling:

(A) Artiodactyla, which includes all members of the families Suidae (swine) and Bovidae (cattle, sheep and goats);

(B) Perissodactyla, which includes all members of the family Equidae (horses, ponies, asses and mules).

(2) Under no circumstances will farm animals from the following orders be permitted to be kept within ten (10) feet of any dwelling:

(A) Anseriformes, which includes ducks and geese;

(B) Carnivoras, which includes mink and skunks, but excluding domestic dogs and cats;

(C) Columbiformes, which includes doves and pigeons;

(D) Falconiformes, which includes hawks and falcons;

(E) Galliformes, which includes chicks, turkeys and fowl-like birds;

(F) Lagomorpha, which includes hares and rabbits;

(G) Rodentia, which includes squirrels, rats and guinea pigs.

(d) Exception. In areas zoned A-1 or A-2, no person shall keep any farm animal within seventy-five (75) feet of any dwelling other than the dwelling of the owner of such animal.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.370 - Numbers limited.

The following types of farm animals shall be limited in density to a maximum of two per acre, and one if there is less than one acre of ground:

(1) Artiodactyla, which includes all members of the families Suidae (swine) and Bovidae (cattle, sheep, and goats);

(2) Perissodactyla, which includes all members of the family Equidae (horses, ponies, asses, and mules).

(Ord. No. 6304, § 1, 9-25-2017).

4.20.390 - Food storage.

(a) All grains and grain supplements intended for use as food for farm animals shall be kept and stored in a rodent-tight building or container.

(b) All hay and straw must be stored at least sixteen (16) inches off the ground. However, this subsection shall not apply in areas zoned as A-1 or A-2.

(c) Insilage or silage may be kept and stored outside of a rodent-tight building or container in areas zoned A-1 or A-2, but only if stored on a concrete or asphalt slab.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.400 - Nonapplicability.

The provisions of Sections 4.20.280 through and including 4.20.390 shall not be applicable to circuses, carnivals, agricultural shows or exhibits and other such enterprises which are operated only for less than seven days once each six months.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.410 - Penalty.

Any person firm, partnership, corporation or any legal entity found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

(Ord. No. 6304, § 1, 9-25-2017).

4.20.420 - Waiver.

Any educational or research institution located or operating within the city of Council Bluffs, Iowa, may apply to the administrative authority for a waiver in regard to any of the provisions of this chapter. The administrative authority, in his or her discretion is authorized to waive any provisions of Chapter 4.20 in regard to educational or research institutions upon such conditions, terms, and provisions as the administrative authority deems appropriate or necessary. Any education or research institution making such an application may appeal the administrative authority's ruling to the Board of Review. The Board of Review may affirm, reverse, remand or modify the administrative authority's ruling.

(Ord. No. 6304, § 1, 9-25-2017).

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

“CHAPTER 4.21.020(b)(2) – HUNTING REGULATIONS AND 4.21.025(c) - FEEDING PROHIBITED.”

4.21.020 - Hunting regulations.

(a) Licensed bow hunters meeting the requirements established by the Iowa Department of Natural Resources (DNR) may hunt antlerless deer or female turkey within the areas designated A1 or A2 on public or private property, and areas designated R1, R2, and R3 on private property totaling three acres or more, under all of the following conditions:

- (1) Hunting may occur only on dates designated by DNR as bow-hunting season in the areas designated R1, R2, R3 on private property totaling three acres or more, A1 or A2 by persons who are at least eighteen (18) years of age and licensed for such hunting, and this license must be carried on his/her person;
- (2) Hunters must have written permission from the property owner, and must carry that written permission form on his/her person, and the portion of the Council Bluffs zoning map which verifies that the property is within the R1, R2, R3 on private property totaling three acres or more, A1 or A2 zone;
- (3) Hunters cannot carry an uncased bow within five hundred (500) feet of any residence or within one hundred fifty (150) feet of any city improved trail, road or building;
- (4) Hunters must take all shots from an elevated stand and shoot no further than twenty-five (25) yards;
- (5) Hunters must comply with all Iowa DNR rules for hunting within the corporate limits of Council Bluffs; and
- (6) Hunters must participate in a bow hunter safety education course certification and an annual archery proficiency test certification; and
- (7) Hunters must take all deer meat to be processed or given to charity.

(b) Licensed bow hunters meeting the requirements established by the DNR may hunt antlered deer and female turkey within the areas designated as A1 or A2 on public or private property and areas designated R1, R2, and R3 on private property totaling three acres or more, under all of the following conditions:

(1) All conditions set forth in Section 4.21.020(a)(1) through (a)(7).

(2) A limited number of antlered deer and male turkey may be taken according to an incentive program that may be adopted by the City and approved by the DNR.

4.21.025 – Feeding prohibited.

(a) No person shall place or permit to be placed on the ground, or within five feet of the ground surface, any grain, fodder, salt licks, fruit or vegetables, nuts, hay or other edible materials, which may reasonably be expected to intentionally result in deer or turkey feeding, unless items are screened or protected in a manner that prevents deer from feeding on them. Living fruit trees and vegetation shall be not considered as deer or turkey feeding.

(b) Exceptions. This prohibition shall not apply to:

- (1) Veterinarians, city animal control officers, county, state or federal game officials who are in the course of their duties, have deer or turkey in custody or under their management.

- (2) Persons authorized by the city of Council Bluffs to implement the deer or turkey management program approved by the city council.
- (3) Any food placed upon the property for purposes of trapping or otherwise taking deer or turkey where such trapping or taking is pursuant to a permit issued by the Iowa Department of Natural Resources.
- (4) Persons feeding birds using self-enclosed feeding devices or containers.
- (5) The use of straw, hay or straw-related materials for erosion control, mulching, gardening or other landscape purposes.

(c) Enforcement. The Administrative authority and the Council Bluffs Police Chief, or the mayor's designee, shall enforce the provisions of this chapter.

ORDINANCE NO. 6358

AN ORDINANCE TO AMEND TITLE 4 “HEALTH AND SANITATION” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING “CHAPTER 4.21.020(b)(2) – HUNTING REGULATIONS AND 4.21.025(c) – FEEDING PROHIBITED.”

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 4 “Health and Sanitation” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

4.21.020 - Hunting regulations.

(a) Licensed bow hunters meeting the requirements established by the Iowa Department of Natural Resources (DNR) may hunt antlerless deer or female turkey within the areas designated A1 or A2 on public or private property, and areas designated R1, R2, and R3 on private property totaling three acres or more, under all of the following conditions:

- (1) Hunting may occur only on dates designated by DNR as bow-hunting season in the areas designated R1, R2, R3 on private property totaling three acres or more, A1 or A2 by persons who are at least eighteen (18) years of age and licensed for such hunting, and this license must be carried on his/her person;
- (2) Hunters must have written permission from the property owner, and must carry that written permission form on his/her person, and the portion of the Council Bluffs zoning map which verifies that the property is within the R1, R2, R3 on private property totaling three acres or more, A1 or A2 zone;
- (3) Hunters cannot carry an uncased bow within five hundred (500) feet of any residence or within one hundred fifty (150) feet of any city improved trail, road or building;
- (4) Hunters must take all shots from an elevated stand and shoot no further than twenty-five (25) yards;
- (5) Hunters must comply with all Iowa DNR rules for hunting within the corporate limits of Council Bluffs; and
- (6) Hunters must participate in a bow hunter safety education course certification and an annual archery proficiency test certification; and
- (7) Hunters must take all deer meat to be processed or given to charity.

(b) Licensed bow hunters meeting the requirements established by the DNR may hunt antlered deer and female turkey within the areas designated as A1 or A2 on public or private property and areas designated R1, R2, and R3 on private property totaling three acres or more, under all of the following conditions:

- (1) All conditions set forth in Section 4.21.020(a)(1) through (a)(7).
- (2) A limited number of antlered deer and male turkey may be taken according to an incentive program that may be adopted by the City and approved by the DNR.

4.21.025 – Feeding prohibited.

(a) No person shall place or permit to be placed on the ground, or within five feet of the ground surface, any grain, fodder, salt licks, fruit or vegetables, nuts, hay or other edible materials, which may reasonably be expected to intentionally result in deer or turkey feeding, unless items are screened or protected in a manner that prevents deer from feeding on them. Living fruit trees and vegetation shall be not considered as deer or turkey feeding.

(b) Exceptions. This prohibition shall not apply to:

- (1) Veterinarians, city animal control officers, county, state or federal game officials who are in the course of their duties, have deer or turkey in custody or under their management.
- (2) Persons authorized by the city of Council Bluffs to implement the deer or turkey management program approved by the city council.
- (3) Any food placed upon the property for purposes of trapping or otherwise taking deer or turkey where such trapping or taking is pursuant to a permit issued by the Iowa Department of Natural Resources.
- (4) Persons feeding birds using self-enclosed feeding devices or containers.
- (5) The use of straw, hay or straw-related materials for erosion control, mulching, gardening or other landscape purposes.

(c) Enforcement. The Administrative authority and the Council Bluffs Police Chief, or the mayor's designee, shall enforce the provisions of this chapter.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6359

AN ORDINANCE TO AMEND CHAPTER 4.22 “FOOD CODE” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.22.010 THROUGH 4.22.030.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.22 “Food Code” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.22.010 through 4.22.030 as follows:

~~4.22.010 – Adoption by reference.~~

~~(a) The 1997 edition of the Federal Food and Drug Administration's Food Code as modified by the Iowa State Legislature and the Iowa State Department of Agriculture, copies of which are now on file in the office of the city clerk of the city of Council Bluffs, Iowa, is adopted as the food code of the city of Council Bluffs, Iowa.~~

~~(b) Future versions of the Federal Food and Drug Administration's Food Code as modified and adopted by the Iowa State Legislature and the Iowa State Department of Agriculture shall be adopted as the food code of the city of Council Bluffs, Iowa, upon a copy being filed in the office of the city clerk of the city of Council Bluffs, Iowa, and publication one time in a newspaper of general circulation in Pottawattamie County, Iowa, of notice of the new food code being on file and become effective.~~

~~4.22.020 – Enforcement authority.~~

~~The Council Bluffs health department shall have primary responsibility to enforce the provisions of the food code as adopted in Section 4.22.010. Any peace officer or other person designated by the administrative authority may also enforce the provisions of the food code. In addition to peace officers, the director of the Council Bluffs health department or his or her authorized designee shall have the power to issue police citations for violations of the provisions of the food code and the provisions of this chapter. These citations shall be issued pursuant to the procedures set out in Sections 805.1 and 805.4 of the State Code of Iowa.~~

~~4.22.030 – Penalty.~~

~~Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest: _____

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6360

AN ORDINANCE TO AMEND CHAPTER 4.26 “SWIMMING POOLS AND SPAS” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.26.010 THROUGH 4.26.030.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.26 “Swimming Pools and Spas” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.26.010 through 4.26.030 as follows:

~~4.26.010—Adoption by reference.~~

~~Public Health Department [641]—Chapter 15 "Swimming Pools and Spas" of the Iowa Administrative Code, a copy of which is now on file in the office of the city clerk of the city of Council Bluffs, Iowa, is adopted by the city of Council Bluffs.~~

~~4.26.020—Enforcement authority.~~

~~The Council Bluffs health department is authorized to enforce the provisions of 641—Chapter 15 "Swimming Pools and Spas" of the Iowa Administrative Code as adopted in Section 4.26.010, and the director of the Council Bluffs health department or his/her authorized designee shall have the power to issue police citations for violations thereof, and the provisions of this chapter. These citations shall be issued pursuant to the procedures set out in Sections 805.1 through 805.4 of the State Code of Iowa.~~

~~4.26.030—Penalty.~~

~~Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____

ORDINANCE NO. 6361

AN ORDINANCE TO AMEND CHAPTER 4.32 “PRIVATE SEWAGE DISPOSAL SYSTEMS” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.32.010 THROUGH 4.32.170.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.32 “Private Sewage Disposal Systems” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.32.010 through 4.32.170 as follows:

4.32.010—Adoption by reference.

~~Department of Natural Resources 567 IAC Chapter 69 "Onsite Wastewater Treatment and Disposal Systems" is adopted by reference subject to additions and amendments as hereinafter set forth in this chapter after the effective date of the ordinance codified in this chapter.~~

4.32.020—Definitions.

~~Except as otherwise defined in Section 4.32.010, the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" as used in this chapter is mandatory and not merely directory.~~

~~(1) "Private sewage disposal system" means a sewage disposal system, other than one which is operated by a governmental subdivision which receives either human excreta or liquid waste, or both, from one or more premises. (2) "Permit" means a written permit issued by the city of Council Bluffs board of health, permitting the construction or modification of a private sewage disposal system under these regulations. (3) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind. (4) "Public sewage disposal system" means a sewage disposal system operated by a government subdivision. (5) "Sanitation requirements for private sewage disposal systems." In order to protect the general health, safety, and welfare of the people of Council Bluffs, Iowa, and of the general public, private sewage disposal systems shall be constructed, operated, used and maintained in accordance with the following standards and requirements to insure that waste discharged therein shall not: (a) Contaminate any drinking water supply; (b) Be accessible to insects, rodents or other possible carriers of disease which may come into contact with food or drinking water; (c) Pollute or contaminate the waters of any bathing beach or stream used for public or domestic water supply purposes or for recreational purposes; (d) Be a health hazard or accessible to children; (e) Be a nuisance; (f) Violate any other laws or regulations governing water pollution or sewage disposal.~~

4.32.030—Scope.

~~The provisions of this regulation shall apply to all private sewage disposal systems in Council Bluffs, Iowa; including but not limited to new construction of a private sewage disposal system and modifications of existing private sewage disposal systems.~~

4.32.040—Construction requirements for private sewage disposal systems.

~~In addition to the sanitation requirements for private sewage disposal systems, the referenced regulations, specifications and requirements shall be complied with in the construction of private sewage disposal systems.~~

~~4.32.050 — Approval of plans and specifications — Permit required.~~

~~Prior to the construction, major repair or modification of private sewage disposal systems in Council Bluffs, Iowa, plans and specifications shall be approved by the city board of health, and a permit obtained. Plans and specifications shall be submitted on the sewage disposal application forms furnished by the city board of health.~~

~~4.32.060 — Inspection before backfilling.~~

~~After construction is complete, but before the private sewage disposal system is backfilled, and the city board of health shall be notified in order that an inspection can be made. No part of the sewage disposal system shall be backfilled until such part has been inspected and approved; provided, that the city board of health must make such inspection within twenty-four (24) hours after the city board of health has been notified that construction is completed and ready for inspection; provided further, that in computing the twenty-four (24) hour period, Sundays and holidays shall be excepted.~~

~~4.32.070 — Capacity for other than single residence dwelling.~~

~~The capacity for a septic tank for any structure other than a single residence dwelling shall be determined on the basis of the estimated quantities of sewage flow. The "Manual of Septic Tank Practice" of the United States Public Health Service shall be used as the guide in these determinations.~~

~~4.32.080 — Construction cannot be started until grades are finished.~~

~~Construction of the private sewage disposal system shall not be begun until the grades of the area in which the system is to be situated are finished.~~

~~4.32.090 — Cesspools prohibited.~~

~~The use of cesspools is prohibited.~~

~~4.32.100 — Permits.~~

~~It is unlawful for any person to construct, alter or extend private sewage disposal systems in Council Bluffs, Iowa, unless he/she holds a valid permit issued by the city board of health in the name of such person for the specific construction, alteration or extension proposed. The permit issued by the city board of health shall be in addition to the building permit or any other permit required and shall be obtained prior to construction, alteration and extension of the residence or facility to be served.~~

~~4.32.110 — Application for permit — Issuance or denial.~~

~~All applications for permits for the construction of private sewage disposal systems shall be made to the city board of health which is authorized to issue a permit therefor upon compliance by the applicant with all the provisions of this regulation and any other pertinent regulations. A permit for the construction of a private sewage disposal system may be denied where public sewerage systems are within two hundred (200) feet by gravity flow of the structure to be served.~~

~~4.32.120 — Contents of application.~~

~~Applications for permits shall be in writing, shall be signed by the applicant, and shall include the following:~~

~~(a) Name and address of the applicant. Legal description of property on which construction, alteration, or extension is proposed; (b) Complete plan of the proposed disposal facility, with substantiating data if necessary, attesting to its compliance with the minimum standards of the health department.~~

~~4.32.130 – Drawn plan required.~~

~~A complete plan drawn to scale for the purpose of obtaining a permit to be issued by the city board of health shall include:~~

~~(a) The number, location and size of all sewage disposal facilities to be constructed, altered or extended; (b) The location of water supplies, water supply piping, existing sewage disposal facilities, buildings or dwellings, and adjacent lot lines; (c) Plans of the proposed sewage disposal facilities to be constructed, altered or extended; (d) The number and type of plumbing fixtures to be installed in the building; (e) The number of bedrooms of a dwelling and the number of people to be served by the facility if other than a dwelling; (f) The results of a percolation test at the proposed site; (g) The types of soil(s) and soil conditions determined from six feet deep test hole; (h) The average groundwater depth as determined by engineering or geological survey studies.~~

~~4.32.140 – Fees.~~

~~The fee for a permit to construct, alter or extend a private sewage disposal system shall be as set forth in Section 2.08.040, designated as 4.32.146, of the prevailing schedule of fees as most recently adopted by the city council of Council Bluffs, Iowa.~~

~~4.32.150 – Inspections.~~

~~The city board of health or its agents are authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this regulation. It shall be the duty of the owner or occupant of a property to give the city board of health free access to the property at reasonable times for the purpose of making such inspections as are necessary to determine compliance with the requirements of this regulation and regulations promulgated under this section.~~

~~4.32.160 – Conflict.~~

~~In any case where a provision of this regulation is found to be in conflict with any other regulation pertaining to zoning, building, plumbing, fire, safety or health existing on the effective date of this regulation, the provision which established the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this regulation is found to be in conflict with any other regulation existing on the effective date of this regulation which establishes a lower standard for the promotion of the health and safety of the people, the provisions of this regulation shall prevail.~~

~~4.32.170 – Penalty for violation.~~

~~Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

October 22, 2018.

Mayor

City Clerk

248

ORDINANCE NO. 6362

AN ORDINANCE TO AMEND CHAPTER 4.33 “PRIVATE WELLS” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.33.010 THROUGH 4.33.040.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.32 “Private Sewage Disposal Systems” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.33.010 through 4.33.040 as follows:

~~4.33.010—Scope.~~

~~The provisions of this chapter shall apply to all private water wells located or to be constructed within the city of Council Bluffs, including, but not limited to, new construction and modification of existing wells.~~

~~4.33.020—Permit required.~~

~~No person shall construct a private well in the city of Council Bluffs, or own/use a well constructed after the effective date of this provision, unless a permit has been issued for the well by the department of public health. This permit shall be in addition to any permits required by the state or county. This requirement shall not apply to monitoring wells used for soil and groundwater investigation.~~

~~4.33.025—Registration of pre-existing wells.~~

~~Any person who owns property in the city of Council Bluffs which has a well, other than a monitoring well, which was constructed prior to the effective date of this ordinance, shall register said well with the city. Registration forms for this may be obtained in the department of public health or from the city clerk's office. There will be no fee charged for the registration of a pre-existing well.~~

~~4.33.030—Permit process.~~

~~(a) Any person desiring a well permit shall make application to the director of public health on the form prescribed by the him/her. The director of public health shall determine the necessary information, data and testing required for the issuance of the permit. (b) In determining whether to issue a permit or not, the director of public health shall consider the availability of public water to serve the real property, building or facility, the estimated amount of water to be consumed, possible contamination of the water, and the purpose for which the water will be used. The applicant shall be required to have an environmental assessment completed to determine if there are known sources of contamination within five hundred (500) feet of the proposed site. (c) If the property, building or facility to be served is located within two hundred (200) feet of public water, the director of public health shall automatically deny the permit, and the applicant shall be required to use the public water system. (d) If the director of public health determines that the water is in an area of contamination or is otherwise unfit, he/she may deny the permit or make such limitations as to the use of the water from said private well as are necessary to protect life and property. In determining what the actual area of contamination is, the director of public health shall consider current levels and areas of contamination, as well as where the contamination might reasonably be expected to expand to in the foreseeable future. (e) The application shall not be deemed complete until all information, data and testing results~~

required by the director of public health have been submitted to him/her for consideration and the required fee paid in full. (f) The director of public health shall rule upon the permit application within thirty (30) working days of the submitting of the completed application. The director of public health may, upon good cause, extend said period for approval of the application an additional thirty (30) working days by issuing a written notice to the applicant. Any application which is not acted upon in a timely manner by the director of public health shall be deemed to have been denied upon the expiration of time provided by this section. (g) The applicant may appeal the decision of the director of public health to the board of health by filing a written notice of appeal with the director of public health within ten (10) business days of the decision. The board of health shall meet to determine the appeal within forty-five (45) days of the date the appeal is filed. (h) The applicant shall pay an application fee in the amount of twenty five dollars (\$25.00). (i) All required testing and collection of information and data shall be at the applicant's expense.

4.33.040 – Penalty.

~~Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecution.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

“CHAPTER 4.50 – NOISE CONTROL.”

4.50.010 - Short title.

The ordinance codified in this chapter may be cited as the "Noise Control Ordinance of the city of Council Bluffs."

4.50.020 - Declaration of findings—Policy—Scope.

Findings and Policy. Whereas excessive sound is a serious hazard to the public health and welfare, safety and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and whereas the people have a right to and should be insured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; and now, therefore, it is the policy of the city of Council Bluffs to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

2.2 Scope. This chapter shall apply to the control of sound originating within the limits of the city of Council Bluffs.

4.50.030 - Definitions.

3.1 Terminology. All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

3.2 "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

3.3 "Ambient noise" means the all encompassing noises associated with a given environment, usually a composite of sounds from many sources near and far.

3.4 "Background noise" means the all encompassing noises associated with a given environment, excluding the source of sound being measured.

3.5 "Commercial land use" means all areas designated commercial districts by the zoning ordinance of the city of Council Bluffs, Iowa, as amended.

3.6 "Construction" means any site preparation assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

3.7 "Day" means the period from seven a.m. until ten p.m. local time.

3.8 "Day-night average sound level (L_{dn})" means the twenty-four hour energy average of the A-weighted sound pressure level, with the levels during the period ten p.m. to seven a.m. the following day increased by ten dBA before averaging.

3.9 "Decibel (dB)" means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the

reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

3.10 "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

3.11 "~~Director of public health~~Chief Building Official" shall means the Director of ~~public health~~Community Development of the ~~e~~City of Council Bluffs or authorized representative.

3.12 "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

3.13 "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

3.14 "Equivalent A-weighted sound level (L_{eq})" means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

3.15 "L_{eq} (1)" means the equivalent A-weighted sound level measured for a period of one hour or less as described in the measurement procedures.

3.16 "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

3.17 "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-force impacts, and the discharge of firearms.

3.18 "Industrial land use" means all areas designated industrial districts by the zoning ordinance of the city of Council Bluffs, as amended.

3.19 "Measurement procedures" means the sound level measurement procedures for the enforcement of the noise control ordinance codified in this chapter ~~as adopted by the board of health.~~

3.20 "Motor carrier vehicle engaged in interstate commerce" means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

3.21 "Motor vehicle" means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck trailers, semitrailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.

3.22 "Motorboat" means any vessel which operates on water and which is propelled by a motor, including, but not limited to, barges, boats, amphibious craft, water ski towing devices and hover craft.

3.23 "Motorcycle" means an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

3.24 "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.

3.25 "Night" means the period from ten p.m. until seven a.m. local time.

3.26 "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

3.27 "Noise disturbance" means any sound which:

(a) Endangers or injures the safety or health of humans or animals; or (b) Annoys or disturbs a reasonable person of normal sensitivities; or (c) Endangers or injures personal or real property.

3.28 "Noise sensitive area" means any area designated pursuant to subsection 4.2(h) of Section 4.50.040 of this chapter for the purpose of insuring exceptional quiet.

3.29 "Person" means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

3.30 "Powered model vehicle" means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

3.31 "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

3.32 "Public space" means any real property or structures which are owned or controlled by a governmental entity.

3.33 "Pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches such as a hum, whine, whistle, screech, etc.

3.34 "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

3.35 "Residential land use" means all areas designated open space and residential districts by the zoning ordinance of the city of Council Bluffs, as amended.

3.36 "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted P_{rms} .

3.37 "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of sound, including duration, intensity and frequency.

3.38 "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4—1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

3.39 "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting networks used to measure sound pressure levels.

3.40 "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

3.41 "Sound pressure level" means twenty (20) times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals (twenty (20) micronewtons per square meter). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

3.42 "Weekday" means any day Monday through Friday which is not a legal holiday

4.50.040 - Powers, duties and enforcement.

4.1 Enforcement. The ~~city manager, through the director of public health~~ Chief Building Official and the Council Bluffs police department, unless delegated to another authority by written directive, shall be the enforcement authority and shall have the power and duty of enforcing the provisions of this chapter. The ~~director of public health~~ Chief Building Official and/or ~~shall~~ his/her assignee shall have the power to issue citations for violations of this chapter.

4.2 Powers and Duties. In order to implement and enforce this chapter, the enforcement authority may:

(a) Studies. Conduct, or cause to be conducted, research, monitoring and other studies related to sound; (b) Education. (1) Conduct programs of public education regarding: (A) The causes, effects and general methods of abatement and control of noise, (B) The actions prohibited by this chapter and the procedures for reporting violations, (2) Encourage the participation of public interest groups in related public information efforts; (c) Coordination and Cooperation. (1) Coordinate the noise activities of all municipal departments, (2) Cooperate to the extent practicable with all appropriate state and federal agencies, (3) Cooperate or combine to the extent practicable with appropriate county and municipal agencies, (4) Enter into contracts, with the approval of the city council, for the provision of technical and enforcement services; (d) Review of Actions of Other Departments. Request any other department or agency responsible for any

proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this chapter; (e) Review of Public and Private Projects. Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this chapter, if such projects are likely to cause noise in violation of this chapter; (f) Inspections. (1) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests; (2) Stop any motor vehicle, motorcycle, or motorboat operation on a public right-of-way, public space, public waterway, or any private property which is reasonably suspected of violating any provision of this chapter, and issue a notice of violation or abatement order which require the motor vehicle, motorcycle or motorboat to be inspected to tested as the enforcement authority may reasonably require; ~~(g) Product Performance and Standard Recommendations. Develop and recommend for promulgation to the board of health and city council, provisions regulating the use and operation of any product, including the specification of maximum allowable sound emission levels of such product;~~ (h) Noise Sensitive Area Recommendations. Prepare recommendations, to be approved by the city council for the designation of noise sensitive areas which contain noise sensitive activities. Existing quiet areas shall be considered noise sensitive areas until otherwise designated. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals and nursing homes; (i) Planning to Achieve Long-term Noise Goals. Develop a generalized sound level map of the city, a long-term plan for achieving quiet in the city, and integrate this plan with the city planning commission's comprehensive city plan.

4.50.060 - Prohibited acts.

6.1 Noise Disturbances Prohibited. It is unlawful for any person to unreasonably make, continue or cause to be made or continued, any noise disturbance.

6.2 Exemptions. The provisions of this section shall not apply to:

(a) The specific prohibitions in this section during the hours a sound level limit is specified; (b) Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.

6.3 Specific Prohibitions. It is unlawful for any person to perform, create, cause or permit the following acts, and the same are declared to be in violation of this chapter, unless a special variance is issued pursuant to the provisions of subsection 7.2 of Section 4.50.070:

(a) Radios, television sets, musical instruments and similar devices which produce, reproduce or amplify sound: (1) Between the hours of ten p.m. and seven a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive area and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, (2) In such a manner as to be audible at one hundred (100) feet from such device, regardless of the time of day, when operated in or on a motor vehicle or boat, on a public right-of-way, public space or public waters, (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier, (4) Subsection (a) shall not apply to noncommercial spoken language covered under subsection (b); (b)

Loudspeakers—Public Address Systems: (1) Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device (A) so that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area; or (B) between the hours of ten p.m. and seven a.m. the following day on a public right-of-way or public space and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, (2) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device (A) so that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area; or (B) between the hours of ten p.m. and seven a.m. the following day on a public right-of-way or public space, (3) This subsection 6.3(b) shall not apply to any member of a federal, state or local law enforcement, public safety or civil defense agency, in performance of official duty; (c) Street Sales. Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the city, except between the hours of seven a.m. and ten p.m.; (d) Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary, or within a noise sensitive area; (e) Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects, or the operation of compacting mechanisms, between the hours of ten p.m. and seven a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive area and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, except that sound emission from commercial and industrial land use shall be governed by the provisions of Section 4.50.080 at all times; (f) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work: (1) Between the hours of ten p.m. and seven a.m. the following day on weekdays or Saturday or any time on Sunday or holidays, so that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive area, except for work of city public works crews, work being performed under contract to the city, or public service utilities, (2) Any other time so that the sound level across a real property boundary exceeds the limit of eighty-five (85) L eq(1) at fifteen (15) meters (fifty (50) feet) measured from construction site boundary, (3) This subsection (f) shall not apply to the use of domestic tools subject to subsection (q) of this section; (g) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone; (h) Reserved; (i) Places of Public Entertainment. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than ninety dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating, "WARNING, SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT"; (j) Explosives, Firearms and Similar Devices. The use or firing of explosives, firearms, fireworks or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance issued pursuant to subsection 7.2 of Section 4.50.070. Such permit need not be obtained for licensed game hunting activities on property where such activities are authorized. This subsection (j) shall not apply to any federal, state or local law enforcement agency or person in performance of official duty:

Exceptions:

(1) The discharging of consumer fireworks (as defined in the newly adopted Section 110.19 of the Code of Iowa) that are permitted to be sold within the state of Iowa shall be permitted ~~from July 1 to July 3 of each year starting at 12:00 p.m. and ending at 10:00 p.m.; on July 4 of each year starting at 12:00 p.m. and ending at 11:00 p.m. and on December 31 starting at 12:00 p.m. to January 1 12:30 a.m. of the following year~~ only if authorized by a resolution of the City Council approved at least 30 days in advance of the effective date; (2) Restriction as to Age. Consumer fireworks that are identified as being class one or class two may only be discharged by individuals that are eighteen (18) years of age and older. Fireworks that are classified as novelties (APAS 87-1) may be discharged by individuals five years of age and older but only when supervised by an adult; (3) Restrictions as to Locations. An individual shall not use consumer fireworks on real property other than that individual's real property or on real property of a person who has consented to the use of consumer fireworks on that property; (4) No fireworks shall be permitted to be discharged in areas zoned C-3/commercial district or C-4/commercial district at any time; (5) No individual shall discharge any consumer fireworks within fifty (50) feet of another person or within fifty (50) feet of a structure; (6) Restrictions due to drought conditions. No person shall discharge consumer fireworks at any time when Pottawattamie County has issued a burn ban; Penalty: Any discharging of the above referenced consumer fireworks outside of the excepted dates, hours or locations or under conditions restricted above shall be deemed a simple misdemeanor and shall be punishable by a fine of not less than two hundred fifty dollars (\$250.00);

(k) Powered Model Vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of ten p.m. and seven a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Table 1 of Section 4.50.080, and shall be measured at a distance of fifteen (15) meters (fifty feet) from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by subsection 8.1 of Section 4.50.080 and subsection 6.3(p) of this section, respectively; (1) Reserved; (m) Stationary Nonemergency Signaling Devices: (1) Sounding or permitting the sounding of any signal from any stationary or mobile bell, chime, siren, whistle, horn or similar device, whether or not electronically amplified, intended primarily for nonemergency purposes, from any place, for more than one minute in any hourly period, (2) Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision; (n) Emergency Signaling Devices: (1) The intentional sounding or permitting the sounding outdoors of any fire, burglar alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subdivision (2) of this subsection (n), (2) (A) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before seven a.m. or after ten p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds, (2) (B) Testing of the complete emergency signaling system, including the functioning of the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before seven a.m. or after ten p.m. The time limit specified in subdivision (a)(2)(A) shall not apply to such complete system testing, (3) Provisions of this subsection (n) shall not apply to government owned and operated civil defense sirens under the jurisdiction of the civil defense director; (o) Motorboats: Operating or permitting the operation of any motorboat

in any lake, river, stream or other waterway in such a manner as to exceed a sound level of seventy-six dBA (fast meter response) at fifteen (15) meters (fifty (50) feet) or the nearest shoreline, whichever distance is greater; (p) Noise Sensitive Areas: (1) Creating or causing the creation of any sound within any noise sensitive area designated pursuant to subsection 2.10 of Section 4.50.040, so as to disrupt the activities normally conducted within the area; provided, that conspicuous signs are displayed indicating the presence of the area, or (2) Creating or causing the creation of any sound within any noise sensitive area, designated pursuant to subsection 2.10 of Section 4.50.040, containing a hospital, nursing home or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity; provided, that conspicuous signs are displayed indicating the presence of the area; (q) Domestic Tools. (1) Operating or permitting the operation of any saw, hammer, drill, sander, grinder, lawn or garden tool, lawnmower, or similar device used outdoors in residential areas between the hours of ten p.m. and seven a.m. the following day so as to cause a noise disturbance across a residential real property boundary, (2) Snowblowers and other machinery used for snow removal are exempt from the requirements set forth in subdivision (q)(1) of this section, while actually being used for snow removal; (r) Tampering. It is unlawful to tamper, remove or render inaccurate or inoperative any sound monitoring instrument or device positioned by or for the enforcement authority; (s) Voice Disturbance. Yelling, shouting, screaming, or otherwise vocalizing frequently, for continued duration or using abusive or obscene language as defined by Council Bluffs Municipal Code Section 8.20.010, making a noise disturbance at any time of day or night, across a residential or commercial real property boundary, or within a noise sensitive area.

4.50.070 - Exceptions and variances.

7.1 Emergency Exceptions. The provisions of this chapter shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of any emergency, or (b) the emission of sound in the performance of emergency work.

7.2 Special Variances.

(a) The ~~board of health~~City Council shall hear and determine all variance applications within fifteen (15) days of the application upon such notice as the ~~board-council~~ may direct. (b) Any person seeking a special variance pursuant to this section shall file an application with the ~~board of health~~City Clerk. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the ~~board of health~~City Clerk containing any information to support his or her claim. (c) In determining whether to grant or deny the application, the ~~board of health~~City Council shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the ~~board of health~~council may reasonably require. In granting or denying an application, the board of health shall place on public file a copy of the decision and the reasons for granting or denying the special variance. (d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition

of the special variance shall terminate it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted. (e) In addition to other requirements, the ~~board of health~~City Council, as part of the conditions of a special variance, may: (1) Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the board may reasonably prescribe; (2) Require the owner or operator of any commercial or industrial activity to measure the sound level of any source in accordance with the methods and procedures and at such locations and times as the ~~board~~Council may reasonably prescribe, and to furnish reports of the results of such measurements to the board. The board may require the measurements to be conducted in the presence of its enforcement officials. (f) No variance shall be granted for a period to exceed three years at a time. (g) Application for extension of time limits specified in special variances for modification of other substantial conditions or for renewal shall be treated like applications for initial special variances under subsection (b). (h) The ~~board of health~~City Council may issue guidelines defining the procedures to be followed in applying for a special variance, and the criteria to be considered in deciding whether to grant a special variance.

7.3 Reserved.

7.4 Appeals. Any determination by the ~~board of health~~Director pursuant to this provision may be appealed within ten (10) days to the Council Bluffs city council by filing a notice of appeal with the city clerk.

4.50.080 - Sound levels by receiving land use.

8.1 Maximum Permissible Sound Levels by Receiving Land Use. It is unlawful for any person to operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 as follows, unless otherwise provided in this chapter, when measured at or within the property boundary of the receiving land use; provided, however, that no measurement of sound levels shall be made less than fifteen (15) meters (fifty (50) feet), or equivalent (Section 4.50.110, Noise measurement procedures), from such source of sound.

Table 1
Sound Levels By Receiving Land Use

Sound Emitting Land-Use Category	Sound Receiving Land-Use Category	Sound Level Time of Day	Sound Level Limit, dBA Leq(1)
Residential	Residential	Daytime	55
		Nighttime	45
Business/Commercial	Residential	Daytime	60
		Nighttime	50
Industrial	Residential	Daytime	65
		Nighttime	55
Residential	Business/Commercial	Anytime	60
Business/Commercial	Business/Commercial	Anytime	65
Industrial	Business/Commercial	Anytime	65
Industrial	Industrial	Anytime	75

8.2 Correction for Character of Sound. For any source of sound which emits a pure tone or impulsive sound, the L_{eq}(1) sound level limits set forth in subsection (8.1) of this section, shall be reduced by five dBA for any pure tone or impulsive sound. Special instrumentation and measurement techniques are required if a pure tone or impulsive sound is less than five dBA above the background noise level.

8.3 Exemptions. The provisions of this section shall not apply to:

(a) Any of the subsections in Section 4.50.060, except as noted in Section 4.50.060; (b) Interstate railway locomotives and cars; (c) Undeveloped land, farm land and nonstationary farming equipment and all normal agricultural activities; and (d) Notwithstanding Table 1 above, an electric utility generation facility, as defined in Chapter 15.03 of the Council Bluffs Municipal Code, may generate a decibel reading not to exceed sixty-five (65) dBA at anytime (day or night) to a receiving land use that is residential. The level of sound for an electric utility generation facility shall be measured by using an L₉₀ measurement technique, and for a one-hour average. Sound from sources other than the electric utility generation facility, including, but not limited to, streets, highways, seasonal insects and other uses, shall not be counted against the ordinance limits.

4.50.090 - Motor vehicle maximum sound levels.

9.1 Motor Vehicles and Motorcycles on Public Rights-of-way. It is unlawful for any person to operate or cause to be operated a motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 2 as follows, for the speed limit zone, regardless of the actual speed of the motor vehicle or motorcycle or in any other manner prohibited by this section.

Table 2
Motor Vehicle and Motorcycle Sound
Limits Measured at Fifteen Meters (fifty feet)
(maximum sound level, fast meter response)

Vehicle Class	Sound Level in dBA Speed Limit Zone (35 MPH or Less)	Sound Level in dBA Speed Limit Zone (Over 35 mph)	Sound Level in dBA Stationary Run-Up
1. Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 lbs. or more	86	90	88
2. All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	86	90	85
3. Any motorcycle	82	86	85
4. Any other motor vehicle or any combination of vehicles towed by any other motor vehicle	76	82	85

(a) Adequate Mufflers or Sound Dissipative Devices. (1) No person shall operate or cause to be operated on a public right-of-way any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order, in constant operation, and that will sufficiently reduce sound to any acceptable level so as not to create a nuisance to any person. (2) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle. (b) Motor Vehicle Horns and Signaling Devices. The following acts and the causing thereof are declared to be in violation of this chapter: (1) The sounding of any horn, bell or other auditory device on or in any motor vehicle on any public right-of-way or public space for the period of more than one minute in any hourly period, except as a warning of danger; (2) The sounding of any horn or other auditory signaling device which produces a sound level in excess of eighty-five (85) dBA at fifteen (15) meters (fifty (50) feet), except as a warning of danger. (c) Reserved. (d) Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within forty-six (46) meters (one hundred fifty (150) feet) of a residential area or designated noise sensitive zone, between the hours of ten p.m. and seven a.m. the following day.

9.2 Recreational Motorized Vehicles Operating off Public Rights-of-way.

(a) Except as permitted in subdivision (b) or (c) below no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table 3 of this subsection, at a distance of fifteen (15) meters (fifty (50) feet) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This subsection (9.2) shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, gocarts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats. (b) It is illegal for any person to sponsor or conduct any recreational, sporting or other type of motorized racing event without first registering said event with the city health director. (c) Other special variances may be obtained from the board of health.

Table 3
Recreational Motorized Vehicle Sound Limits (Measured at Fifteen Meters (Fifty Feet))
(Maximum Sound Level, Fast Meter Response)

Vehicle Type	Sound Level, dBA
Snowmobile	78
Motorcycle	78
Any other motorized recreational vehicle	78

4.50.110 - Enforcement.

(a) Noise Measurement Procedures. The noise measurement procedures to be used for the enforcement of this chapter shall be based on current industry standards. (b) Nuisance Declared.

Any violation of the provisions of this chapter shall be deemed a nuisance. The provisions of Chapter 8.54 shall apply to any violation of any of the provisions of this chapter. (c) Immediate Threats to Health and Welfare. (1) The ~~director of public health~~Chief Building Official shall declare an emergency as provided in Chapter 8.54 and order an immediate halt to any sound which exposes any person across a real property boundary to continuous sound levels in excess of those shown in Table 4. (2) No order pursuant to subdivision (1) of this subsection shall be issued if the only persons exposed to sound levels in excess of those listed in Table 4 are exposed as a result of (A) trespass, or (B) invitation upon private property by the person causing or permitting the sound, except as provided in subsection (6.3)(i) of Section 4.50.060. (3) Any person subject to an order issued pursuant to subdivision (1) of this subsection shall comply with such order until: (A) The sound is brought into compliance with the order, as determined by the director of public health; or (B) The board of health or a judicial order has superseded the director of public health's order. (d) Reserved.

Table 4
Continuous Sound Levels Which Pose an Immediate Threat to Health and Welfare Measured at the Receiver's Ear
Across a Real Property Boundary (slow meter response)

Sound Level Limit (dBA)	Duration Hours and	Minutes
90	8	0
91	7	0
92	6	0
93	5	20
94	4	40
95	4	0
96	3	30
97	3	0
98	2	40
99	2	20
100	2	0
101	1	45
102	1	30
103	1	20
104	1	10
105	1	0
106	0	54
107	0	48
108	0	42
109	0	36
110	0	30
111	0	27
112	0	24
113	0	21
114	0	18

115	0	15
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(e) Non-exclusive Nature of Remedy. (1) This chapter is not the exclusive regulation of sound within the city. It shall supplement and be in addition to the other regulatory codes, statutes, ordinances, and rules and regulations heretofore or hereafter enacted by the city, the state, the federal government, or any other legal entity or agency having jurisdiction. (2) No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

ORDINANCE NO. 6363

AN ORDINANCE TO AMEND TITLE 4 “HEALTH AND SANITATION” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING “CHAPTER 4.50 – NOISE CONTROL.”

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA

SECTION 1. That Title 4 “Health and Sanitation” Chapter 4.50 “Noise Control” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended to read as follows:

4.50.010 - Short title.

The ordinance codified in this chapter may be cited as the "Noise Control Ordinance of the city of Council Bluffs."

4.50.020 - Declaration of findings—Policy—Scope.

Findings and Policy. Whereas excessive sound is a serious hazard to the public health and welfare, safety and the quality of life; and whereas a substantial body of science and technology exists by which excessive sound may be substantially abated; and whereas the people have a right to and should be insured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life; and now, therefore, it is the policy of the city of Council Bluffs to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.

2.2 Scope. This chapter shall apply to the control of sound originating within the limits of the city of Council Bluffs.

4.50.030 - Definitions.

3.1 Terminology. All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

3.2 "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

3.3 "Ambient noise" means the all encompassing noises associated with a given environment, usually a composite of sounds from many sources near and far.

3.4 "Background noise" means the all encompassing noises associated with a given environment, excluding the source of sound being measured.

3.5 "Commercial land use" means all areas designated commercial districts by the zoning ordinance of the city of Council Bluffs, Iowa, as amended.

3.6 "Construction" means any site preparation assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

3.7 "Day" means the period from seven a.m. until ten p.m. local time.

3.8 "Day-night average sound level (L_{dn})" means the twenty-four hour energy average of the A-weighted sound pressure level, with the levels during the period ten p.m. to seven a.m. the following day increased by ten dBA before averaging.

3.9 "Decibel (dB)" means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals (twenty (20) micronewtons per square meter).

3.10 "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

3.11 "Chief Building Official" shall mean the Director of Community Development of the City of Council Bluffs or authorized representative.

3.12 "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

3.13 "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

3.14 "Equivalent A-weighted sound level (L_{eq})" means the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying A-weighted sound.

3.15 "L_{eq} (1)" means the equivalent A-weighted sound level measured for a period of one hour or less as described in the measurement procedures.

3.16 "Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

3.17 "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-force impacts, and the discharge of firearms.

3.18 "Industrial land use" means all areas designated industrial districts by the zoning ordinance of the city of Council Bluffs, as amended.

3.19 "Measurement procedures" means the sound level measurement procedures for the enforcement of the noise control ordinance codified in this chapter

3.20 "Motor carrier vehicle engaged in interstate commerce" means any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

3.21 "Motor vehicle" means any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck trailers, semitrailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies, or racing vehicles, but not including motorcycles.

3.22 "Motorboat" means any vessel which operates on water and which is propelled by a motor, including, but not limited to, barges, boats, amphibious craft, water ski towing devices and hover craft.

3.23 "Motorcycle" means an unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

3.24 "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine.

3.25 "Night" means the period from ten p.m. until seven a.m. local time.

3.26 "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

3.27 "Noise disturbance" means any sound which:

(a) Endangers or injures the safety or health of humans or animals; or (b) Annoys or disturbs a reasonable person of normal sensitivities; or (c) Endangers or injures personal or real property.

3.28 "Noise sensitive area" means any area designated pursuant to subsection 4.2(h) of Section 4.50.040 of this chapter for the purpose of insuring exceptional quiet.

3.29 "Person" means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

3.30 "Powered model vehicle" means any self-propelled airborne, waterborne or landborne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

3.31 "Public right-of-way" means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

3.32 "Public space" means any real property or structures which are owned or controlled by a governmental entity.

3.33 "Pure tone" means any sound which can be distinctly heard as a single pitch or a set of single pitches such as a hum, whine, whistle, screech, etc.

3.34 "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

3.35 "Residential land use" means all areas designated open space and residential districts by the zoning ordinance of the city of Council Bluffs, as amended.

3.36 "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted P_{rms} .

3.37 "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of sound, including duration, intensity and frequency.

3.38 "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4—1971, or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

3.39 "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time average, output meter, and weighting networks used to measure sound pressure levels.

3.40 "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.

3.41 "Sound pressure level" means twenty (20) times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty (20) micropascals (twenty (20) micronewtons per square meter). The sound pressure level is denoted L_p or SPL and is expressed in decibels.

3.42 "Weekday" means any day Monday through Friday which is not a legal holiday

4.50.040 - Powers, duties and enforcement.

4.1 Enforcement. The Chief Building Official and the Council Bluffs police department, unless delegated to another authority by written directive, shall be the enforcement authority and shall have the power and duty of enforcing the provisions of this chapter. The Chief Building Official and/or his/her assignee shall have the power to issue citations for violations of this chapter.

4.2 Powers and Duties. In order to implement and enforce this chapter, the enforcement authority may:

(a) Studies. Conduct, or cause to be conducted, research, monitoring and other studies related to sound; (b) Education. (1) Conduct programs of public education regarding: (A) The causes, effects and general methods of abatement and control of noise, (B) The actions prohibited by this chapter and the procedures for reporting violations, (2) Encourage the participation of public interest groups in related public information efforts; (c) Coordination and Cooperation. (1) Coordinate the noise activities of all municipal departments, (2) Cooperate to the extent practicable with all appropriate state and federal agencies, (3) Cooperate or combine to the extent practicable with appropriate county and municipal agencies, (4) Enter into contracts, with the approval of the city council, for the provision of technical and enforcement services; (d) Review of Actions of Other Departments. Request any other department or agency responsible for any proposed or final standard, regulation or similar action to consult on the advisability of revising the action, if there is reason to believe that the action is not consistent with this chapter; (e) Review of Public and Private Projects. Review public and private projects, subject to mandatory review or approval by other departments, for compliance with this chapter, if such projects are likely to cause noise in violation of this chapter; (f) Inspections. (1) Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests; (2) Stop any motor vehicle, motorcycle, or motorboat operation on a public right-of-way, public space, public waterway, or any private property which is reasonably suspected of violating any provision of this chapter, and issue a notice of violation or abatement order which require the motor vehicle, motorcycle or motorboat to be inspected to tested as the enforcement authority may reasonably require; (h) Noise Sensitive Area Recommendations. Prepare recommendations, to be approved by the city council for the designation of noise sensitive areas which contain noise sensitive activities. Existing quiet areas shall be considered noise sensitive areas until otherwise designated. Noise sensitive activities include, but are not limited to, operations of schools, libraries open to the public, churches, hospitals and nursing homes; (i) Planning to Achieve Long-term Noise Goals. Develop a generalized sound level map of the city, a long-term plan for achieving quiet in the city, and integrate this plan with the city planning commission's comprehensive city plan.

4.50.060 - Prohibited acts.

6.1 Noise Disturbances Prohibited. It is unlawful for any person to unreasonably make, continue or cause to be made or continued, any noise disturbance.

6.2 Exemptions. The provisions of this section shall not apply to:

(a) The specific prohibitions in this section during the hours a sound level limit is specified; (b) Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way.

6.3 Specific Prohibitions. It is unlawful for any person to perform, create, cause or permit the following acts, and the same are declared to be in violation of this chapter, unless a special variance is issued pursuant to the provisions of subsection 7.2 of Section 4.50.070:

(a) Radios, television sets, musical instruments and similar devices which produce, reproduce or amplify sound: (1) Between the hours of ten p.m. and seven a.m. the following day in such a

manner as to create a noise disturbance across a real property boundary or within a noise sensitive area and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, (2) In such a manner as to be audible at one hundred (100) feet from such device, regardless of the time of day, when operated in or on a motor vehicle or boat, on a public right-of-way, public space or public waters, (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier, (4) Subsection (a) shall not apply to noncommercial spoken language covered under subsection (b); (b) Loudspeakers—Public Address Systems: (1) Using or operating for any noncommercial purpose any loudspeaker, public address system, or similar device (A) so that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area; or (B) between the hours of ten p.m. and seven a.m. the following day on a public right-of-way or public space and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, (2) Using or operating for any commercial purpose any loudspeaker, public address system, or similar device (A) so that the sound therefrom creates a noise disturbance across a real property boundary or within a noise sensitive area; or (B) between the hours of ten p.m. and seven a.m. the following day on a public right-of-way or public space, (3) This subsection 6.3(b) shall not apply to any member of a federal, state or local law enforcement, public safety or civil defense agency, in performance of official duty; (c) Street Sales. Offering for sale or selling anything by shouting or outcry within any residential or commercial area of the city, except between the hours of seven a.m. and ten p.m.; (d) Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks or makes other sounds which create a noise disturbance across a residential real property boundary, or within a noise sensitive area; (e) Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans or similar objects, or the operation of compacting mechanisms, between the hours of ten p.m. and seven a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive area and from seven a.m. to ten p.m. so as to violate the provisions of Section 4.50.080, except that sound emission from commercial and industrial land use shall be governed by the provisions of Section 4.50.080 at all times; (f) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling, or demolition work: (1) Between the hours of ten p.m. and seven a.m. the following day on weekdays or Saturday or any time on Sunday or holidays, so that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive area, except for work of city public works crews, work being performed under contract to the city, or public service utilities, (2) Any other time so that the sound level across a real property boundary exceeds the limit of eighty-five (85) L eq(1) at fifteen (15) meters (fifty (50) feet) measured from construction site boundary, (3) This subsection (f) shall not apply to the use of domestic tools subject to subsection (q) of this section; (g) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone; (h) Reserved; (i) Places of Public Entertainment. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than ninety dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating, "WARNING, SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT"; (j) Explosives, Firearms and Similar Devices. The use or firing of explosives, firearms, fireworks or similar

devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way, without first obtaining a special variance issued pursuant to subsection 7.2 of Section 4.50.070. Such permit need not be obtained for licensed game hunting activities on property where such activities are authorized. This subsection (j) shall not apply to any federal, state or local law enforcement agency or person in performance of official duty:

Exceptions:

(1) The discharging of consumer fireworks (as defined in the newly adopted Section 110.19 of the Code of Iowa) that are permitted to be sold within the state of Iowa shall be permitted only if authorized by a resolution of the City Council approved at least 30 days in advance of the effective date; (2) Restriction as to Age. Consumer fireworks that are identified as being class one or class two may only be discharged by individuals that are eighteen (18) years of age and older. Fireworks that are classified as novelties (APAS 87-1) may be discharged by individuals five years of age and older but only when supervised by an adult; (3) Restrictions as to Locations. An individual shall not use consumer fireworks on real property other than that individual's real property or on real property of a person who has consented to the use of consumer fireworks on that property; (4) No fireworks shall be permitted to be discharged in areas zoned C-3/commercial district or C-4/commercial district at any time; (5) No individual shall discharge any consumer fireworks within fifty (50) feet of another person or within fifty (50) feet of a structure; (6) Restrictions due to drought conditions. No person shall discharge consumer fireworks at any time when Pottawattamie County has issued a burn ban;

Penalty: Any discharging of the above referenced consumer fireworks outside of the excepted dates, hours or locations or under conditions restricted above shall be deemed a simple misdemeanor and shall be punishable by a fine of not less than two hundred fifty dollars (\$250.00);

(k) Powered Model Vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of ten p.m. and seven a.m. the following day. Maximum sound levels in a public space during the permitted period of operation shall conform to those set forth for residential land use in Table 1 of Section 4.50.080, and shall be measured at a distance of fifteen (15) meters (fifty feet) from any point on the path of the vehicle. Maximum sound levels for residential property and noise sensitive zones, during the permitted period of operation, shall be governed by subsection 8.1 of Section 4.50.080 and subsection 6.3(p) of this section, respectively; (l) Reserved; (m) Stationary Nonemergency Signaling Devices: (1) Sounding or permitting the sounding of any signal from any stationary or mobile bell, chime, siren, whistle, horn or similar device, whether or not electronically amplified, intended primarily for nonemergency purposes, from any place, for more than one minute in any hourly period, (2) Devices used in conjunction with places of religious worship shall be exempt from the operation of this provision; (n) Emergency Signaling Devices: (1) The intentional sounding or permitting the sounding outdoors of any fire, burglar alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subdivision (2) of this subsection (n), (2) (A) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before seven a.m. or after ten p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds, (2) (B) Testing of the complete emergency signaling system, including the

functioning of the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before seven a.m. or after ten p.m. The time limit specified in subdivision (a)(2)(A) shall not apply to such complete system testing, (3) Provisions of this subsection (n) shall not apply to government owned and operated civil defense sirens under the jurisdiction of the civil defense director; (o) Motorboats: Operating or permitting the operation of any motorboat in any lake, river, stream or other waterway in such a manner as to exceed a sound level of seventy-six dBA (fast meter response) at fifteen (15) meters (fifty (50) feet) or the nearest shoreline, whichever distance is greater; (p) Noise Sensitive Areas: (1) Creating or causing the creation of any sound within any noise sensitive area designated pursuant to subsection 2.10 of Section 4.50.040, so as to disrupt the activities normally conducted within the area; provided, that conspicuous signs are displayed indicating the presence of the area, or (2) Creating or causing the creation of any sound within any noise sensitive area, designated pursuant to subsection 2.10 of Section 4.50.040, containing a hospital, nursing home or similar activity, so as to interfere with the functions of such activity or disturb or annoy the patients in the activity; provided, that conspicuous signs are displayed indicating the presence of the area; (q) Domestic Tools. (1) Operating or permitting the operation of any saw, hammer, drill, sander, grinder, lawn or garden tool, lawnmower, or similar device used outdoors in residential areas between the hours of ten p.m. and seven a.m. the following day so as to cause a noise disturbance across a residential real property boundary, (2) Snowblowers and other machinery used for snow removal are exempt from the requirements set forth in subdivision (q)(1) of this section, while actually being used for snow removal; (r) Tampering. It is unlawful to tamper, remove or render inaccurate or inoperative any sound monitoring instrument or device positioned by or for the enforcement authority; (s) Voice Disturbance. Yelling, shouting, screaming, or otherwise vocalizing frequently, for continued duration or using abusive or obscene language as defined by Council Bluffs Municipal Code Section 8.20.010, making a noise disturbance at any time of day or night, across a residential or commercial real property boundary, or within a noise sensitive area.

4.50.070 - Exceptions and variances.

7.1 Emergency Exceptions. The provisions of this chapter shall not apply to (a) the emission of sound for the purpose of alerting persons to the existence of any emergency, or (b) the emission of sound in the performance of emergency work.

7.2 Special Variances.

(a) The City Council shall hear and determine all variance applications within fifteen (15) days of the application upon such notice as the council may direct. (b) Any person seeking a special variance pursuant to this section shall file an application with the City Clerk. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the City Clerk containing any information to support his or her claim. (c) In determining whether to grant or deny the application, the City Council shall balance the hardship to the applicant, the community, and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the council may reasonably require. In granting or denying an application, the board

of health shall place on public file a copy of the decision and the reasons for granting or denying the special variance. (d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of the special variance shall terminate it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted. (e) In addition to other requirements, the City Council, as part of the conditions of a special variance, may: (1) Require the owner or operator of any commercial or industrial activity to establish and maintain records and make such reports as the board may reasonably prescribe; (2) Require the owner or operator of any commercial or industrial activity to measure the sound level of any source in accordance with the methods and procedures and at such locations and times as the Council may reasonably prescribe, and to furnish reports of the results of such measurements to the board. The board may require the measurements to be conducted in the presence of its enforcement officials. (f) No variance shall be granted for a period to exceed three years at a time. (g) Application for extension of time limits specified in special variances for modification of other substantial conditions or for renewal shall be treated like applications for initial special variances under subsection (b). (h) The City Council may issue guidelines defining the procedures to be followed in applying for a special variance, and the criteria to be considered in deciding whether to grant a special variance.

7.3 Reserved.

7.4 Appeals. Any determination by the Director pursuant to this provision may be appealed within ten (10) days to the Council Bluffs city council by filing a notice of appeal with the city clerk.

4.50.080 - Sound levels by receiving land use.

8.1 Maximum Permissible Sound Levels by Receiving Land Use. It is unlawful for any person to operate or cause to be operated on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table 1 as follows, unless otherwise provided in this chapter, when measured at or within the property boundary of the receiving land use; provided, however, that no measurement of sound levels shall be made less than fifteen (15) meters (fifty (50) feet), or equivalent (Section 4.50.110, Noise measurement procedures), from such source of sound.

Table 1
Sound Levels By Receiving Land Use

Sound Emitting Land-Use Category	Sound Receiving Land-Use Category	Sound Level Time of Day	Sound Level Limit, dBA Leq(1)
Residential	Residential	Daytime	55
		Nighttime	45
Business/Commercial	Residential	Daytime	60
		Nighttime	50
Industrial	Residential	Daytime	65
		Nighttime	55
Residential	Business/Commercial	Anytime	60
Business/Commercial	Business/Commercial	Anytime	65
Industrial	Business/Commercial	Anytime	65

Industrial	Industrial	Anytime	75
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8.2 Correction for Character of Sound. For any source of sound which emits a pure tone or impulsive sound, the L eq(1) sound level limits set forth in subsection (8.1) of this section, shall be reduced by five dBA for any pure tone or impulsive sound. Special instrumentation and measurement techniques are required if a pure tone or impulsive sound is less than five dBA above the background noise level.

8.3 Exemptions. The provisions of this section shall not apply to:

(a) Any of the subsections in Section 4.50.060, except as noted in Section 4.50.060; (b) Interstate railway locomotives and cars; (c) Undeveloped land, farm land and nonstationary farming equipment and all normal agricultural activities; and (d) Notwithstanding Table 1 above, an electric utility generation facility, as defined in Chapter 15.03 of the Council Bluffs Municipal Code, may generate a decibel reading not to exceed sixty-five (65) dBA at anytime (day or night) to a receiving land use that is residential. The level of sound for an electric utility generation facility shall be measured by using an L90 measurement technique, and for a one-hour average. Sound from sources other than the electric utility generation facility, including, but not limited to, streets, highways, seasonal insects and other uses, shall not be counted against the ordinance limits.

4.50.090 - Motor vehicle maximum sound levels.

9.1 Motor Vehicles and Motorcycles on Public Rights-of-way. It is unlawful for any person to operate or cause to be operated a motor vehicle or motorcycle on a public right-of-way at any time in such a manner that the sound level emitted by the motor vehicle or motorcycle exceeds the level set forth in Table 2 as follows, for the speed limit zone, regardless of the actual speed of the motor vehicle or motorcycle or in any other manner prohibited by this section.

Table 2
Motor Vehicle and Motorcycle Sound
Limits Measured at Fifteen Meters (fifty feet)
(maximum sound level, fast meter response)

Vehicle Class	Sound Level in dBA Speed Limit Zone (35 MPH or Less)	Sound Level in dBA Speed Limit Zone (Over 35 mph)	Sound Level in dBA Stationary Run-Up
1. Motor carrier vehicle engaged in interstate commerce of GVWR or GCWR of 10,000 lbs. or more	86	90	88
2. All other motor vehicles of GVWR or GCWR of 10,000 lbs. or more	86	90	85
3. Any motorcycle	82	86	85
4. Any other motor vehicle or any combination	76	82	85

of vehicles towed by any other motor vehicle			
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(a) Adequate Mufflers or Sound Dissipative Devices. (1) No person shall operate or cause to be operated on a public right-of-way any motor vehicle or motorcycle not equipped with a muffler or other sound dissipative device in good working order, in constant operation, and that will sufficiently reduce sound to any acceptable level so as not to create a nuisance to any person. (2) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair, or replacement, any muffler or sound dissipative device on a motor vehicle or motorcycle. (b) Motor Vehicle Horns and Signaling Devices. The following acts and the causing thereof are declared to be in violation of this chapter: (1) The sounding of any horn, bell or other auditory device on or in any motor vehicle on any public right-of-way or public space for the period of more than one minute in any hourly period, except as a warning of danger; (2) The sounding of any horn or other auditory signaling device which produces a sound level in excess of eighty-five (85) dBA at fifteen (15) meters (fifty (50) feet), except as a warning of danger. (c) Reserved. (d) Standing Motor Vehicles. No person shall operate or permit the operation of any motor vehicle with a gross vehicle weight rating (GVWR) in excess of ten thousand (10,000) pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than five minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, on a public right-of-way or public space within forty-six (46) meters (one hundred fifty (150) feet) of a residential area or designated noise sensitive zone, between the hours of ten p.m. and seven a.m. the following day.

9.2 Recreational Motorized Vehicles Operating off Public Rights-of-way.

(a) Except as permitted in subdivision (b) or (c) below no person shall operate or cause to be operated any recreational motorized vehicle off a public right-of-way in such a manner that the sound level emitted therefrom exceeds the limits set forth in Table 3 of this subsection, at a distance of fifteen (15) meters (fifty (50) feet) or more from the path of the vehicle when operated on a public space or at or across the boundary of private property when operated on private property. This subsection (9.2) shall apply to all recreational motorized vehicles, whether or not duly licensed and registered, including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, gocarts, snowmobiles, amphibious craft, campers and dune buggies, but not including motorboats. (b) It is illegal for any person to sponsor or conduct any recreational, sporting or other type of motorized racing event without first registering said event with the city health director. (c) Other special variances may be obtained from the board of health.

Table 3
Recreational Motorized Vehicle Sound Limits (Measured at Fifteen Meters (Fifty Feet))
(Maximum Sound Level, Fast Meter Response)

Vehicle Type	Sound Level, dBA
Snowmobile	78
Motorcycle	78
Any other motorized recreational vehicle	78

4.50.110 - Enforcement.

(a) Noise Measurement Procedures. The noise measurement procedures to be used for the enforcement of this chapter shall be based on current industry standards. (b) Nuisance Declared. Any violation of the provisions of this chapter shall be deemed a nuisance. The provisions of Chapter 8.54 shall apply to any violation of any of the provisions of this chapter. (c) Immediate Threats to Health and Welfare. (1) The Chief Building Official shall declare an emergency as provided in Chapter 8.54 and order an immediate halt to any sound which exposes any person across a real property boundary to continuous sound levels in excess of those shown in Table 4. (2) No order pursuant to subdivision (1) of this subsection shall be issued if the only persons exposed to sound levels in excess of those listed in Table 4 are exposed as a result of (A) trespass, or (B) invitation upon private property by the person causing or permitting the sound, except as provided in subsection (6.3)(i) of Section 4.50.060. (3) Any person subject to an order issued pursuant to subdivision (1) of this subsection shall comply with such order until: (A) The sound is brought into compliance with the order, as determined by the director of public health; or (B) The board of health or a judicial order has superseded the director of public health's order. (d) Reserved.

Table 4
Continuous Sound Levels Which Pose an Immediate Threat to Health and Welfare Measured at the Receiver's Ear
Across a Real Property Boundary (slow meter response)

Sound Level Limit (dBA)	Duration Hours and	Minutes
90	8	0
91	7	0
92	6	0
93	5	20
94	4	40
95	4	0
96	3	30
97	3	0
98	2	40
99	2	20
100	2	0
101	1	45
102	1	30
103	1	20
104	1	10
105	1	0
106	0	54
107	0	48
108	0	42
109	0	36
110	0	30
111	0	27

112	0	24
113	0	21
114	0	18
115	0	15

(e) Non-exclusive Nature of Remedy. (1) This chapter is not the exclusive regulation of sound within the city. It shall supplement and be in addition to the other regulatory codes, statutes, ordinances, and rules and regulations heretofore or hereafter enacted by the city, the state, the federal government, or any other legal entity or agency having jurisdiction. (2) No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from other law.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6364

AN ORDINANCE TO AMEND CHAPTER 4.70 “HIGH-RISK SEXUAL CONDUCT” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.70.010 THROUGH 4.70.050.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.70 “High-Risk Sexual Conduct” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.70.010 through 4.70.050 as follows:

4.70.010—Findings.

~~It is found that there are within the City of Council Bluffs commercial premises, buildings and structures, or parts thereof, which, by reason of the design and use of such premises, buildings or structures are conducive to the spread of communicable disease of danger to persons frequenting such premises, buildings and structures, and to the public health, safety and welfare of the community. The health, safety and welfare of all persons in the city of Council Bluffs must be protected through the application and enforcement of standards relating such premises, buildings and structures, in order to eliminate the possibility of the spread of, or infection by, contagious disease. The sexually transmittable disease of acquired immune deficiency syndrome, currently found to be irreversible and uniformly fatal, is found to be of particular danger to persons in this community. The incidence of this disease is found to occur in discernible population groups. The risk factors for obtaining or spreading the disease are associated with high risk sexual conduct. The commercial premises, buildings and structures where persons are placed at risk of infection from this disease or other communicable disease facilitated by their design or use for high risk sexual conduct are in need of regulation, and of establishment of minimal standards for the prevention of the spread of this disease and other communicable diseases for the protection of the public health, safety and welfare of the community.~~

4.70.020—Definitions.

~~(1) As used in this chapter: "high risk sexual conduct" means: (a) Fellatio; (b) Anal intercourse; (c) Vaginal intercourse with persons who engage in sexual acts in exchange for money. (2) "Hazardous site" means any commercial premises, building or structure, or any part thereof, which is a site of high risk sexual conduct. (3) "Booths, stalls, or partitioned portions of a room or individual rooms" means: (a) Enclosures specifically offered to persons for a fee or as an incident to performing high risk sexual conduct; or (b) Enclosures which are part of a business operated on the premises which offers movies, videos or other entertainment to be viewed within the enclosure, including enclosures wherein movies, videos or other entertainment is dispensed for a fee.~~

~~"Booths, stalls, or partitioned portions of a room or individual rooms" does not mean enclosures which are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies, videos or other entertainment for a fee, and are not open to any persons other than employees.~~

~~(4) "Open to an adjacent public room so that the area inside is visible to persons in the adjacent public room" means either the absence of any door, curtain or portal partition or a door or other device which is made entirely of clear, transparent, nontinted, distortion free material such as glass, plexiglass or~~

other similar material meeting building code and safety standards except for the outer most four inches of the door frame, which permits the activity inside the enclosure to be viewed or seen by persons outside the enclosure. (5) "Director of health" means the city of Council Bluffs director of public health or the director's designee. (6) "Board of public health" means the city of Council Bluffs' board of public health.

4.70.030 — Building standards.

(a) No commercial building, structure, premises or part thereof, or facilities therein, shall be so constructed, used, designed or operated for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high-risk sexual conduct. (b) No person shall own, operate, manage, rent, lease or exercise control of any commercial building, structure, premises, or portion or part thereof, which contains: (1) An aperture which facilitates sexual activity between persons on either side of a partition between subdivisions of a room, portion, or part of a building, structure, or premises; (2) Booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas shall be lighted in a manner that the persons in the areas used for viewing motion pictures, videos, or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures, videos or other offered entertainment; (3) Booths, stalls, partitioned portions of a room, or individual rooms used for the viewing of videos, motion pictures, or other entertainment, unless those areas are inspected at least twice daily and cleaned with an approved disinfectant solution as needed; and unless those areas are provided with individual trash receptacles with plastic liners. (c) The standards as set forth in this section shall not apply to buildings, structures and premises which are lawfully operating as hotels, motels, apartment complexes, condominiums or roominghouses. (d) (1) No booth, stall, partitioned portions of a room, or individual rooms may be occupied by more than one person at any time. (2) The owner, operator, manager or person exercising control over any commercial building, structure, premises, or portion or part thereof, which contains booths, stalls, partitioned portions of a room, or individual rooms, shall post a clearly visible sign advising customers that booths may be occupied by only one person at any time.

4.70.035 — Obstructing view.

(a) No person shall obstruct the view of the area inside booths, stalls or partitioned portions of a room or individual rooms in any fashion which would cause the area inside to not be visible to persons in the adjacent public room. (b) No operator shall permit the view of the area inside of booths, stalls, or partitioned portions of a room or individual rooms to be obstructed in any fashion which would cause the area inside to not be visible to persons in the adjacent public room.

4.70.040 — Powers of the director of health.

(a) In exercising powers conferred by this or any other section of this Code relating to communicable diseases, the board of health and the director of health shall be guided by the most recent instructions, opinions and guidelines of the Centers for Disease Control of the United States Department of Health and Human Services which relate to the spread of infectious diseases. Any regulations which are adopted by the board of health which relate to controlling the spread of infectious diseases shall also apply in exercising the powers authorized by this code. (b) In order to ascertain the source of infection and reduce its spread, the director of health, and persons under the director's direction and control, shall have full power and authority to inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, which may be a site of high-risk

sexual conduct. If the director of health determines that a hazardous site exists, the director of health shall declare it to be a public health hazard and public health nuisance and shall then: (1) Notify the management, owner or tenant of the premises that the director has reasonable belief that the premises, building or structure is a hazardous site. (2) Issue warnings to the management, owner or tenant of the premises stating the reasons for the director's belief that the premises, building, or structure is a hazardous site. (3) Once such notice and warnings have been issued, the director, or his/her designee shall proceed as follows: (i) After the management, owner or tenant of the premises has been notified in writing as to the basis of the director's determination, the management, owner or tenant shall have ten (10) days to request a hearing before the board of public health for a determination as to the existence of such hazardous site. If the management, owner or tenant of the premises does not request a hearing within ten (10) days of the notice, the director shall then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site. The director of health shall cause orders to be issued to the management, owner or tenant of the premises constituting the hazardous site to take corrective measures to prevent high-risk sexual conduct from taking place within the premises. (ii) If the management, owner or tenant of the premises requests a hearing, the hearing shall be held before the board of public health at a date not more than thirty (30) days after demand for a hearing. After considering all evidence, the board of public health shall make a determination as to whether the premises constitutes a hazardous site. The board of public health shall then issue a decision based upon all evidence presented. If the board makes a determination that the premises constitutes a hazardous site, the board shall then issue an order and cause the premises, building or structure to be posted with a warning advising the public that the premises have been declared a hazardous site. (4) If, within thirty (30) days from issuance of the orders to the management, owner or tenant of the hazardous site, the director of health determines that such corrective measures have not been undertaken, then the director of health may order the abatement of the hazardous site as a public nuisance, which shall be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or may secure a court order for the closure of the premises constituting the hazardous site until the premises, building or structure is in compliance with the standards set for in Section 4.70.030; or may refer the violation to the city prosecutor for prosecution as a civil infraction or simple misdemeanor. (5) Any person who removes, destroys or defaces warnings posted on premises shall be guilty of a misdemeanor.

4.70.050 – Penalty.

Any person found guilty of a violation of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6365

AN ORDINANCE TO AMEND CHAPTER 4.60 "HAZARDOUS SUBSTANCES" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.60.010 THROUGH 4.60.080.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.60 "Hazardous Substances" of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.60.010 through 4.60.080 as follows:

~~4.60.010 – Purpose.~~

~~In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the city limits.~~

~~4.60.020 – Definitions.~~

~~For the purpose of this chapter, these words have the following meanings:~~

~~(1) "Cleanup" means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste. (2) "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance or hazardous waste onto the land, into the water, or into the atmosphere which creates an immediate or potential danger to the public health or safety. (3) "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designed by the secretary of transportation under the Hazardous Materials Transportation Act. (4) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects: (a) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) Poses a substantial danger to human health or the environment. "Hazardous waste" may include, but is not limited to, wastes that are toxic, corrosive, or flammable or irritants, strong sensitizers or explosives. (5) "Hazardous waste" does not include: (a) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners; (b) Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979. (6) "Person" means individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity. (7) "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance or hazardous waste, the release of which creates a hazardous condition,~~

including bailees, carriers, and any other person in control of a hazardous substance or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance or waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or waste.

~~4.60.030—Cleanup required.~~

~~(a) Whenever a hazardous condition is created so that a hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup as defined by Section 4.60.020, as rapidly as feasible to an acceptable safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person. (b) If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the city may, by authorization of the mayor or his/her designee, give reasonable notice based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup, or the city may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the city to finance, the mayor or his/her designee may report to the city council and immediately seek any state or federal funds available for such cleanup.~~

~~4.60.040—Liability for cleanup costs.~~

~~The responsible person shall be strictly liable to the city for all of the following:~~

~~(1) The reasonable costs incurred by the city in containing and/or controlling a hazardous condition; (2) The reasonable cleanup costs incurred by the city as a result of the failure of the person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person; (3) The reasonable costs incurred by the city to evacuate people from the area threatened by a hazardous condition caused by the person; (4) The reasonable damages to the city for the injury to, destruction of, or loss of city property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss. (5) The costs referenced above shall be as determined by the fire chief for: manpower, apparatus, ambulance/rescue squad, command vehicle or utility truck, supplies and outside services, mileage, and decontamination, repairs, replacement, maintenance of equipment, apparatus or supplies, plus a reasonable administrative fee. It is unlawful for any responsible person to fail to pay a billing for such services within thirty (30) days of receipt therefor.~~

~~4.60.050—Notifications.~~

~~(a) A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Council Bluffs fire chief of the occurrence of a hazardous condition as soon as possible, but no later than one hour after the onset of the hazardous condition or discovery of the hazardous condition. The fire chief shall notify the proper state office in the manner established by the state. (b) Any city employee who discovers a hazardous condition shall notify the fire department, which shall notify the proper state office in the manner established by the state.~~

~~4.60.060—Police authority.~~

~~If the circumstances reasonably so require, the Council Bluffs fire chief or police chief, or their representative(s), may:~~

- (1) Evacuate persons, even from their homes, to areas away from the site of a hazardous condition; and
(2) Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of the fire chief or any other deputy or peace officer/law enforcement officer issued under this section.

4.60.070 — City liability.

The city of Council Bluffs shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition. Except, if the city is the responsible person as defined in Section 4.60.020(7).

4.60.080 — Penalty.

Any person found guilty of a violation of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6366

AN ORDINANCE TO AMEND CHAPTER 4.80 "MINIMUM REQUIREMENTS FOR TANNING" OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.80.010 THROUGH 4.80.070.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.80 "Minimum Requirements for Tanning" of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.80.010 through 4.80.070 as follows:

~~4.80.010—Purpose.~~

~~This chapter provides for the permitting and regulation of tanning facilities and devices used for the purpose of tanning human skin through the application of ultraviolet radiation. This includes, but is not limited to, public and private businesses, hotels, motels, apartments, condominiums, health and country clubs.~~

~~Reference to CFR's in this chapter are those in effect October 1, 1996, and any additional amendments.~~

~~These rules stipulate minimum safety requirements relating to the operation of tanning devices; procedures for obtaining a permit; qualifications for tanning facility operators; and procedures for health departments to provide for the inspection of tanning facilities and enforcement of these rules. Tanning facilities which are in compliance with these rules are not relieved from the requirements of any other federal and state regulations or local ordinances.~~

~~4.80.020—Definitions.~~

~~For the purposes of the Municipal Code of Council Bluffs, the following definitions shall apply throughout, unless a more specific definition is included in the relevant chapter or section or the common usage of the term would clearly indicate another definition:~~

~~(1) "Board of health" means the local board of health as constituted under Chapter 137 of the Code of Iowa. (2) "Cleansing" means to remove soil, dirt, oils or other residues from the surface tanning unit which may come into contact with the skin. (3) "Cleansing agent" means a substance capable of producing the effect of cleansing. These agents shall not adversely affect the equipment or the health of the consumer and shall be acceptable to the department or board of health. (4) "Consumer" means any member of the public who is provided access to a tanning facility in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning facility as a condition or benefit of membership or access. (5) "Department" means the city of Council Bluffs department of public health. (6) "Director" means the director of public health or the director's designee. (7) "Exposure position" means any position, distance, orientation, or location relative to the radiation surfaces of a tanning device at which the user is intended to be exposed to ultraviolet radiation from the product, as recommended by the manufacturer. (8) "Formal training" means a course of instruction approved by the department for operators of tanning facilities. (9) "Health care professional" means an individual, licensed by the state of Iowa, who has received formal medical training in the use of phototherapy. (10) "Inspection" means an official examination or~~

observation including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of these rules. (11) "Manufacturer's recommendations" means written guidelines established by a manufacturer and approved by the U.S. Food and Drug Administration for the installation and operation of the manufacturer's equipment. (12) "Operator" means an individual designated to control operation of the tanning facility and to instruct and assist the consumer in the proper operation of the tanning devices. (13) "Permit" or "permit to operate" means a document issued by the department which authorizes a person to operate a tanning facility in the city of Council Bluffs, Iowa. (14) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, or any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing, but shall not include federal government agencies. (15) "Phototherapy device" means a piece of equipment that emits ultraviolet radiation and is used by a health care professional in the treatment of disease. (16) "Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in the air between two hundred (200) and four hundred (400) nanometers and that is used for tanning of human skin, such as sunlamps, tanning booths, or tanning beds. The term also includes any accompanying equipment such as protective eyewear, timers, and handrails. (17) "Tanning facility" means a place that provides access to tanning devices for compensation. (18) "Ultraviolet radiation" means electromagnetic radiation with wavelengths in air between two hundred (200) nanometers and four hundred (400) nanometers.

4.80.030—Exemptions.

The department may upon application or upon its own initiative, grant exemptions from the requirements of these rules as long as it will not result in undue hazard to public health and safety. The following categories of devices are exempt from the provisions of this chapter:

(1) Other Purposes. Devices intended for purposes other than the deliberate exposure of human skin to ultraviolet radiation which produce or emit ultraviolet radiation incidental to their proper operation. (2) Personal Use. Tanning devices which are limited exclusively to personal use by an individual and this individual's immediate family. Multiple ownership of the device by persons for personal use only does not qualify it for the "personal use only" exemption. (c) Phototherapy Devices. Phototherapy devices used by properly trained health care professional in the treatment of disease.

4.80.040—Permits and fees.

(a) No tanning facility shall be operated in the city without having a permit to operate issued by the Iowa Department of Public Health. (b) Inspections. (1) Inspections shall be conducted annually. (2) Inspection costs. (A) An inspection cost of thirty three dollars (\$33.00) per tanning device shall be billed to the permit holder up to a maximum of three hundred thirty dollars (\$330.00) per facility. (B) Inspection costs shall be due upon receipt of payment due notice. When the tanning facility is located within a contracted area of a board of health, the costs billed will be paid to the contracted board of health or its designee. (C) Inspection costs not received within forty five days of the date of billing will be assessed a twenty five dollar (\$25.00) penalty for each month or fraction thereon that the bill is delinquent. (3) Inspections shall include the following areas: proper operation and maintenance of devices, review of required records and training documentation, operator understanding and competency, and the requirements of these rules.

4.80.050—Construction and operation of tanning facilities.

Unless otherwise ordered or approved by the department, each tanning facility shall be constructed, operated, and maintained to meet the following minimum requirements:

(1) A tanning facility shall provide and post the following warning signs and statements that describe the hazards associated with the use of tanning devices: (A) A warning sign in a conspicuous location readily visible to persons entering the establishment. This warning sign shall use 0.5 inch (12.7 millimeter) letters for "Danger, Ultraviolet Radiation" and 0.25 inch (6.4 millimeter) letters for all other lettering. The sign shall use red lettering against a white background, be at least nine inches by twelve (12) inches (22.9 centimeters by 30.5 centimeters) and have the following wording:

DANGER

ULTRAVIOLET RADIATION

Overexposure can cause:

—Eye and skin injury

—Allergic reaction

Repeated exposure may cause:

—Premature aging of the skin

—Skin cancer

Failure to wear protective eyewear may result in:

—Severe burns to eyes

—Long term injury to eyes

Medication or cosmetics may increase your sensitivity.

(B) A warning sign with the identical wording set forth in subsection (1)(A) of this section posted within one meter of the tanning device in a conspicuous location readily visible to a person preparing to use the device. This warning sign shall use 0.5 inch (12.7 millimeter) lettering for "Danger, Ultraviolet Radiation" and 0.25 inch (6.4 millimeter) lettering. The sign shall use red lettering against a white background and be at least six inches by nine inches (15.2 centimeters by 22.9 centimeters) in size. (C) A tanning facility shall provide each customer with a written warning statement prior to the customer's initial exposure which includes at least the following information: (i) A representative list of potential photosensitizing drugs and agents; this list should at least include drugs or agents in the product classes of acne treatment, antibacterials, antibiotics, anticonvulsants, antidepressants, antidiabetics, antihypertensive, dye, estrogen and progesterones, melanogenics, perfumes and toilet articles, tranquilizers, antihistamines, and antimicrobials/anti-infectious agents. A partial list of drugs and agents in these product classes is found in Appendixes IA, IB, and IC of Chapter 46 of the Iowa Administrative Code and is adopted by reference. (ii) Information regarding potential negative health effects related to ultraviolet exposure, including: a. The increased risk of skin cancer later in life; b. The increased risk of skin thickening and premature aging; c. The possibility of burning or rashes, especially if using any of the potential photosensitizing drugs and agents. Consult a physician before using a tanning device, if you are using medication, have a history of skin problems or you are especially sensitive to sunlight. (iii) Basic information on how different skin types respond to tanning (See Appendix No. 2 of Chapter 46 of the Iowa Administrative Code); (iv) An explanation of the need to use eyewear; (v) The operator shall then request that the consumer sign a statement that the

information has been read and understood. (2) Federal Certification. (A) Only tanning devices manufactured and certified under the provisions of 21 CFR Part 1040.20, "Sunlamp products and ultraviolet lamps intended for use in sunlamp products," shall be used in tanning facilities. Compliance shall be based on the standard in effect at the time of manufacture as shown on the device identification label required by 21 CFR Part 1010.2 and 1010.3. (B) Labeling shall meet the requirements, be visible on each unit and be permanently affixed. Labeling shall include: (i) Warning statement with the words:

—"Danger—Ultraviolet radiation. Follow instructions. Avoid overexposure. As with natural sunlight, overexposure can cause premature aging of the skin and skin cancer. WEAR PROTECTIVE EYEWEAR; FAILURE TO DO MAY RESULT IN SEVERE BURNS OR A LONG-TERM INJURY TO THE EYES. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or believe yourself especially sensitive to sunlight. If you do not tan in the sun, you are unlikely to tan from the use of this product."

(ii) Recommended Exposure Position(s). Any exposure position may be expressed either in terms of a distance specified both in meters and in feet (or in inches) or through the use of markings or other means to indicate clearly the recommended exposure position. (iii) Directions for achieving the recommended exposure position(s) and a warning that the use of other positions may result in overexposure. (iv) A recommended exposure schedule including duration and spacing of sequential exposures and maximum exposure time(s) in minutes. (v) A statement of the time it may take before the expected results appear. (vi) Designation of the ultraviolet lamp type to be used in the product. (3) Tanning Device Timers. (A) Each tanning device shall have a timer which complies with the requirements of 21 CFR Part 1040.20. The maximum timer interval shall not exceed the manufacturer's maximum recommended exposure time. No timer shall have an error factor greater than ± 10 percent of the indicated setting. (B) Each tanning device must have a method of remote timing located so that customers may not control their own exposure time. (C) Tokens for token timers shall not be issued to any consumer in quantities greater than the device manufacturer's maximum recommended exposure time for the consumer. (4) Each tanning device shall incorporate a control on the product to enable the consumer to manually terminate the radiation emission from the product at any time without disconnecting the electrical source or removing the ultraviolet lamp. (5) The operator shall ensure that the facility interior temperature does not exceed one hundred (100) degrees Fahrenheit or thirty-eight degrees Celsius. (6) Condition of Tanning Devices. (A) There shall be physical barriers to protect consumers from injury induced by touching or breaking the lamps. (B) The tanning devices shall be maintained in good repair and comply with all state and local electrical code requirements. (7) Additional Requirements for Stand-up Booths. (A) There shall be physical barriers (handrails, etc.) or other means (floor markings) to indicate the proper exposure distance between ultraviolet lamps and the consumer's skin. (B) The construction of the booth shall be such that it will withstand the stress of use and the impact of a falling person. (C) Access to the booth shall be of rigid construction; doors shall open outwardly. Handrails and nonslip floors shall be provided. (8) Protective Eyewear. (A) Eyewear shall not be re-used by another consumer. (B) Protective eyewear shall meet the requirements of 21 CFR Part 1040.20(c)(4). (C) Protective eyewear shall not be altered in any manner that would change its use as intended by the manufacturer (i.e., removal of straps). (D) A tanning facility operator shall not allow a consumer to use a tanning device if that consumer does not use the protective eyewear required by this subrule. (9) Operation. (A) A trained operator must be present when a tanning device is operated. The operator must be within hearing distance to allow the consumer to easily summon help if necessary. If the operator is not in the immediate vicinity during use, the following conditions must be met: (i) The consumer can summon help through use of an audible device such as an intercom or buzzer; and (ii) The operator can reach the consumer within thirty (30) seconds after being summoned.

(B) The facility permit to operate shall be displayed in an open public area of the tanning facility. (C) A record shall be kept by the facility operator of each consumer's total number of tanning visits and tanning times, exposure lengths in minutes, times and dates of the exposure, and any injuries or illness resulting from the use of the tanning device. (D) A written report of any tanning injury shall be forwarded by the permit holder to the Iowa Department of Public Health and the local board of health within five working days of its occurrence or knowledge thereof. The report shall include: (i) The name of the affected individual; (ii) The name and location of the tanning facility involved; (iii) The nature of the injury; (iv) The name and address of health care provider treating the affected individual, if any; and (v) Any other information considered relevant to the situation. (E) Defective or burned-out lamps or filters shall be replaced with a type intended for use in that device as specified on the product label on the tanning device, or, with lamps or filters that are "equivalent" under 21 CFR Part 1040, Section 1040.20 and policies applicable at the time of lamp manufacture. (F) The permit holder shall replace ultraviolet lamps and bulbs, which are not otherwise defective or damaged, at such frequency or after such duration of use as may be recommended by the manufacturer of such lamps or bulbs. (G) Contact surfaces of tanning devices shall be cleansed by the operator with a cleansing agent between each use or the contact surfaces may be covered by a nonreusable protective material during each use. (H) Any records or documentation required by this chapter must be maintained in the tanning facility for a minimum of two years. Records maintained on computer systems shall be regularly copied, at least monthly, and updated on storage media other than the hard drive of the computer. An electronic record must be retrievable as a printed copy. (I) The operator shall limit the exposure of the consumer to the maximum exposure frequency and session duration recommended by the manufacturer. (J) When a tanning device is being used, no other person shall be allowed to remain in the tanning device area unless protective eyewear is worn. (10) Training of Operators. (A) No individual shall begin functioning as an operator unless the individual has satisfactorily completed a training program. Training shall include but not be limited to: (i) The requirements of Chapter 46 of the Iowa Administrative Code; (ii) Procedures for correct operation of the tanning facility and tanning devices; (iii) The determination of skin type of consumers and appropriate determination of duration of exposure to tanning devices; (iv) Recognition of reaction or overexposure; (v) Manufacturer's procedures for operation and maintenance of tanning devices. (B) Owners and managers must complete formal training approved by the Iowa Department of Public Health. All owners and managers training after December 31, 1997, must satisfactorily pass a certification examination approved by the Iowa Department of Public Health before operating a tanning facility or training employees. (C) For Operators Trained After December 31, 1997. Owners and managers are responsible to train operators in the above topics and to provide review as necessary. Training programs shall be approved by the Iowa Department of Public Health and include final testing. Operators shall be questioned during inspections as to the level of the individual's understanding and competency in operating the tanning device. (D) Proof of training for both owner/managers and employees must be maintained in the tanning facility and available for inspection. For operators trained after December 31, 1997, the employee record shall be the original test which bears the signature of the employee, the date, and a statement signifying that all answers have been completed by the employee and without prior knowledge to the scoring key. (11) Promotional Materials. A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk or that the use of the device will result in medical or health benefits. The only claim that may be made is that the device is for cosmetic use only.

4.80.060—Inspections, violations and injunctions.

(a) The director or an authorized agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine if this chapter is being violated. (b) A person who operates or uses a tanning device or tanning facility in violation of this chapter or of any rule adopted pursuant to this

~~chapter is guilty of a simple misdemeanor. (c) If the director finds that a person has violated, or is violating or threatening to violate this chapter and that the violation creates an immediate threat to the health and safety of the public, the director may petition the district court for a temporary restraining order to restrain the violation or threat of violation. (d) On application for injunctive relief and a finding that a person is violating or threatening to violate this chapter, the district court shall grant any injunctive relief warranted by the facts. (e) Enforcement. (1) The department shall take the following steps or use any other applicable ordinances, resolutions, rules, and/or regulations when enforcement of these rules is necessary. (A) Cite each section of the municipal code or rules violated. (B) Specify the manner in which the owner or operator failed to comply. (C) Specify the steps required for correcting the violations. (D) Request a corrective action plan, including a time schedule for completion of the plan. (E) Set a reasonable time limit, not to exceed thirty (30) days from the receipt of the notice, within which the permit holder must respond. (2) The department shall review the corrective action plan and approve it or require that it be modified. (3) In cases where the permit holder fails to comply with conditions of the written notice, the department shall send a regulatory letter, via certified mail, advising the permit holder that unless action is taken within five days of receipt, the case shall be turned over to the city attorney for court action.~~

~~4.80.070 – Penalty for violation.~~

~~Any person, firm, partnership, corporation or any legal entity found guilty of a violation of any of the provisions of this chapter shall upon conviction be subject to a fine not exceeding one hundred dollars (\$100.00) or be imprisoned for a term not exceeding thirty (30) days. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6367

AN ORDINANCE TO AMEND CHAPTER 4.90 “QUARANTINE” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTIONS 4.90.010 AND 4.90.020.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 4.90 “Quarantine” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Sections 4.90.010 and 4.90.020 as follows:

~~4.90.010 – Removal of quarantine notice.~~

~~Any person who willfully violates or fails and neglects to comply with any rule, regulation, requirement or provision of the rules of the State Board of Health or the local board of health of the city, or shall so fail or neglect to comply with any special order, requirement or provision of the local board of health, or any person who willfully fails to obey any quarantine notice or regulation or who removes any placard or posted notice of the board of health or its officers, is guilty of a misdemeanor.~~

~~4.90.020 – Penalty.~~

~~Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95, in lieu of criminal prosecutions.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest: _____
JODI QUAKENBUSH City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____

ORDINANCE NO. 6368

AN ORDINANCE TO AMEND CHAPTER 13.12 “PLUMBING CODE” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY ADDING SECTION 13.12.13 “APPLICATION FOR PERMIT-ISSUANCE OR DENIAL”.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 13.12 “Plumbing Code” of the 2015 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by adding Section 13.12.13 “Application for permit-issuance or denial”, to read as follows:

13.12.010 - Adoption of the Uniform Plumbing Code, 2009 Edition.

The 2009 Edition of the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials, and on file in the office of the building official of the City of Council Bluffs, be and the same is hereby adopted as the Plumbing Code of the city of Council Bluffs, the provisions of which shall provide the citizens of Council Bluffs with minimum requirements and standards for the protection of the public health, safety and welfare as it applies to plumbing installations, alterations, additions, replacements, repairs and maintenance of plumbing systems within this jurisdiction. Each and all of the regulations, provisions, conditions and terms of the Uniform Plumbing Code, 2009 Edition, are hereby referred to and adopted and made a part hereof as if fully set out in this ordinance.

13.12.011 - Adoption of Appendix Chapters A, B, D, E, F, I, and L.

- (a) Appendix A Rules for Sizing Water Supply.
- (b) Appendix B Combination Waste and Vent.
- (c) Appendix D Sizing Stormwater Drainage Systems.
- (d) Appendix E Mobile Home Parks.
- (e) Appendix F Firefighter BAR Systems.
- (f) Appendix I Installation Standards.
- (g) Appendix L Alternate Water Systems.

13.12.012 - Section 906.7 frost and snow closure amended.

[Section 906.7 is amended as follows:]

Where frost and snow closure is likely to occur in locations having an minimum design temperature below 0 degree F, vent terminals shall be not less than three (3) inches in diameter, but in no event smaller than the required vent pipe size plus two pipe sizes up to and including three inches. The change in diameter shall be made inside the building envelope, but not less than one (1) foot below the roof line and terminate not less than one (1) foot above the roof, or as required by the Authority Having Jurisdiction.

13.12.013 - Application for permit—Issuance or denial.

All applications for permits for the construction of private sewage disposal systems shall be made to the Chief Building Official who is authorized to issue a permit therefor upon compliance by the applicant with all the provisions of this regulation and any other pertinent regulations. A permit for

the construction of a private sewage disposal system may be denied where public sewerage systems are within two hundred (200) feet by gravity flow of the structure to be served.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18
Second Consideration: 10-22-18
Public Hearing: N/A
Third Consideration: _____

ORDINANCE NO. 6369

AN ORDINANCE TO AMEND CHAPTER 12.02 “MISCELLANEOUS PROVISIONS” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY ADDING SECTION 12.02.056 “OPEN BURNING PROHIBITED”.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 12.02 “Miscellaneous Provisions” of the 2015 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by adding Section 12.02.056 “Open Burn Prohibited”, to read as follows:

12.02.055 - Fireworks displays—Fire suppression standby.

(a) Any fireworks display on city property shall be required to have fire suppression standby provided by the Council Bluffs fire department on-site at the expense of the responsible party. The fee shall be as set forth in the prevailing schedule of fees. (b) The fire chief may require fire suppression standby at fireworks displays held on private property within the city of Council Bluffs at the expense of the responsible property. The fee shall be as set forth in the prevailing schedule of fees. (c) Any additional expenses incurred by the city as a result of fireworks displays shall be billed to the responsible party at the rate set forth in the prevailing schedule of fees. These expenses may include, but shall not be limited to mowing, barricades, etc.

12.02.056 – Open Burn Prohibited.

For the purpose of this chapter, open burning means the burning of any material wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from any enclosed chamber. A chamber shall be regarded as enclosed when, during the time combustion takes place, only such apertures, ducts stacks, flues, or chimneys as are necessary to provide combustion air and to permit the escape of exhaust gases are open.

(1) It is unlawful for any person to open burn any refuse or to permit open burning of any refuse within the city of Council Bluffs, Iowa. Except as hereinafter provided, this section shall apply to all refuse, including but not limited to waste paper, boxes, market wastes, garden wastes, trees, tree limbs, automobiles and parts thereof, and any and all materials other than material used as fuel in a furnace or boiler.

(2) This section shall not apply to outdoor fireplaces or barbeque grills used solely for the noncommercial preparation of food. Such outdoor fireplaces or grills may be used at other than daylight hours, but shall not be used for burning of refuse or combustible waste.

Fire containment devices, such as fire pits and chimaneas may be used but are subject to the provisions hereinafter set forth:

(A) No outdoor burning is permitted if the wind speed exceeds ten (10) mph;

(B) The fire must be constantly attended and supervised by a responsible adult until the fire has been completely extinguished;

- (C) Fire containment devices shall not be permitted within fifteen (15) feet of any combustible or structure, or within ten (10) feet of a lot line unless mutually agreed upon by the neighboring property owner;
- (D) Fire pits or other fire containment devices shall not exceed three feet in diameter;
- (E) Flames shall be kept below two feet in height above the pit or other fire containment device;
- (F) A portable fire extinguisher or other approved extinguishing equipment, such as a garden hose, must be readily available;
- (G) Burning that is offensive or objectionable to a reasonable person because of smoke or odor emissions, or when atmospheric conditions or local circumstances making such fires hazardous, shall be prohibited.
- (H) The fire chief or fire chief's designee has the authority to enforce the regulations contained within Section 12.02.056.

(3) The director of public health or the director's designee may permit an open fire for the following purposes and subject to the provisions hereinafter set forth:

- (A) City crews operating under the authority of the department of public works;
- (B) The instruction of public employees in methods of fighting fires;
- (C) On private property used for industrial purposes for the instruction of employees in the methods of fighting fires;
- (D) For public gatherings under the legitimate sponsorship of civic, fraternal, religious, educational or similar organizations;
- (E) Recreational bonfire:
 - (i) Permit application and applicable fee is required;
 - (ii) Fire ring free of grass and weeds is required;
 - (iii) Water source must be available at the proposed site.
 - (iv) Fire containment devices shall not be permitted within twenty-five (25) feet of any combustible or structure, or within ten (10) feet of a lot line unless mutually agreed upon by the neighboring property owner;

Authorization to permit an open fire will not be granted by the director of public health or the director's designee when such conditions arise that the fire chief deems such fires to be a safety hazard.

(4) Exceptions.

- (A) This section shall not apply to flare stacks used for the open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with State Code of Iowa.
- (B) This section shall not apply to prescription burns of native grasses when the following conditions are met.
 - (i) Submittal of a Council Bluffs prescription burn application and associated fee to the fire department.
 - (ii) Develop and submit a site fire management plan with health department. a. Plan shall contain: Site background information, fire management justification, fire regime proposal, smoke management plan, neighbor and community relationships and associated aerial maps.
 - (iii) Develop and submit a burn prescription.
 - a. Prescription shall: Identify proper location and owner, plans for unit preparation, ignition and holding operations, identify the unit and all hazards, identify the objectives of the burn, outline contingency plans, describe the weather conditions required, and present plans to notify proper authorities.

(iv) All pertinent information must be reviewed and approved by the fire departments prior to any prescription burn.

(v) Credentialed burn boss shall be utilized for site fire management plan, burn prescription as well as the actual burn.

12.02.060 - Penalty.

Any person found guilty of a violation of any of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

ORDINANCE NO. 6370

AN ORDINANCE TO AMEND TITLE 12 “COUNCIL BLUFFS FIRE CODE” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY ADDING SECTION 12.05 “HAZARDOUS SUBSTANCES”.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Title 12 “Council Bluffs Fire Code” of the 2015 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by adding Section 12.05 “Hazardous Substances”, to read as follows:

12.05.010 - Purpose.

In order to reduce the danger to public health, safety and welfare from the spills of hazardous substances, these regulations are promulgated to establish responsibility for the removal and cleanup of spills within the city limits.

12.05.020 - Definitions.

For the purpose of this chapter, these words have the following meanings:

- (1) "Cleanup" means action necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance or hazardous waste.
- (2) "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance or hazardous waste onto the land, into the water, or into the atmosphere which creates an immediate or potential danger to the public health or safety.
- (3) "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended or any toxic pollutant listed under Section 307 of the Federal Water Pollution Control Act as amended or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended, or any hazardous material designed by the secretary of transportation under the Hazardous Materials Transportation Act.
- (4) "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:
 - (a) Causes or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
 - (b) Poses a substantial danger to human health or the environment. "Hazardous waste" may include, but is not limited to, wastes that are toxic, corrosive, or flammable or irritants, strong sensitizers or explosives.
- (5) "Hazardous waste" does not include:
 - (a) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners;

(b) Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

(6) "Person" means individual, corporation, firm, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(7) "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance or hazardous waste, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance or hazardous waste when a hazardous condition occurs, whether the person owns the hazardous substance or waste or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance or waste.

12.05.030 - Cleanup required.

(a) Whenever a hazardous condition is created so that a hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup as defined by Section 12.05.020, as rapidly as feasible to an acceptable safe condition, and restore the affected area to its state prior to the hazardous condition as far as practicable. The cost of cleanup shall be borne by the responsible person.

(b) If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the city may, by authorization of the mayor or his/her designee, give reasonable notice based on the character of the hazardous condition, setting a deadline for commencing and accomplishing the cleanup, or the city may proceed to procure cleanup services. If the cost of the cleanup is beyond the capacity of the city to finance, the mayor or his/her designee may report to the city council and immediately seek any state or federal funds available for such cleanup.

12.05.040 - Liability for cleanup costs.

The responsible person shall be strictly liable to the city for all of the following:

- (1) The reasonable costs incurred by the city in containing and/or controlling a hazardous condition;
- (2) The reasonable cleanup costs incurred by the city as a result of the failure of the person to clean up a hazardous substance or waste involved in a hazardous condition caused by that person;
- (3) The reasonable costs incurred by the city to evacuate people from the area threatened by a hazardous condition caused by the person;
- (4) The reasonable damages to the city for the injury to, destruction of, or loss of city property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss.
- (5) The costs referenced above shall be as determined by the fire chief for: manpower, apparatus, ambulance/rescue squad, command vehicle or utility truck, supplies and outside services, mileage, and decontamination, repairs, replacement, maintenance of equipment, apparatus or supplies, plus a reasonable administrative fee. It is unlawful for any responsible person to fail to pay a billing for such services within thirty (30) days of receipt therefor.

12.05.050 - Notifications.

(a) A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance or waste shall notify the Council Bluffs fire chief of the occurrence of a hazardous condition as soon as possible, but no later than one hour after the onset of the hazardous condition or discovery of the hazardous condition.

(b) Any city employee who discovers a hazardous condition shall notify the fire department, which shall notify the proper state office in the manner established by the state.

12.05.060 - Police authority.

If the circumstances reasonably so require, the Council Bluffs fire chief or police chief, or their representative(s), may:

- (1) Evacuate persons, even from their homes, to areas away from the site of a hazardous condition; and
- (2) Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of the fire chief or any other deputy or peace officer/law enforcement officer issued under this section.

12.05.070 - City liability.

The city of Council Bluffs shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition. Except, if the city is the responsible person as defined in Section 12.05.020.

12.05.080 - Penalty.

Any person found guilty of a violation of the provisions of this chapter shall, upon conviction, be subject to the penalty provisions of Section 8.02.020 of this code. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

October 22, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 10-8-18

Second Consideration: 10-22-18

Public Hearing: N/A

Third Consideration: _____

Council Communication

Department: City Clerk

Case/Project No.:

Submitted by: Legal Department

Ordinance 6350

Council Action: 10/8/2018

Description

Ordinance to amend Chapter 3.56 "Soliciting Gifts" by repealing existing Section 3.56.010 and Section 3.56.020.

Background/Discussion

The City has received communication from the Iowa Civil Liberties Union regarding the above referenced ordinance. After reviewing the ordinance, we found that it has not been utilized in any matter of enforcement, nor has it brought in any revenue or requests relating to permits for solicitation in decades. Because of that, it is in the best interests of the citizens of Council Bluffs to repeal and remove this ordinance from our municipal code.

Recommendation

Approval of this ordinance.

ATTACHMENTS:

Description

Ordinance 6350

Type

Ordinance

Upload Date

9/18/2018

ORDINANCE NO. 6350

AN ORDINANCE TO AMEND CHAPTER 3.56 “SOLICITING GIFTS” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REPEALING EXISTING SECTION 3.56.010 AND SECTION 3.56.020.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. That Chapter 3.56 “Soliciting Gifts” of the 2015 Municipal Code of Council Bluffs, Iowa, is hereby amended by repealing existing Section 3.56.010 and Section 3.56.020 as follows:

3.56.010 – Registration required.

~~It is unlawful for any person, firm or corporation, individually or by its agents or representatives, to solicit for money, clothing or other property as a gift to such person, firm or corporation within the city of Council Bluffs, unless such person, firm or corporation first register with the city clerk and the police department, in writing, stating the name of the organization, the location of the headquarters of the organization, the names of the persons to be soliciting gifts in the city of Council Bluffs, the purpose of the solicitation, the dates of the solicitation, time of solicitation, and the place of proposed solicitation activity.~~

3.56.020 – Penalty for violation.

~~Any person, firm or corporation, or the agents, representatives or employees of such firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor and upon conviction shall be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days.~~

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED

September 24, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

First Consideration: 9-24-18

Second Consideration: 10-8-18

Public Hearing: N/A

Third Consideration: _____

Council Communication

Department: City Clerk

Case/Project No.:

Submitted by: Jodi Quakenbush

Resolution 18-290

Council Action: 10/8/2018

Description

Resolution officially designating the City Council Meeting dates for the City of Council Bluffs during the 2019 calendar year.

Background/Discussion

City Council meetings are held on the second and fourth Monday of each month; with the following exceptions:

- 1) due to the Memorial Day holiday, the meetings in May have been scheduled for the first and third Mondays of the month;
- 2) due to the Veteran's Day holiday, the meetings in October and November have been scheduled for the first and third Mondays of the month to avoid back to back meetings;
- 3) due to the Christmas holiday, there is only one meeting held in December and has been scheduled for the third Monday of the month;

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
Calendar	Other	9/19/2018
Resolution 18-290	Resolution	10/1/2018

2019 City Council Calendar

JANUARY

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

FEBRUARY

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28		

MARCH

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

APRIL

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

MAY

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

JUNE

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

JULY

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

AUGUST

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

SEPTEMBER

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

OCTOBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

NOVEMBER

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

DECEMBER

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

■ Council Meeting Date
 ■ Council Meeting Deadline for next agenda
 ■ City Holiday

RESOLUTION NO. 18-290

A RESOLUTION OFFICIALLY DESIGNATING THE CITY COUNCIL MEETING DATES FOR THE CITY OF COUNCIL BLUFFS DURING THE 2019 CALENDAR YEAR.

WHEREAS, City Council meetings are held on the second and fourth Monday of each month; and
WHEARAS, due to the Memorial Day holiday, the meetings in May have been scheduled for the first and third Mondays of the month; due to the Veteran's Day holiday, the meetings in October and November have been scheduled for the first and third Mondays of the month to avoid back to back meetings; due to the Christmas holiday, there is only one meeting held in December and has been scheduled for the third Monday of the month; and
WHEREAS, the meeting dates are scheduled and listed below; and

NOW THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That approval of this resolution sets the official schedule for the 2019 City Council meeting dates.

January 14 th & 28 nd	May 6 th & 20 st	September 9 th & 23 th
February 11 th & 25 th	June 10 th & 24 th	October 7 th & 21 st
March 11 th & 25 th	July 8 th & 22 nd	November 4 th & 18 th
April 8 th & 22 rd	August 12 th & 26 th	December 16 th

ADOPTED
AND
APPROVED:

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: Legal
Case/Project No.:
Submitted by: Legal Department

Resolution 18-291

Council Action: 10/8/2018

Description

Resolution authorizing the Mayor to execute the assignment of agreement for private development with the Pottawattamie County Development Corporation d/b/a The 712 Initiative, an Iowa non-profit corporation.

Background/Discussion

The compliance period for the New Markets Tax Credits and state and federal historic tax credit financing was successfully completed in August. The remaining debt relating to the historic renovation has been refinanced with Availa Bank by PCDC ("The 712 Initiative").

Hughes-Irons Building LLC, an Iowa limited liability company, has owned the Hughes-Irons Building property through the compliance period and will continue to hold title to the property into the future. During the compliance period, Hughes-Irons Building LLC was owned 49% by an entity controlled by the tax credit investor with the remaining 51% owned by Hughes-Irons Facilities Corporation ("HIFC"). HIFC is an Iowa non-profit corporation that has been managing the building and is governed by a board of local citizens.

PCDC arranged the financing and guaranteed the debt and was the developer of the Hughes-Irons Building project. It is also an Iowa non-profit corporation qualified as a public charity under I.R.C. 501(c)(3).

As part of the unwind of the financial structure, PCDC became the owner of the 49% interest in Hughes-Irons Building LLC. It is now intended that HIFC will transfer its interest in the Hughes-Irons Building to PCDC in satisfaction of the remainder of a development fee owing to PCDC by HIFC and as a charitable contribution.

It is also the intention that HIFC will now be dissolved as a corporation. Because it is a non-profit corporation, Iowa law requires that all of its assets be transferred to an entity which is a public charity under I.R.C. 501(c)(3).

In addition to the membership interest in Hughes-Irons Building LLC, HIFC holds as an asset its right and obligations under the Agreement for Private Development with the City of Council Bluffs dated in September 2009. HIFC desires to transfer to PCDC all of its rights and obligations under the agreement for private development, including the right to receiving the remaining tax increment financing payments due under the agreement. PCDC will assume in writing all of the covenants and other obligations of HIFC under the Development Agreement. In addition, PCDC will assume all the rights and obligations of HIFC, and the Hughes-Irons Building LLC as owner under the Minimum Assessment Agreement between HIFC, the City of Council Bluffs, and the County Assessor dated September 2009. The actual assessed value of the property far exceeds the amount provided in the Minimum Assessment Agreement.

Recommendation

Approval of this Resolution.

ATTACHMENTS:

Description	Type	Upload Date
Agreement	Agreement	9/25/2018
Resolution 18-291	Resolution	10/1/2018

Prepared by : Jack E. Ruesch, 25 Main Place, Suite 200, Council Bluffs, IA 51502
Return to: Jack E. Ruesch, 25 Main Place, Suite 200, Council Bluffs, IA 51502

ASSIGNMENT OF AGREEMENT FOR PRIVATE DEVELOPMENT

Hughes-Irons Facilities Corporation (“HIFC”) and Pottawattamie County Development Corporation d/b/a The 712 Initiative (“PCDC”), and the City of Council Bluffs, Iowa (“City”), agree as follows:

WHEREAS, HIFC and the City entered into an Agreement for Private Development dated as of September 28, 2009 (the “Development Agreement”) which relates to the rehabilitation and historic renovation of the Hughes-Irons Building located at 149 W. Broadway, Council Bluffs, Iowa; and

WHEREAS, the Development Agreement required HIFC as developer to construct certain minimum private improvements, all as described in the Development Agreement; and

WHEREAS, HIFC contracted with PCDC to act as the actual developer of the project and PCDC as the developer did construct all of the minimum private improvements all of which were completed in 2010. PCDC also arranged and guaranteed all of the financing for the project; and

WHEREAS, the compliance period for the New Markets Tax Credits and state and federal historic tax credit financing was successfully completed in August 2018. The remaining debt relating to the historic renovation has been refinanced with Availa Bank by PCDC and Hughes-Irons Building LLC; and

WHEREAS, Hughes-Irons Building LLC, an Iowa limited liability company, has owned the Hughes-Irons Building property through the renovation and financing compliance period and will continue to hold title to the property into the future. HIFC has been a 51% owner of Hughes-Irons Building LLC and the manager of the building during the renovation and compliance period. HIFC in turn has been governed by a board of local citizens. PCDC acquired the remaining 49% ownership interest in Hughes-Irons Building LLC as part of the financial structure unwind; and

WHEREAS, the purposes for which HIFC was incorporated have now all been accomplished and the Board of Directors has adopted a resolution to dissolve the corporation. Pursuant to Iowa law, all of the remaining assets of HIFC must be transferred to an entity qualified as a public charity pursuant to I.R.C. § 501(c)(3), such as PCDC; and

WHEREAS, the plan of dissolution for HIFC provides that HIFC will transfer to PCDC its 51% membership interest in Hughes-Irons Building LLC and will transfer to PCDC all of its rights and obligations under the Development Agreement, including all tax increment financing payments remaining due under the agreement, and will further transfer to PCDC all of its rights and obligations under a Minimum Assessment Agreement between the City, the Pottawattamie County Assessor, and HIFC which was

recorded on October 26, 2009 in Book 2009, Page 015855 of the records of the Pottawattamie County Recorder; and

WHEREAS, the Development Agreement provides that HIFC as developer will maintain its existence as a non-profit corporation and will not wind up or otherwise dispose of substantially all of its assets or assign its interest in the Development Agreement unless a transferee assumes in writing all of the obligations of the HIFC under the agreement and the City consents thereto in writing.

NOW, THEREFORE, the parties agree as follows:

1. Hughes-Irons Facilities Corporation, subject to the consent of the City of Council Bluffs, does hereby assign, transfer, and convey to Pottawattamie County Development Corporation all of the rights and obligations and duties of Hughes-Irons Facilities Corporation under the Development Agreement and does further assign, transfer, and convey to Pottawattamie County Development Corporation the right to receive all of the remaining tax increment financing payments due pursuant to the terms of the Development Agreement.
2. Hughes-Irons Facilities Corporation does hereby transfer, assign, and convey to Pottawattamie County Development Corporation all of its rights, duties, and obligations under the terms of the Minimum Assessment Agreement.
3. Pottawattamie County Development Corporation does hereby assume and promise to perform all of the rights, duties, obligations, and covenants of Hughes-Irons Facilities Corporation under the Development Agreement and does further assume and promise to perform all of the rights, duties, obligations, and covenants of Hughes-Irons Facilities Corporation pursuant to the Minimum Assessment Agreement.

4. The City of Council Bluffs consents to the corporate dissolution of Hughes-Irons Facilities Corporation and the transfer of its assets to Pottawattamie County Development Corporation and further consents to the assignment by Hughes-Irons Facilities Corporation of all of its rights, duties, obligations, and covenants under the Development Agreement, including but not limited to, the right to receive the remaining tax increment financing payments due pursuant to the terms of the Development Agreement.

Dated: _____.

HUGHES-IRONS FACILITIES CORPORATION

By: _____
Diane Stein, President

Dated: _____.

POTTAWATTAMIE COUNTY DEVELOPMENT
CORPORATION d/b/a THE 712 INITIATIVE

By: _____
Sheryl Garst, CEO

Dated: _____.

CITY OF COUNCIL BLUFFS, IOWA

By: _____
Matthew J. Walsh, Mayor

STATE OF IOWA, COUNTY OF POTTAWATTAMIE

This record was acknowledged before me on _____,
by Diane Stein as President of Hughes-Irons Facilities Corporation.

Signature of Notary Public

STATE OF IOWA, COUNTY OF POTTAWATTAMIE

This record was acknowledged before me on _____,
by Sheryl Garst as CEO of Pottawattamie County Development Corporation d/b/a The
712 Initiative.

Signature of Notary Public

STATE OF IOWA, COUNTY OF POTTAWATTAMIE

This record was acknowledged before me on _____,
by Matthew J. Walsh as Mayor.

Signature of Notary Public

RESOLUTION NO. 18-291

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE ASSIGNMENT OF AGREEMENT FOR PRIVATE DEVELOPMENT WITH THE POTTAWATTAMIE COUNTY DEVELOPMENT CORPORATION D/B/A THE 712 INITIATIVE, AN IOWA NON-PROFIT CORPORATION.

WHEREAS, the Pottawattamie County Development Corporation became the owner of 49% interest in the Hughes-Iron Building project. The Hughes-Iron Building LLC will transfer its remaining interest to the Pottawattamie County Development Corporation; and

WHEREAS, the Hughes-Irons Building LLC holds as an asset, its right and obligation under the Agreement for Private Development with the City of Council Bluffs executed September 2009; and

WHEREAS, Hughes-Irons Building LLC desires to transfer all its rights and obligations under the agreement to Pottawattamie County Development Corporation. Pottawattamie County Development Corporation will assume all rights, covenants and obligations of the development agreement; and

WHEREAS, it is in the best interest of the City of Council Bluffs to execute this Assignment of Agreement for Private Development.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the Mayor is hereby authorized to execute the Assignment of Agreement for Private Development.

ADOPTED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest:

JODI QUAKENBUSH

City Clerk

Council Communication

Department: Public Works Admin
Case/Project No.:
Submitted by: Matthew Cox, City
Engineer

Resolution 18-292

Council Action: 10/8/2018

Description

Resolution authorizing the use of eminent domain for the East Beltway Project.

Background/Discussion

In January of this year, a Record of Decision was signed for the Eastern Hills Drive project. This completed a 7-year process for the documentation required to comply with the National Environmental Policy Act (NEPA).

The project will improve the transportation network in eastern Council Bluffs by completing Eastern Hills Drive between US Highway 6 and Iowa Highway 92, while providing improved connections to developments along Greenview Road, Steven Road, and Cottonwood Road. The continuity for the local transportation system will support future land development, increases the capacity of existing roads to accommodate traffic demands and improves emergency access.

Segment D of the Beltway includes the area between the existing intersection of Eastern Hills Drive and State Orchard Road, continuing south along State Orchard to Greenview Road. A new round-a-bout is planned at Greenview Road with a new road alignment from Greenview to Hwy 92.

Right-of-way authorization was approved September 26, 2016 with Resolution No. 16-246.

The property is located at the northwest corner of the intersection of Greenview Road and State Orchard Road. The eastern part of the property is located adjacent to the new road alignment and is necessary for the proposed roadway improvements.

The certified appraiser determined the land value for the acquisition area to be \$90,480, plus \$8,620 for the temporary easement area. This amount was confirmed by a review appraiser.

The property owners for 92 Investments, LLC have provided a separate opinion for the value of the property, but unfortunately the amount compared to the appraisal is very different. As a result, negotiations were challenging and a settlement could not be reached because of the large separation in values. In order to complete the acquisition and avoid delays to the project, eminent domain proceedings are necessary.

Recommendation

Approval of this resolution.

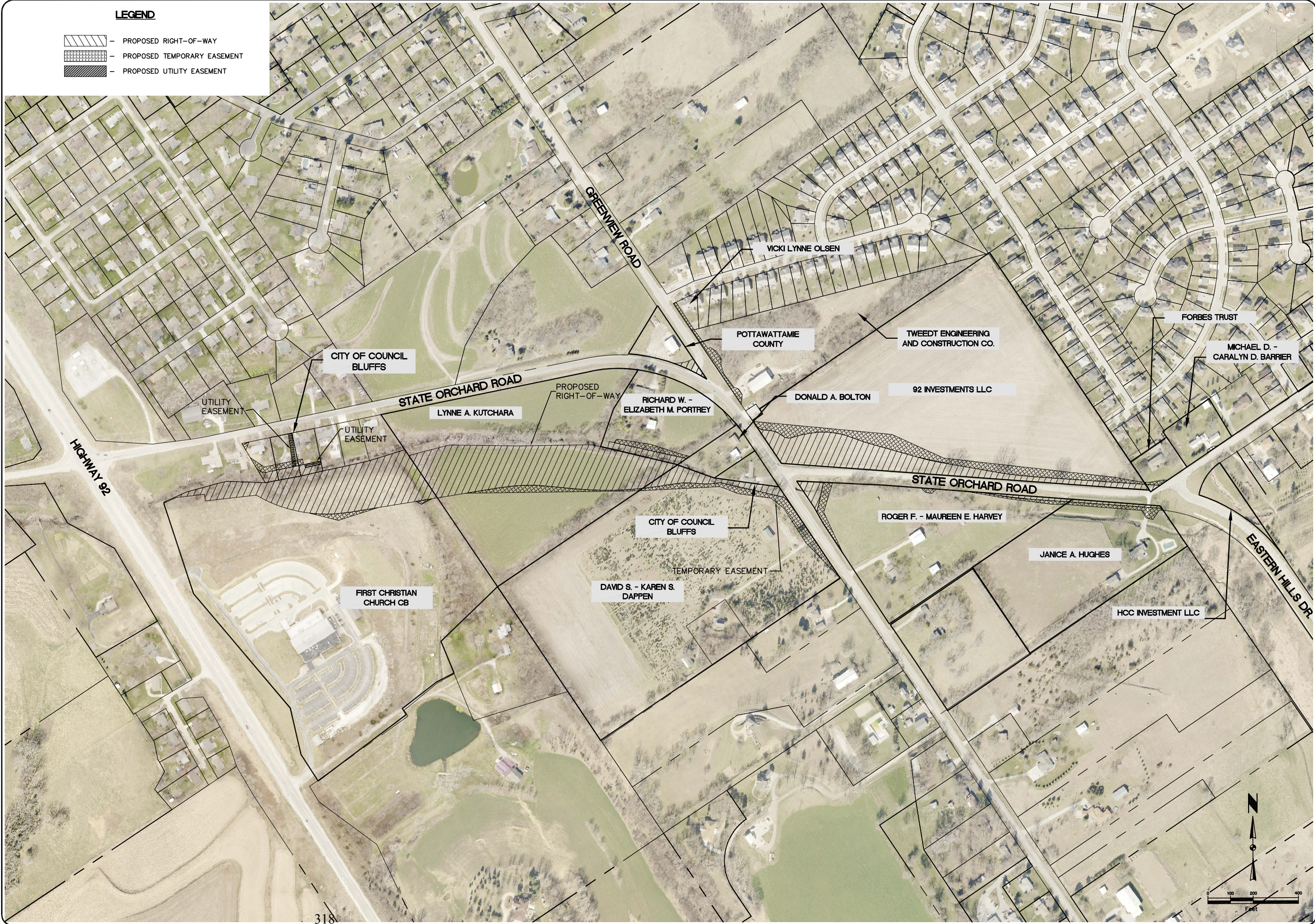
ATTACHMENTS:

Description	Type	Upload Date
ROW and Easement Exhibit	Map	9/28/2018
Acquisition Plat Exhibit "A"	Map	9/28/2018
Resolution 18-292	Resolution	10/1/2018

By: hgm

LEGEND

- PROPOSED RIGHT-OF-WAY
- PROPOSED TEMPORARY EASEMENT
- PROPOSED UTILITY EASEMENT



This drawing is being made available by hgm associates inc. for use on this project in accordance with hgm associates inc. standard terms and conditions. hgm associates inc. assumes no liability for any use of this drawing or any part thereof except in accordance with the terms of the above agreement.

hgm
ASSOCIATES INC.
640 FIFTH AVENUE COUNCIL BLUFFS, IOWA
PHONE: (712) 323-0530

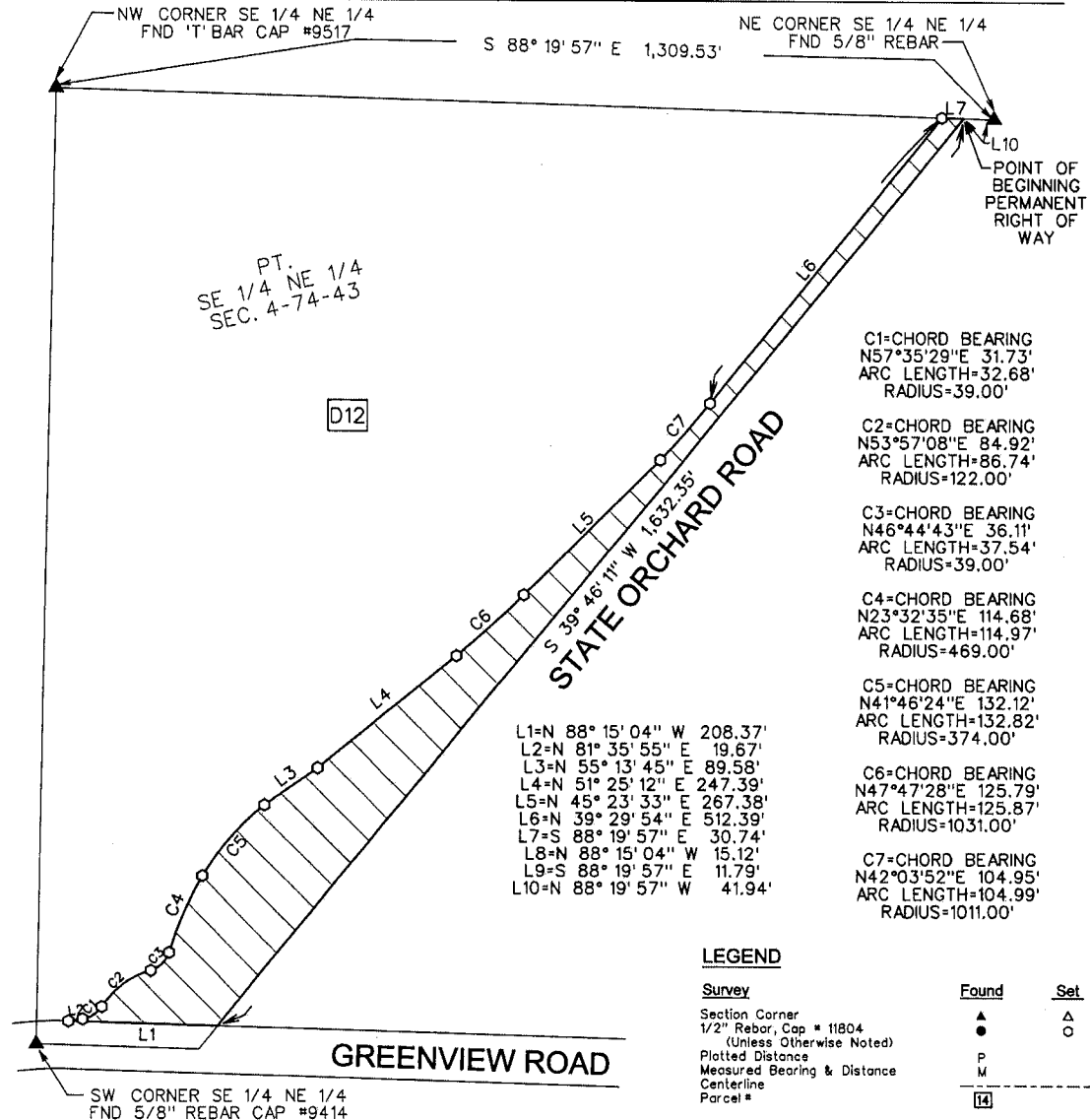
JND	date
drawn	
ZMW	revision
designed	
TLS	
approved	
MAR '18	

project EASTERN HILLS DRIVE
SEGMENT D
client CITY OF COUNCIL BLUFFS
sheet **PARCEL OWNERSHIP MAP**

project no. 15806
sheet
1 OF 1

ACQUISITION PLAT EXHIBIT "A"

COUNTY POTTAWATTAMIE STATE CONTROL NO. _____
 PROJECT NO. XXXXX PARCEL NO. D12
 SECTION 4 TOWNSHIP 74 NORTH RANGE 43 WEST
 ROW-FEE 112,609 SF, EASE TEMP _____ SF, EXCESS-FEE _____ SF
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ MAIN LINE _____ SIDE
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ SIDE ROAD _____ SIDE
 ACQUIRED FROM 92 INVESTMENTS LLC.



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

Michael G. Geier 4-26-18
 Michael G. Geier, PLS DATE:
 License number 11804
 My License Renewal Date is December 31, 2019
 Pages covered by this seal: _____
 EXHIBIT "A" ONLY

BASIS OF BEARING
 SPC 1A SOUTH, US SURVEY FEET
 IarTN DERIVED



0' 100' 200'

SCALE 1" = 200'

DATE REVISED APRIL 18, 2018

DATE DRAWN JANUARY 31, 2018

4/18/2018
 D:\106.0371\CAADD\1060371 D12 92 Investments LLC-Perm.dgn

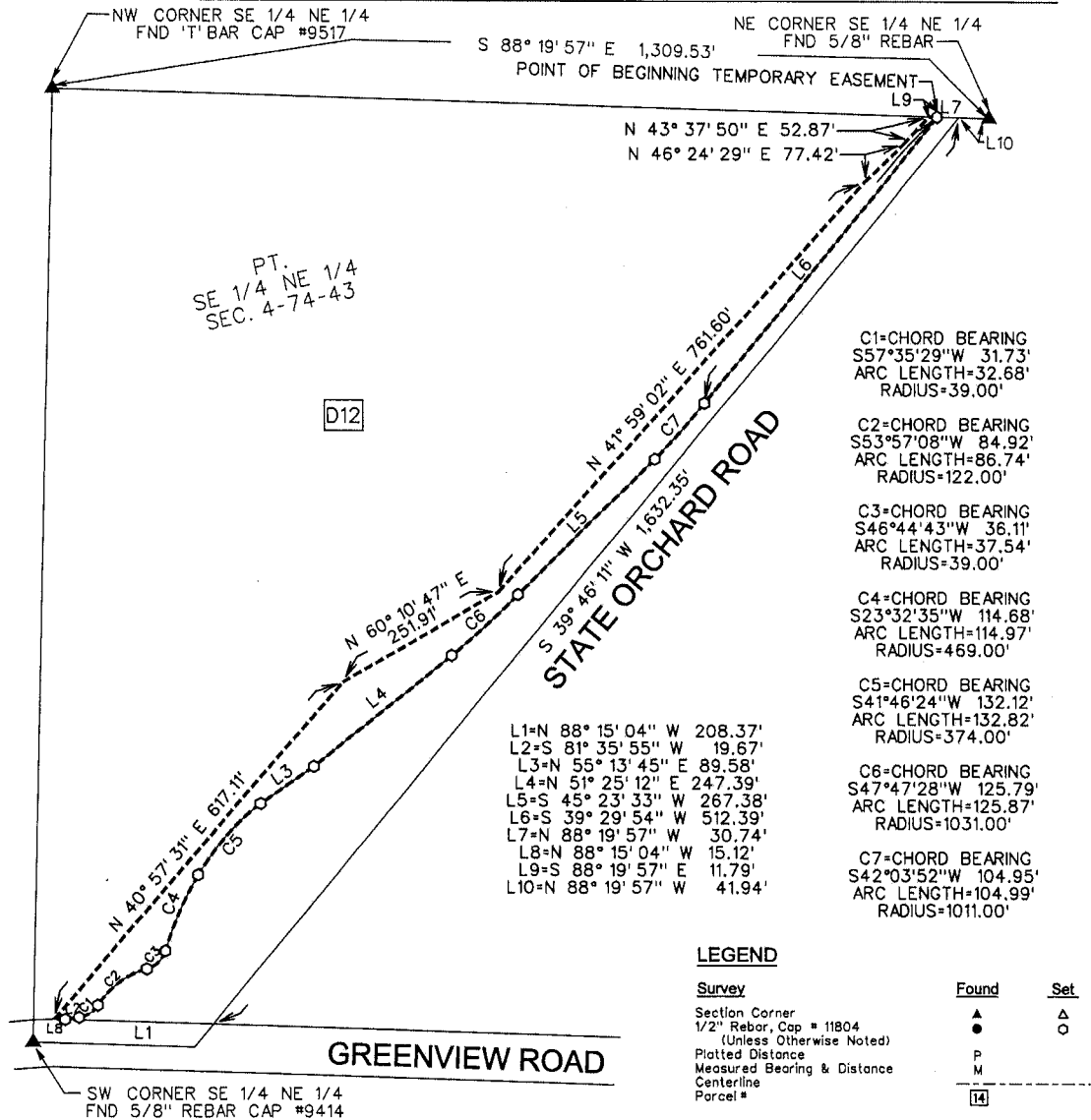
PARCEL D12 PERMANENT RIGHT OF WAY DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 4,
TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA
AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE
NORTHEAST QUARTER OF SAID SECTION 4; THENCE NORTH 88°19'57" WEST, ALONG THE
NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, 41.94 FEET TO
A POINT ON THE WESTERLY RIGHT OF WAY LINE OF STATE ORCHARD ROAD, SAID POINT
ALSO THE POINT OF BEGINNING; THENCE SOUTH 39°46'11" WEST ALONG SAID WESTERLY
RIGHT OF WAY LINE, 1632.35 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF
GREENVIEW ROAD; THENCE NORTH 88°15'04" WEST, ALONG SAID RIGHT OF WAY LINE,
208.37 FEET; THENCE NORTH 81°35'55" EAST, 19.67 FEET; THENCE NORTHEASTERLY ALONG
A CURVE CONCAVE NORTHWESTERLY, WHOSE ARC LENGTH IS 32.68 FEET, WHOSE RADIUS
IS 39.00 FEET, AND WHOSE CHORD BEARS NORTH 57°35'29" EAST, 31.73 FEET; THENCE
NORTHEASTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY, WHOSE ARC LENGTH IS
86.74 FEET, WHOSE RADIUS IS 122.00 FEET, AND WHOSE CHORD BEARS NORTH 53°57'08"
EAST, 84.92 FEET; THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY,
WHOSE ARC LENGTH IS 37.54 FEET, WHOSE RADIUS IS 39.00 FEET, AND WHOSE CHORD
BEARS NORTH 46°44'43" EAST, 36.11 FEET; THENCE NORTHERLY ALONG A CURVE CONCAVE
EASTERLY, WHOSE ARC LENGTH IS 114.97 FEET, WHOSE RADIUS IS 469.00 FEET, AND
WHOSE CHORD BEARS NORTH 23°32'35" EAST, 114.68 FEET; THENCE NORTHEASTERLY
ALONG A CURVE CONCAVE SOUTHEASTERLY, WHOSE ARC LENGTH IS 132.82 FEET, WHOSE
RADIUS IS 374.00 FEET, AND WHOSE CHORD BEARS NORTH 41°46'24" EAST, 132.12 FEET;
THENCE NORTH 55°13'45" EAST, 89.58 FEET; THENCE NORTH 51°25'12" EAST, 247.39 FEET;
THENCE NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY, WHOSE ARC LENGTH IS
125.87 FEET, WHOSE RADIUS IS 1031.00 FEET, AND WHOSE CHORD BEARS NORTH
47°47'28" EAST, 125.79 FEET; THENCE NORTH 45°23'33" EAST, 267.38 FEET; THENCE
NORTHEASTERLY ALONG A CURVE CONCAVE NORTHWESTERLY, WHOSE ARC LENGTH IS
104.99 FEET, WHOSE RADIUS IS 1011.00 FEET, AND WHOSE CHORD BEARS NORTH 42°03'52"
EAST, 104.95 FEET; THENCE NORTH 39°29'54" EAST, 512.39 FEET TO A POINT ON THE
NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH
88°19'57" EAST, ALONG SAID NORTH LINE, 30.74 FEET TO THE POINT OF BEGINNING AND
CONTAINING 2.59 ACRES (112,609 S.F.) MORE OR LESS. (BASIS OF BEARING SPC 1A SOUTH,
US SURVEY FEET 16RTN DERIVED).

ACQUISITION PLAT EXHIBIT "A"

COUNTY POTTAWATTAMIE STATE CONTROL NO. _____
 PROJECT NO. XXXXX PARCEL NO. D12
 SECTION 4 TOWNSHIP 74 NORTH RANGE 43 WEST
 ROW-FEE _____ SF, EASE TEMP 59,804 SF, EXCESS-FEE _____ SF
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ MAIN LINE _____ SIDE _____
 ACCESS RIGHTS ACQUIRED - STA _____ STA _____ SIDE ROAD _____ SIDE _____
 ACQUIRED FROM 92 INVESTMENTS LLC.



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Professional Land Surveyor under the laws of the State of Iowa.

Michael G. Geier 7-2-18
 Michael G. Geier, PLS DATE: _____

License number 11804

My License Renewal Date is December 31, 2019

Pages covered by this seal: _____

EXHIBIT "A" ONLY

BASIS OF BEARING
 SPC 1A SOUTH, US SURVEY FEET
 1aRTN DERIVED



0' 100' 200'

DATE REVISED JULY 2, 2018

DATE DRAWN JANUARY 31, 2018

SCALE 1" = 200'

7/2/2018
 D:\106.037\1\CADD\1060371 D12 92 Investments LLC-Temp.dgn

PARCEL D12 TEMPORARY EASEMENT DESCRIPTION

A PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 4,
TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA
AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE
NORTHEAST QUARTER OF SAID SECTION 4; THENCE NORTH 88°19'57" WEST ALONG THE
NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, 41.94 FEET TO
A POINT ON THE WESTERLY RIGHT OF WAY OF STATE ORCHARD ROAD; THENCE
CONTINUING NORTH 88°19'57" WEST ALONG SAID NORTH LINE, 30.74 FEET TO THE POINT
OF BEGINNING; THENCE SOUTH 39°29'54" WEST, 512.39 FEET; THENCE SOUTHWESTERLY
ALONG A CURVE CONCAVE NORTHWESTERLY, WHOSE ARC LENGTH IS 104.99 FEET, WHOSE
RADIUS IS 1011.00 FEET, AND WHOSE CHORD BEARS SOUTH 42°03'52" WEST, 104.95 FEET;
THENCE SOUTH 45°23'33" WEST, 267.38 FEET; THENCE SOUTHWESTERLY ALONG A CURVE
CONCAVE NORTHWESTERLY, WHOSE ARC LENGTH IS 125.87 FEET, WHOSE RADIUS IS 1031.00
FEET, AND WHOSE CHORD BEARS SOUTH 47°47'28" WEST, 125.79 FEET; THENCE SOUTH
51°25'12" WEST, 247.39 FEET; THENCE SOUTH 55°13'45" WEST, 89.58 FEET; THENCE
SOUTHWESTERLY ALONG A CURVE CONCAVE SOUTHEASTERLY, WHOSE ARC LENGTH IS
132.82 FEET, WHOSE RADIUS IS 374.00 FEET, AND WHOSE CHORD BEARS SOUTH 41°46'24"
WEST, 132.12 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY, WHOSE ARC
LENGTH IS 114.97 FEET, WHOSE RADIUS IS 469.00 FEET, AND WHOSE CHORD BEARS SOUTH
23°32'35" WEST, 114.68 FEET; THENCE SOUTHWESTERLY ALONG A CURVE CONCAVE
NORTHWESTERLY, WHOSE ARC LENGTH IS 37.54 FEET, WHOSE RADIUS IS 39.00 FEET, AND
WHOSE CHORD BEARS SOUTH 46°44'43" WEST, 36.11 FEET; THENCE SOUTHWESTERLY ALONG
A CURVE CONCAVE SOUTHEASTERLY, WHOSE ARC LENGTH IS 86.74 FEET, WHOSE RADIUS
IS 122.00 FEET, AND WHOSE CHORD BEARS SOUTH 53°57'08" WEST, 84.92 FEET; THENCE
SOUTHWESTERLY ALONG A CURVE CONCAVE NORTHWESTERLY, WHOSE ARC LENGTH IS
32.68 FEET, WHOSE RADIUS IS 39.00 FEET, AND WHOSE CHORD BEARS SOUTH 57°35'29"
WEST, 31.73 FEET; THENCE SOUTH 81°35'55" WEST, 19.67 FEET TO A POINT ON THE
NORTH RIGHT OF WAY LINE OF GREENVIEW ROAD; THENCE NORTH 88°15'04" WEST ALONG
SAID NORTH RIGHT OF WAY LINE, 15.12 FEET; THENCE NORTH 40°57'31" EAST, 617.11 FEET;
THENCE NORTH 60°10'47" EAST, 251.91 FEET; THENCE NORTH 41°59'02" EAST, 761.60 FEET;
THENCE NORTH 46°24'29" EAST, 77.42 FEET; THENCE NORTH 43°37'50" EAST, 52.87 FEET
TO A POINT ON THE NORTH LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST
QUARTER; THENCE SOUTH 88°19'57" EAST ALONG SAID NORTH LINE, 11.79 FEET TO THE
POINT OF BEGINNING AND CONTAINING 1.37 ACRES (59,804 S.F.) MORE OR LESS. (BASIS
OF BEARING SPC 1A SOUTH, US SURVEY FEET 16RTN DERIVED).

**RESOLUTION
NO 18-292**

**RESOLUTION DECLARING THE CITY'S INTENT
TO ACQUIRE CERTAIN PROPERTIES LOCATED ALONG
GREENVIEW ROAD AND STATE ORCHARD ROAD, AND
GENERALLY IDENTIFIED HEREIN, BY THE USE OF EMINENT DOMAIN
FOR THE EAST BELTWAY PROJECT**

WHEREAS, it is in the best interest of the public for the City to acquire certain properties for the East Beltway Project; and

WHEREAS, these properties are listed below:

Parcel No. D12

Address: Parcel of land located at the northwest corner of
Greenview Road and State Orchard Road

Owner: 92 Investments, LLC, an Iowa limited liability company

Land Acquisition: 112,609 square feet (2.585 acres)

Temporary Easement 2: 59,804 square feet (1.373 acres)

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the use of eminent domain is hereby approved for the acquisition of said properties hereinabove described for the East Beltway Project.

ADOPTED
AND
APPROVED

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: Community

Development

Case/Project No.: TU-18-006 (M)

Resolution 18-293

Council Action: 10/8/2018

Submitted by: Haley Weber, Zoning

Enforcement Officer

Description

Resolution granting a modification of an approved temporary use permit to allow concrete crushing to occur on-site for the Highway 6 construction project and an extension of time of operation for the temporary portable concrete batch plant. Location: Six acres of undeveloped land located at the southeast intersection of U.S. Highway 6 (East Kanesville Boulevard) and College Road across from Iowa Western Community College. TU-18-006(M)

Background/Discussion

See attached.

Recommendation

ATTACHMENTS:

Description	Type	Upload Date
TU-18-006 (M) Staff Report Including Attachs	Other	9/28/2018
Resolution 18-293	Resolution	10/1/2018

TO: City Council
FROM: Community Development Department
DATE: October 8, 2018
RE: **CASE #TU-18-006 (M)**
REQUEST: A modification of an approved temporary use permit for a concrete batch plant to include concrete crushing and an extension of time of operation

APPLICABLE

CODE SECTIONS: §15.02.110—Temporary Use Permit
A. Purpose. A temporary use permit is required for limited term activities or events, which occur on private property within the City that may potentially create off-site impacts to surrounding properties and the neighborhood in which it will occur.
C. Procedure.
2. Temporary uses not specifically listed here shall require the specific approval of the City Council. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located.
E. Permitted Temporary Uses
1. Batch Plants (Temporary)

LEGAL

DESCRIPTION: Lot 1, Auditor’s Subdivision of the SW1/4 SE1/4 of Section 21-75-43, except City right-of-way, Council Bluffs, Pottawattamie County, Iowa

LOCATION: Six acres of undeveloped land located at the southeast intersection of U.S. Highway 6 (East Kaneshville Boulevard) and College Road across from Iowa Western Community College (IWCC)

APPLICANT: Knife River Midwest, LLC, 2220 Hawkeye Drive, Sioux City, IA 51105

OWNERS: Iowa Western Community College, 2700 College Road, Council Bluffs, IA 51503

BACKGROUND INFORMATION –The Community Development Department has received an application from Knife River Midwest, LLC to modify an approved temporary use permit (TU-18-006) issued in June 2018 to include concrete crushing and an extension of time. Temporary use permit TU-18-006 is described below.

Temporary Use Permit: TU-18-006: A temporary use permit was approved on June 11, 2018 for a Temporary Batch Plant comprised of six acres of land on the property legally described above and

to be used for the production of concrete in association with the Iowa Department of Transportation construction of Highway 6.

The approved duration of the temporary use permit was July 1, 2018 to November 30, 2018. The permit was issued subject to the comments and conditions below:

1. Dust and other bi-products must be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street.
2. The operator is responsible to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses and drain inlets.
3. All applicable permits necessary to meet local, state, and federal requirements shall be the operator's responsibility.

The current request is for the modification of temporary use permit TU-18-006 as described below.

Temporary Use Permit: TU-18-006 (M): The applicant has requested a modification of the previously approved temporary use permit to allow concrete crushing to occur on-site for the Highway 6 construction project and an extension of time of operation for the temporary batch plant. The requested duration of the temporary use is December 1, 2018 to June 30, 2019. Council Bluffs Municipal Code section 15.02.110 Temporary Use Permit states:

a. Temporary batch plants permits are valid only for the duration of a project, not to exceed six (6) months. However, at the end of the six (6) month period, the Zoning Administrator may renew the permit for another six (6) months or to the conclusion of the project, whichever comes first. At the end of such a project, the contractor must restore the area to its original condition.

The time extension requested exceeds the six (6) month time period allowed for an extension. This time extension cannot be granted administratively and requires the approval of City Council.

The applicant has provided the following additional information in their application:

1. The site will be reclaimed to agricultural land use and released at the discretion of the landowner. The topsoil will be spread back evenly over the surface, then seeded and mulched to ensure revegetation of the site, or at the discretion of the landowner.
2. A site-specific Storm Water Pollution Prevention Plan and Spill Prevention Countermeasure and Control Plan has been developed and will be kept on site when the plant is in operation and in the Environmental Manager's office in Sioux City, Iowa. The Storm Water Pollution Prevention Plan is included as Attachment "F."
3. The following best management practices will be taken: site entrance tracking control; dust mitigation; perimeter berm; vegetative buffer strip; perimeter silt fence, if needed; inlet protection, if needed; perimeter berm; and other practices, as needed.
4. Only one entrance and exit will be utilized onto College Road. The construction exits to be utilized are as designed per Iowa DOT specifications to assist in "shaking off" mud, dirt, etc. when leaving a site. Live bottom trailers will be used. There will be no discharging from site as this is a temporary site. The Iowa DOT Standard Road Plan submitted by the applicant is included as Attachment "E."
5. In regards to dust control, a baghouse that is attached to the Portable Concrete Batch Plant assists in eliminating dust from plant emissions. A water truck with sprayers is located on the plant site to eliminate dust plumes. The water truck will also be utilized to spray in case

of dust produced by the crushing activity. A broom is located on site that will be used daily and at the Project Manager or Superintendent's discretion if track out is more than usual that day.

6. In regards to noise abatement, as much noise as possible will be abated. The applicant is willing to work with concerned landowners within the proximity of the plant site.
7. Water will be sourced from the Iowa Western Community College campus hydrant. Water trucks will be utilized to transport water to the site.
8. Solid water and sanitary management locations on site will not be decided until the plant is set up. The solid water and sanitary management locations are usually located nearby the truck parking area.
9. The crushing quantities for the site are 15,000 T of special backfill and 10,000 T of modified subbase.
10. The pile dimensions will be approximately 25' tall by 260' long.

The applicant's list of additional information is included as Attachment "C."

The following attachments are included with the case staff report:

- Attachment A: Location/Zoning Map
- Attachment B: Map of Distances from IWCC buildings to Temporary Use Site
- Attachment C: Additional Information Provided by the Applicant
- Attachment D: Portable Concrete Site Diagram
- Attachment E: The Iowa Department of Transportation (DOT) Standard Road Plan
- Attachment F: Storm Water Pollution Prevention Plan
- Attachment G: Erosion Control Implementation Plan (ECIP)
- Attachment H: Temporary Use Permit TU-18-006 and Exhibits

For reference, the following information is provided:

The Municipal Code Section 15.02.110 Temporary Use Permit, provides for the issuance of temporary use permit(s) *'for limited term activities or events, which occur on private property within the City that may potentially create off-site impacts to surrounding properties and the neighborhood in which it will occur.'* The code further defines eight specific uses which are eligible for issuance administratively. One of those eight specific uses is *Batch Plants (Temporary)*.

The procedure set forth in Code Section 15.02.110.C.2 states that *'temporary uses not specifically listed here shall require the specific approval of the City Council. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located.'* The crushing of concrete is considered a 'salvage operation' in the context of the Zoning Ordinance and is only allowed as a permanent use if established in an I-2/General Industrial District with the issuance of a conditional use permit by the Zoning Board of Adjustment, to allow salvage operations.

The requested use is not defined as a temporary use that can be administratively authorized. In order for temporary crushing to be allowed the City Council would have to authorize the use through the issuance of a temporary use permit.

Per Council Bluffs Municipal Code section 15.02.110 Temporary Use Permit, all temporary uses shall comply with all the standards listed below.

1. No temporary use shall be permitted that causes, or threatens to cause, an on-site threat to the public health, safety and general welfare.
2. Every temporary use shall be operated in accordance with any restrictions and conditions as other departments may require. If required by the City, the operator of the temporary use must employ appropriate security personnel.
3. No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such use would have undue detrimental effects on surrounding streets and uses.
4. No temporary use shall be authorized that would unreasonably reduce the amount of required parking. The Zoning Administrator may make an assessment of the total number of parking spaces that will be reasonably required in connection with a proposed temporary use, on the basis of the particular use, its intensity and the availability of other parking facilities in the area. The Zoning Administrator shall approve such temporary use only if such parking spaces are provided.
5. No temporary use shall be permitted if such use would conflict with another previously authorized temporary use.
6. Signs shall be permitted only in accordance with this Ordinance.

Per Council Bluffs Municipal Code section 15.02.110 Temporary Use Permit, Temporary Batch Plants shall comply with the standards listed below.

- a. Temporary batch plants permits are valid only for the duration of a project, not to exceed six (6) months. However, at the end of the six (6) month period, the Zoning Administrator may renew the permit for another six (6) months or to the conclusion of the project, whichever comes first. At the end of such a project, the contractor must restore the area to its original condition.
- b. Temporary batch plants shall be located at least one-thousand (1,000) feet from any recreational area, school, or residence.
- c. Temporary batch plants shall be located and designed to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses and drain inlets.
- d. As part of the permit application process, the contractor shall submit a routing of trucks to and from the proposed plant as a condition to be approved prior granting application approval. A temporary batch plant shall only be allowed access via arterial or collector roads and highways. Access via local residential and/or collector roads serving residential areas is prohibited.

CURRENT ZONING AND LAND USE –The property has been used as a concrete batch plant since July 1, 2018. According to the submitted application, the site will be reclaimed to agricultural use and released at the discretion of the landowner. The applicant has also indicated that the topsoil will be spread back evenly over the surface, then seeded and mulched to ensure revegetation of the site, or at the discretion of the landowner.

The property is zoned P-C/Planned Commercial District and owned by Iowa Western Community College (IWCC). The properties to the immediate north, east, and south are also zoned P-C/Planned Commercial District and are owned by IWCC. To the west is College Road and IWCC's campus which is primarily zoned A-2/Parks, Estates, and Agricultural District. 5.3 acres of IWCC's campus is zoned R-3/Low Density Multi-Family Residential District as it contains dormitory-style housing.

CITY DEPARTMENTS AND UTILITIES – The following comments were received:

Council Bluffs Water Works stated that they have no comments regarding the proposal.

Council Bluffs Fire Department stated that they have no comments regarding the proposal.

Council Bluffs Police Department: No comments were received

Council Bluffs Public Works Department: No comments were received.

Council Bluffs Engineering Department: stated the following: "The previous agreement included SWPPP control to be put in place and maintained. This is required for the crushing operations also, which includes dust control on site. Upon completion the contractor shall request a site inspection to ensure that the site has been restored to pre-use conditions."

Council Bluffs Building Department stated the following: "I have no additional comments with respect to the concrete batching operations. I do have a question with respect to permitting the concrete crushing operation in proximity to the students living quarters. I'm a little concerned this may generate complaints about interference with sleeping and studying for the students. I don't know if we have any provisions in our ordinances for noise attenuation or times that it would be permissible but thought it should be a part of our conversation if we are discussing additional permissions. These operations can cause significant decibel levels that may impact the students in their living environment or possibly disrupt class sessions."

Council Bluffs Community Development Department:

1. A 'salvage operation' use is defined in Section 15.03.594, Definitions, Salvage Operation of the Council Bluffs Zoning Ordinance as "an establishment engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automobile wrecking yards, junk yards, salvage yards and scrap processing yards." The stockpiles and crushing operation would fall under this definition.
2. The crushing of concrete is considered a 'salvage operation' in the context of the Zoning Ordinance and is only allowed as a permanent use if established in an I-2/General Industrial District with the issuance of a conditional use permit by the Zoning Board of Adjustment. The requested use is not defined as a temporary use that can be administratively authorized. In order for temporary crushing to be allowed the City Council would have to authorize the use through the issuance of a temporary use permit per Section 15.02.110 Temporary Use Permit of the Council Bluffs Zoning Ordinance that states:

“Temporary uses not specifically listed here shall require the specific approval of the City Council. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this Ordinance and the zoning district in which it is located.”

3. Council Bluffs Municipal Code section 15.02.110 Temporary Use Permit states:

“Temporary batch plants permits are valid only for the duration of a project, not to exceed six (6) months. However, at the end of the six (6) month period, the Zoning Administrator may renew the permit for another six (6) months or to the conclusion of the project, whichever comes first. At the end of such a project, the contractor must restore the area to its original condition.”

The applicant has requested to modify the duration of time for the temporary use permit to December 1, 2018 to June 30, 2019 which exceeds the six (6) month time period allowed for an extension. This time extension cannot be granted administratively and requires the approval of City Council.

4. Council Bluffs Municipal Code section 15.02.110(E)(1)(b) states:

“b. Temporary batch plants shall be located at least one-thousand (1,000) feet from any recreational area, school, or residence.”

The space the applicant is occupying for their temporary use is located 1,352 feet from the closest building on Iowa Western Community College's (IWCC) campus. A map showing the distances between IWCC's buildings and the temporary use site is included as Attachment "B."

5. The hours of operation for the crushing operation shall be limited to Monday through Friday from 8:00 AM-5:00 PM for a maximum of ten (10) calendar days per month. This restriction of hours of operation addresses the building department's concern for noise abatement in regards to the IWCC campus being in close proximity to the crushing operation.
6. Dust and other bi-products shall be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street.
7. The operator is responsible to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses, and drain inlets.
8. All applicable permits necessary to meet local, state, and federal requirements shall be the operator's responsibility.
9. The applicant shall provide an updated lease agreement with Iowa Western Community College that is consistent with the December 1, 2018 to June 30, 2019 duration requested, prior to the temporary use permit becoming effective.
10. The amount of material stored on site should be kept to a reasonable level with crushing operations occurring routinely. Material stockpiles shall not exceed 25 feet in height as specified in the applicant's submittal. If processing is ever to cease in operation for an extended period of time then no additional material should be brought on to that site. A salvage operation is not intended to be a place for long term storage or disposal of material or debris.
11. Upon completion of the project, the contractor shall request a site inspection to ensure that the site has been restored to pre-use conditions.
12. The Storm Water Pollution Prevention Plan provided by the applicant shall be followed for both the concrete batching and concrete crushing operations.

13. The Erosion Control Implementation Plan provided by the applicant shall be followed to reduce the potential for erosion on site.
14. The dust control measures outlined in the submitted application shall be followed.

MidAmerican Energy stated that they have no objections to the applicant's request.

Black Hills Energy stated that they have no concerns regarding the proposal.

Council Bluffs Water Works: No comments were received.

Cox Communications: No comments were received.

Century Link: No comments were received.

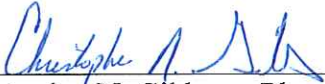
United States Postal Service: No comments were received.

RECOMMENDATION –The Community Development Department recommends approval of the request to modify a previously approved temporary use permit to allow concrete crushing to occur on-site for the Highway 6 construction project and an extension of time for the temporary portable concrete batch plant operation subject to the comments stated above and the following conditions:

1. Dust and other bi-products shall be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street.
2. The operator is responsible to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses, and drain inlets.
3. All applicable permits necessary to meet local, state, and federal requirements shall be the operator's responsibility.
4. The applicant shall provide an updated lease agreement with Iowa Western Community College that is consistent with the December 1, 2018 to June 30, 2019 duration requested, prior to the temporary use permit becoming effective.
5. The hours of operation for the crushing operation shall be limited to Monday through Friday from 8:00 AM-5:00 PM for a maximum of ten (10) calendar days per month.
6. The amount of material stored on site should be kept to a reasonable level with crushing operations occurring routinely. Material stockpiles shall not exceed 25 feet in height as specified in the applicant's submittal. If processing is ever to cease in operation for an extended period of time then no additional material should be brought on to that site. A salvage operation is not intended to be a place for long term storage or disposal of material or debris.
7. The Storm Water Pollution Prevention Plan provided by the applicant shall be followed for both the concrete batching and concrete crushing operations.
8. The Erosion Control Implementation Plan provided by the applicant shall be followed to reduce the potential for erosion on site.
9. The dust control measures outlined in the submitted application shall be followed.
10. Upon completion of the project, the contractor shall request a site inspection to ensure that the site has been restored to pre-use conditions

List of Attachments:

- Attachment A: Location/Zoning Map
- Attachment B: Map of Distances from IWCC buildings to Temporary Use Site
- Attachment C: Additional Information Provided by the Applicant
- Attachment D: Portable Concrete Site Diagram
- Attachment E: The Iowa Department of Transportation (DOT) Standard Road Plan
- Attachment F: Storm Water Pollution Prevention Plan
- Attachment G: Erosion Control Implementation Plan (ECIP)
- Attachment H: Temporary Use Permit TU-18-006 and Exhibits



Christopher N. Gibbons, Planning Coordinator
Community Development Department

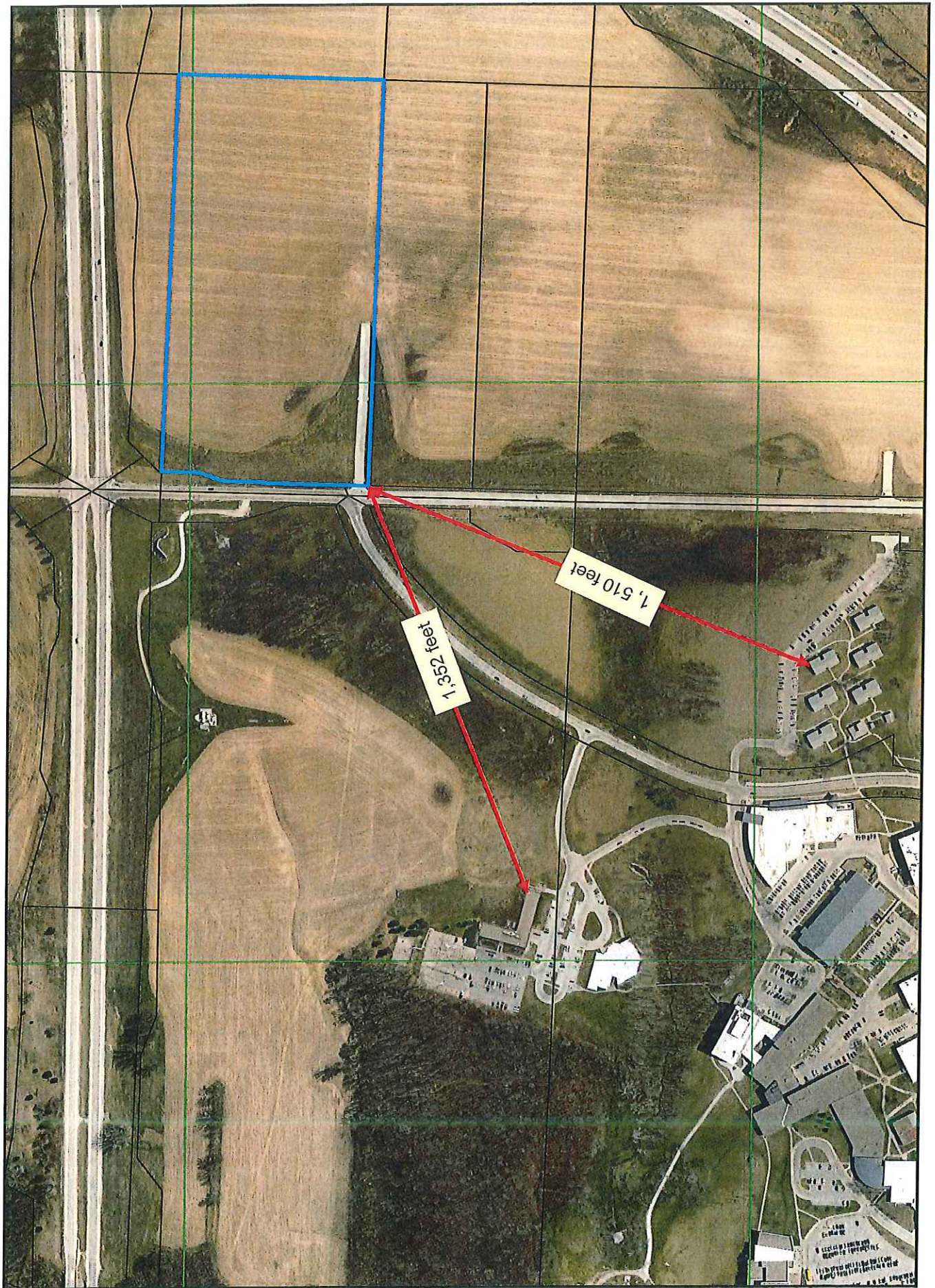


Haley P. Weber, Zoning Enforcement Officer
Community Development Department

CASE #TU-18-006: ZONING/LOCATION MAP

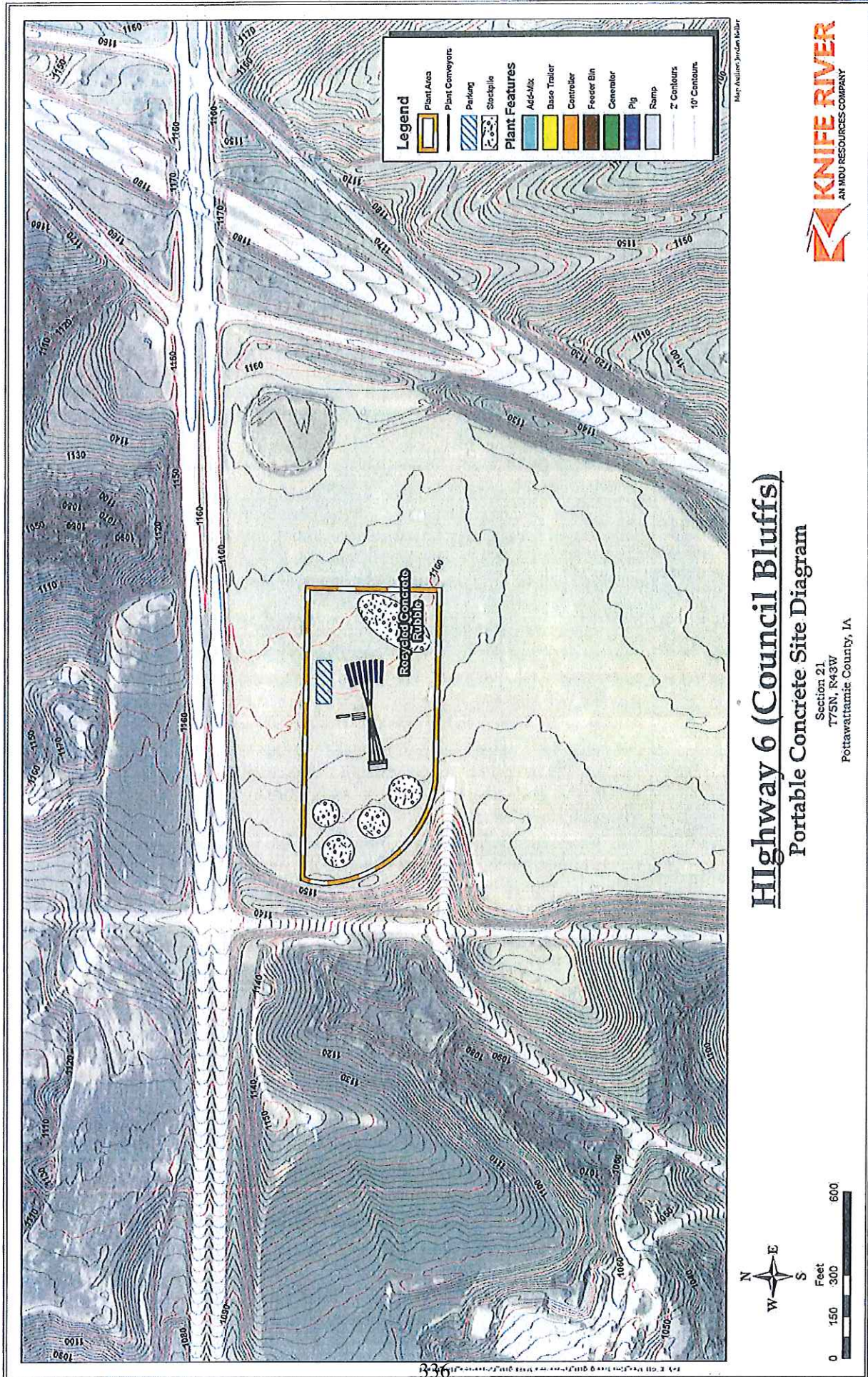


MAP OF DISTANCES FROM IWCC BUILDINGS TO TEMPORARY USE SITE
CASE # TU-18-006



ATTACHMENT C

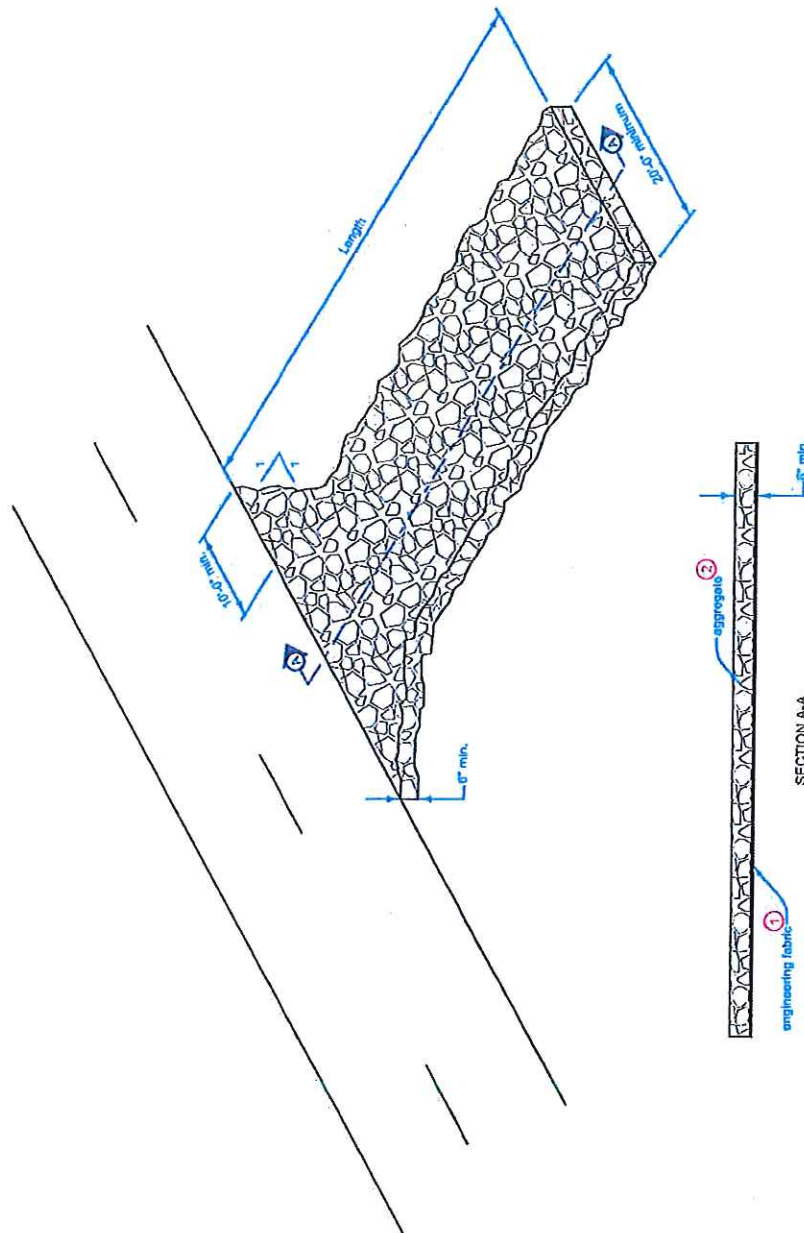
Use:	Temporary Portable Concrete Plant site location for 2018 and 2019 road construction on HWY 6
Begin:	Stripping of site: May 2018
End:	June 30 2019 (dependent on weather)
Total site disturbance:	Total area of disturbance as listed in the lease agreement is "6 acres, more or less". We will be sticking to being around 6 acres, the driveway to the site will be a smidge more (approximately 2500 ft ²). The driveway will be connecting the concrete driveway on site already to our plant site.
Site Reclamation	Site will be reclaimed to agricultural land use and released at the discretion of the landowner. The topsoil will be spread back evenly over the surface, then seeded and mulched to ensure revegetation of the site, or at the discretion of the landowner.
Site Development:	Site will be stripped to the B, C, or R horizon, where the A, E, O horizons will be utilized for topsoil berms around the perimeter of the site. Stockpiles will protect stormwater runoff to the drainage areas off site. A current Iowa DNR NPDES General Permit #3 is on record and a copy of this permit is kept on site when the plant is in operation and in the Environmental Manager's office in Sioux City, Iowa. A site-specific Stormwater Pollution Prevention Plan and Spill Prevention Countermeasure and Control Plan has been developed and will be kept on site when the plant is in operation and in the Environmental Manager's office in Sioux City, Iowa.
Methods of Grading:	Knife River Midwest owns and operates our machinery for the building of our sites. Stripping of the site may be subcontracted out.
Best Management Practices:	Site entrance tracking control, dust mitigation, perimeter berm, vegetative buffer strip, perimeter silt fence if needed, inlet protection if needed, perimeter berm, and other practices as needed.
Driveway best management practices:	Only one entrance and exit will be utilized onto College Road. We utilize construction exits as designed per Iowa DOT specifications to assist in "shaking off" mud, dirt, etc. when we are leaving a site. We are using live bottom trailers, having no point of a wash out. We will also not be discharging from site as this is a temporary site.
Dust Control:	A baghouse attached to our Portable Concrete Batch Plant assists in eliminating dust in our emissions, and we run a water truck with sprayers on the plant site to eliminate dust plumes. We have a broom on site that will be used daily and at the Project Manager or Superintendent's discretion if track out is more than usual that day. We also utilize water trucks on site if necessary.
Noise Abatement:	Any plant site will have noise. With the berms, shelterbelts, and operating hours, we plan on abating as much noise as possible, and willing to work with concerned landowners within the proximity of the plant site.
New Buildings:	Temporary Concrete Plant with trailers for offices
Roads:	College Road
Maps:	Proposed layout, drainage, contour
Water:	Iowa Western Community College campus hydrant. We will be utilizing water trucks to transport water to site.
Batch plant operations discharge for quality:	We will not be discharging from site. We have a concrete washout pit if we use ready mix, which we are not. We are using live bottom trailers; they will not be washed out. They are instead hammered (with sledge hammers) out at the end of the shifts and collected in one designated area.
Solid waste and sanitary management:	Locations of these will not be decided until the plant is set up, they are usually located nearby the truck parking area. We have a no-litter policy.
Crushing Quantities:	15,000 T special backfill 10,000T modified subbase
Pile dimensions:	25' tall by 260' long (approximately)
Dust Control for crushing:	Water truck will be utilized to spray in case of dust produced.



**DESIGNER
INFO**

Obtain the Engineer's approval for location and length of stabilized entrances prior to constructing.

- ① Place engineering fabric prior to placing aggregate. Use fabric for Embankment Erosion Control complying with Section 419B of the Standard Specifications.
- ② Use aggregate meeting Gradation No. 13 of Section 410B of the Standard Specifications.



IOWA DOT	REVISION	DATE
	NOV	10-16-13
STANDARD ROAD PLAN		EC-303
REFERENCE: New, Replace Design Detail 270-10.		SHEET 1 of 1
DESIGNED BY: CIVIL ENGINEER, IOWA DOT		
STABILIZED CONSTRUCTION ENTRANCE		



Storm Water Pollution Prevention Plan

Knife River Midwest – Portable Concrete Plant Q-135
2220 Hawkeye Dr
Sioux City, IA 51105
712-279-7500

SWPPP Preparation Date:

February 2 2018

Facility Coordinator:

Name: Brooke Muhlack
Title: Environmental Manager
Phone: (712) 279-7570 Work
(712) 577-6757 Cell

Address: Knife River Midwest
2220 Hawkeye Dr.
Sioux City, IA 51105

Standard Industrial Classification (SIC) code: 3273

Permit Information:

Type: Iowa NPDES General Permit 3
Program ID: IA3482-3325
Effective Dates of Coverage: March 1, 2018 to February 28, 2023

Number of Storm Water Outfalls: 0

Receiving Waters:

Emergency Contact:

Name: Brooke Muhlack
Phone: (712) 577-6757

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SECTION 1: FACILITY DESCRIPTION AND CONTACT INFORMATION

1.1 Facility Information

Knife River Midwest Plant Q-135 is a portable concrete plant. The sole purpose of this facility is to manufacture and distribute ready mix concrete to construction projects in the Company's operational area. Plant site activities involve receiving and aggregate products (sand, gravel, and rock), cementitious material (cement, fly ash), which when blended with water produces concrete. Once blended through the plant the ready mix concrete is loaded into trucks and delivered to nearby construction projects. A Site Map is included as Appendix A.

When operated at a project site, the provisions of this Storm Water Pollution Plan are employed to minimize the possibility that contaminants contact site water at the project site.

Site drainage for the site goes from the south east corner to the northwest corner. The southeast corner has a grade stabilization structure to inhibit drainage through the lot. The closest flowing stream that can be affected from discharge if it were to happen is Willow Creek, 4,554.15 feet away.

This facility has a primary SIC codes: 3273 Ready Mix Concrete Production

1.2 Contact Information/Responsible Parties

Staff Names	Phone	Title	Individual Responsibilities
Brooke Muhlack	Office: 712-279-7570 Cell: 712-577-6757	Environmental Manager	Responsible for writing and maintenance of SWPPP. Trains company personnel in SWPPP compliance. Trained to conduct inspections.
Jamie Petersen	Cell: 712-253-9922	Concrete Plant Operator	Responsible for the daily plant operations compliance with the SWPPP. Must direct personnel in SWPPP implementation and maintenance. Trained to conduct inspections.

Alex Maule	Office: 712-279-7524 Cell: 712-266-6175	Project Manager	Responsible for providing resources to implement and maintain SWPPP. Must direct personnel in SWPPP implementation and maintenance. Trained to conduct inspections.
Chris Winkel	Office: 712-279-2756 Cell: 712-898-2756	Concrete Construction Manager	Responsible for providing resources to implement and maintain SWPPP. Must direct personnel in SWPPP implementation and maintenance. Trained to conduct inspections.
Dan Volkert	Cell: 712-898-0591	Concrete Crew Superintendent	Responsible for providing resources to implement and maintain SWPPP. Trained to conduct inspections.
Scott Hunwardsen	Office: 712-279-7510 Cell: 712-253-9936	Concrete Superintendent	Responsible for providing resources to implement and maintain SWPPP. Trained to conduct inspections.
Mike Collins	Office: 712-279-7532 Cell: 712-898-3797	Quality Control Manger	Responsible for the daily aggregate operations compliance with the SWPPP. Must direct personnel in SWPPP implementation and maintenance. Trained to conduct inspections.
Plant Laborers		Plant Laborers	Implementation of Plan and inspections. Maintenance of BMP's. Notify Managers of any Plan deficiency.

SECTION 2: ASSESSMENT OF MATERIALS AND ACTIVITIES

2.1 Site Map

Appendix A shows the drainage base map for the Plant and aggregate area. Drainage area and flow direction are shown on the site map.

2.2 Materials List

Name of Material	Storage/ Location	Quantity Stored	Contact with Stormwater? Conditions that would expose to stormwater.
Cement	Silo, Plant		No. Silo failure
Diesel Fuel	Tank, Plant		No. Tank/containment failure. Drips or leaks.
Aggregates	Stockpiles, Plant site		Yes
Fly Ash	Silo, Plant		No. Silo failure, dust collector
Admixtures	Tank/Drums, Plant		No. Tank/containment failure. Drips or leaks.

2.3 Past Spills and Leaks

Description of Past Spills/Leaks		
Date	Description	Outfalls

2.4 Non-Storm Water Discharges

There are no non-storm water discharges from this site. As this is a portable plant, not operated at the site previously, there are no discharge data available.

Failure to Certify Description

Upon relocation to a site, the site shall be examined to ensure there are no storm sewers on site. There are no processes at this plant that generate non-process stormwater.

In the event there are storm sewers on site, the following procedure shall be followed:

The visual inspection technique for non-storm water discharge assumes that if there is no flow from a storm water outfall after an extended period of dry weather, it is likely that there is no non-storm water entering the storm water conveyance system. The procedures for annual non-storm water discharge inspection are outlined below:

1. Conduct the evaluation after at least 3 days without rainfall.
2. Conduct the evaluation during normal business hours, when non-storm water discharges are most likely to occur.
3. Observe the outfall for the presence of discharge.

4. Observe the outfall for the presence of stains, sludge, material deposits, or any other unusual conditions that may indicate a non-storm water discharge.
5. If a non-storm water discharge is observed, search the area of the facility serviced by this system for a possible source, including lawn sprinkling, hoses left running, a water line flushing, street cleaning, or improperly disposed wastes. In addition, look inside the facility for possible sources such as floor drains that may be cross-connected to the storm sewer.

If a non-storm water flow is observed, its source should be identified. The storm water permit list the types of observation techniques considered to be acceptable for non-storm water evaluations. When the source is identified, a plan to terminate the discharge must be developed and carried out. Certain types of discharges are allowed by the Part III, C.4.G of the NPDES General No.3 Permit, General discharges allowed are Firefighting activities, fire hydrant flushing, potable water sources including water line flushing, uncontaminated groundwater, foundation or footing drains where flows are not contaminated with process materials such as solvents, springs, building wash down, pavement wash down where spills and leaks of toxic hazardous material have not occurred and where detergents are not used, and air conditioning condensate, that are combined with storm water discharges associated with industrial activity may be authorized by this permit provided the non-storm water component of the discharge is in compliance with Part III, C.4.G of the NPDES General No.3 Permit

SECTION 3: BEST MANAGEMENT PRACTICES

3.1 Storm Water Management Devices

Earthen berms serve to keep storm water from running off site. Storm water flow within the plant site infiltrates or evaporates.

3.2 Erosion and Sediment Control Practices

Earthen Berms are used to contain storm water and prevent sediment discharge. If the outside slope of the berm has the potential to discharge to surface water, additional sediment control BMP's such as silt fence will be deployed until the slope is vegetated and stable.

To prevent sediment escape from stockpiles, aggregate piles will be placed in locations that prevent storm water from running off site. The site will be graded site so any runoff from aggregate storage piles will remain on site.

3.3 Vehicle Tracking

The entrances to the activities at this site are rocked to prevent tracking onto roadways. In the event tracking of sediment occurs, the site entrance/exit will be swept.

3.4 Good Housekeeping, Source Control

Every effort will be made to keep the site clean and orderly. Every effort will be made to store potential pollutants indoors. Any maintenance waste (grease tubes, rags, and used fluids) generated will be removed by the mobile maintenance vehicle operator, or disposed of in trash receptacles inside the shop.

For every industrial activity and potential pollutant, every effort will be made to reduce exposure to storm water. Practices to accomplish this include:

- Clean up any spilled fuel immediately.
- Place aggregate piles in locations that prevent storm water from running off site.
- Grade site so any runoff from aggregate storage piles will remain on site.
- Store all chemicals (admixtures, lubricants) indoors.
- Performing vehicle maintenance indoors.
- Avoiding spills and drips when fueling and cleaning up any spill immediately.

The discharge of spilled cement, aggregate (including sand or gravel), kiln dust, fly ash, or settled dust from paved portions of the facility that are exposed to stormwater shall be prevented or minimized. If cement, aggregate, kiln dust, fly ash, or settled dust are being handled or processed, then sweeping or equivalent in the area of exposure to stormwater shall be performed at least once per week. The exposure of fine granular solids (cement, fly ash, kiln dust, etc.) to stormwater shall also be prevented.

Wash water from concrete operations may be discharged to groundwater. This water is from washing concrete residue from tools or equipment. The containment basin must not allow for above ground leakage that could result in surface water discharge. The washout basin shall be constructed such that:

- Wastewater can evaporate, leaving product behind.
- A maximum distance to groundwater is achieved.
- Capacity is sufficient to hold all wastewater and precipitation and runoff from a 10-year 24 hour storm event (2.6 inches).
- It is not in an area of standing water.

The Facility BMP's shall be maintained monthly when the site is active. Prior to being temporarily inactive, all BMP's will be inspected to ensure they are in place and stable. The need for maintenance shall be determined during monthly inspections.

If it is determined that BMPs are not functioning properly, the BMP shall be replaced, maintained, or repaired within seven (7) calendar days of discovery. If BMP replacement, maintenance, or repair cannot be completed within seven (7) calendar days, implementation of effective backup BMPs (temporary or permanent) must be completed, until effectiveness of the original BMPs can be restored. If extended replacement, maintenance, or repair schedule of the failed BMP is required, documentation of justification must be made and stored with the SWPPP.

The dates of all maintenance and repairs must be recorded on the monthly inspection sheet.

If sediment escapes the facility, it must be removed as soon as possible to minimize off site impacts. In the event of a release to a water of the state in which the plant is in should be contacted.

Iowa Department of Natural Resources: 515-281-8694

Nebraska Department of Environmental Quality: (402)471-2186 (877)253-2603

South Dakota Department of Environment and Natural Resources (605)773-3296

Cement silo emissions are controlled with a baghouse to prevent dust emissions.

3.5 Inspections and Preventive Maintenance

Preventive Maintenance of Portable concrete Q-135 is ongoing.

An inspection will be conducted once per calendar month that the facility is active and staffed. A minimum of one (1) inspection per calendar year shall be conducted during a runoff event.

All facility inspections shall include the following;

- An evaluation of the facility to determine that the SWPPP accurately reflects site conditions. The inspection shall include storage tank areas, waste disposal areas, raw material, intermediate products, by-product and final product storage areas, maintenance areas, and loading/unloading areas.
- An evaluation of the facility to determine whether new exposed industrial materials or activities have been added to the site since completion of the SWPPP.
- During an inspection conducted during a runoff event, an evaluation of the storm water runoff to determine if it is discolored or if other contaminants are visible in the runoff (e.g., oil and grease).
- An evaluation of all structural and non-structural **BMPs** to determine effectiveness and proper function.

An inspection form can be found in Appendix B.

iAuditor will be implemented and utilized by field staff for inspections as well.

3.6 Spills Prevention and Response

Spill prevention and response procedures for the site are addressed in both the Knife River Spill Response Plan written in accordance with 40 CFR 112.8, and the facility Spill Prevention Control and Countermeasure Plan (SPCC). Both plans are located in the Environmental office. All Knife River Midwest personnel are trained for spill prevention and clean up procedures.

Tanks on site will either have secondary containment, active measures to contain a spill.

Contact information for individuals, and emergency and regulatory agencies that must be notified in the event of a spill are included in these plans. Any spill or discharge of a potentially polluting material shall immediately be reported to the Company Environmental Manager at (712) 279-7570. If more than 25 gallons of petroleum is spilled, or if there is a release to a water of the state, the state in which the plant is in should be contacted.

Iowa Department of Natural Resources: 515-281-8694

Nebraska Department of Environmental Quality: (402)471-2186 (877)253-2603

South Dakota Department of Environment and Natural Resources (605)773-3296

SECTION 4: SCHEDULES AND PROCEDURES FOR MONITORING

4.1 Monitoring

Sampling shall be conducted at least annually.

- One grab sample shall be collected from the discharge resulting from a storm event that is greater than .01 inches in magnitude and occurs at least 72 hours from the previously measurable storm event.
- The collection must be taken within the first 30 minutes of the discharge. If the first 30 minutes is impracticable a grab sample can be taken during the first hour of discharge and report a description of why the first 30 minutes was impracticable.

4.2 Results

All monitoring results will be maintained in the SWPP Plan under results tab

SECTION 5: TRAINING

All company employees who work in the area of the plant receive specific Storm Water Prevention Pollution training annually. Training will be conducted by the Environmental Manager.

The following employees have listed responsibilities related to storm water management:

Environmental Manager, General Managers, Plant Manager

- overseeing implementation of, revising, and amending the SWPPP

Plant supervisor, yard workers, and equipment operators

- performing installation, inspection, maintenance, and repair of BMPs

Environmental Manager, Plant Supervisor

- conduct storm water discharge monitoring

Training topics will include:

- spill response procedures
- good housekeeping
- material management practices
- storm water discharge monitoring procedures
- BMP operation and maintenance

SECTION 6: PLAN REVIEW

This SWPPP should be reviewed annually making sure everything is current and updated, and modifying if it is not. All modifications regardless of whether done annually or more frequently must be represented in the SWPPP. Modifications could include:

- BMP changes (e.g. design, operation, maintenance)
- Special Waters search showing any newly listed TMDL's or special waters
- Any waivers obtained
- New operations on site

Any modifications must be explained in summary listed in the back of the SWPP Plan.

ECIP Schedule

Updated: 6/19/2018

This document is a dynamic document and will change as deemed necessary.

Stage 1A

Traffic:

- Reduce US 6 EB and WB to one lane from Railroad Hwy to Railroad Bridge to perform outside shoulder strengthening.
- Shift traffic on Ramp A and Ramp D to inside portion of ramps to accommodate construction of temporary pavement along outside shoulders.

Construction:

- Strengthen outside shoulders with temporary pavement on US 6 EB and WB from Railroad Hwy to Railroad Bridge.
- Construct temporary pavement along the outside shoulders of Ramp A and Ramp D.

Stage 1B

Traffic:

- Shift traffic onto strengthened shoulders to provide working room for construction of median between Railroad Hwy and Railroad Bridge.

Construction:

- Remove existing pavement at median and left turn lane between Railroad Hwy and Railroad Bridge.
- Construct proposed pavement at median and left turn lane between Railroad Hwy and Railroad Bridge.
- Construct temporary pavement in median areas at the I-80 interchange and along existing US 6 EB east of the I-80 interchange.

Stage 1A & 1B Erosion Control

Installation of drain protection, temporary seeding if necessary, ditch control, low porosity silt fence in the ditch, linear silt fence, and slope protection via rolled erosion control mat as deemed necessary by the Iowa Department of Transportation or an authorized representative of the Iowa Department of Transportation. Ditch checks in the form of silt fence will be installed at stations 1240+25, 1240+50, 1240+75, and 1242+90, and 1237+00 (ramp). Erosion stone will be installed as deemed necessary per Iowa Department of Transportation or a representative. Rolled erosion control will be installed in locations as listed on sheet CE. 3 of the project plans. Silt basins will be installed once grade is reached for that area. Discard unused paving materials in appropriate areas.

Stage 2A

Traffic:

- Shift US 6 WB traffic onto existing US 6 EB lanes, reducing both EB and WB traffic to one lane prior to construction zone.
- Coordinate traffic signal timing and detection zone adjustments at Railroad Hwy intersection with the City of Council Bluffs.
- Coordinate disabling of the traffic signal at the College Road/Washboard Road intersection with the City of Council Bluffs.
- Restrict access to US 6 from Washboard Road to accommodate construction of Washboard Road intersection and US 6 mainline.

- Reduce access to US 6 from College Road and to College Road from US 6 with right-turn only movements, no left-turns.

- Coordinate installation of temporary traffic signal at each I-80 interchange intersection with the City of Council Bluffs and Iowa DOT.

- Shift traffic on Ramp A and Ramp D to the outside portion of the ramps onto temporary pavement and extend access to US 6 EB lanes.

Construction:

- Remove existing pavement along US 6 WB from the intersection of Ramp A to the intersection of Ramp D. Ramps remain open.

- Remove existing pavement along the inside portions of Ramp A and Ramp D. Ramps remain open.

- Construct proposed drainage structure and remove existing drainage structure between intersection of Ramp A and intersection of Ramp D.

- Construct proposed pavement between intersection of Ramp A and intersection of Ramp D and along the inside portions of Ramp A and Ramp D.

Stage 2B

Traffic:

- Maintain traffic along US 6 as described in Stage 2A.

- Shift traffic on Ramp A and Ramp D to the inside portion of the ramps onto new pavement.

- Shift traffic on Ramp B and Ramp C to inside portion of ramps to accommodate construction of temporary pavement along outside shoulders.

Construction:

- Remove existing pavement along US 6 WB from the Railroad Hwy intersection to the Hunt Avenue intersection, less Stage 2A construction.

- Construct proposed pavement along US 6 WB from the Railroad Hwy intersection to the Hunt Avenue intersection, less Stage 2A construction.

- Remove remaining existing pavement on Ramp A and Ramp D and construct remaining proposed pavement on Ramp A and Ramp D.

- Coordinate construction of bridge deck overlay on US 6 WB Railroad Bridge.

- Construct temporary pavement along outside shoulders of Ramp B and Ramp C.

Stage 2A & 2B Erosion Control

Installation of drain protection, temporary seeding if necessary, ditch checks, silt fence, ditch control, and slope protection via rolled erosion control mat as deemed necessary by the Iowa Department of Transportation or an authorized representative of the Iowa Department of Transportation. Rolled erosion control will be installed in locations as listed on sheet CE. 3 of the project plans. Discard removed pavement in appropriate facilities. Concrete washout will be designated in a location that will not impede movement of the construction. It will be kept in a manner that will not pollute Waters of the United States.

Stage 3A

Traffic:

- Shift US 6 traffic onto new US 6 WB lanes, reducing both EB and WB traffic to one lane prior to construction zone.

- Coordinate traffic signal timing and detection zone adjustments at Railroad Hwy intersection with the City of Council Bluffs.

- Restrict access to US 6 from Washboard Road to accommodate construction of Washboard Road intersection and US 6 mainline.
- Restrict access to College Road from US 6 to accommodate construction of College Road intersection.
- Coordinate installation of temporary traffic signal at each I-80 interchange intersection with the City of Council Bluffs and Iowa DOT.
- Shift traffic on Ramp B and Ramp C to outside portion of ramps onto temporary pavement and extend access to US 6 WB lanes.

Construction:

- Remove existing pavement along US 6 EB from the intersection of Ramp B to the intersection of Ramp C. Ramps remain open.
- Remove existing pavement along the inside portions of Ramp B and Ramp C. Ramps remain open.
- Construct proposed pavement between intersection of Ramp B and intersection of Ramp C and along the inside portions of Ramp B and Ramp C.

Stage 3B

Traffic:

- Maintain traffic along US 6 as described in Stage 3A with the exception that access to College Road can continue as described in Stage 2.
- Shift traffic on Ramp B and Ramp C to the inside portion of the ramps and onto new pavement.

Construction:

- Remove existing pavement along US 6 EB from the Railroad Hwy Bridge to the Hunt Avenue intersection, less Stage 3A construction.
- Construct proposed pavement along US 6 EB from the Railroad Hwy intersection to the Hunt Avenue intersection, less Stage 3A construction.
- Remove remaining existing pavement on Ramp B and Ramp C and construct remaining proposed pavement on Ramp B and Ramp C.
- Coordinate construction of bridge deck overlay on US 6 EB Railroad Bridge.

Stage 3C

Traffic:

- Maintain traffic along US 6 as described in Stage 3B with the exception that access to right turns from Railroad Hwy to US 6 EB will be restricted during this limited duration stage.

Stage 3A, 3B, & 3C Erosion control

Installation of drain protection, temporary seeding if necessary, ditch checks, silt fence, ditch control, and slope protection via rolled erosion control mat as deemed necessary by the Iowa Department of Transportation or an authorized representative of the Iowa Department of Transportation. Rolled erosion control will be installed in locations as listed on sheet CE. 3 of the project plans. Discard removed pavement in appropriate facilities. Concrete washout will be designated in a location that will not impede movement of the construction. It will be kept in a manner that will not pollute Waters of the United States.

Sediment Tracking: Roadways will be swept clean should tracking occur. Work behind lane closures will be swept clean prior to opening to traffic if sediment is present.

Construction Dust: Water suppression will be used for dust generated from the project as directed or required. In finished graded area, temporary or permanent seeding will be installed as directed.

Walk away stage, at the end of the walk away stage all disturbed areas will have been permanently seeded.

Sanitary Waste: All sanitary wastes shall be collected in portable units furnished by a sanitary waste management contractor and maintained on a regular basis.



City of Council Bluffs, Iowa
209 Pearl Street
Council Bluffs, Iowa 51503
Phone: 712-328-4629 Fax: 712-328-4915

TEMPORARY USE PERMIT
TU-18-006

Date: June 11, 2018

Permit Holder: Knife River Midwest, LLC, 2220 Hawkeye Drive, Sioux City, IA 51105

Contact: Brooke Muhlack, Environmental Manager, (712) 279-7570
email:brooke.muhlack@kniferiver.com

Property Address: No address. General location is six acres of undeveloped land located at the southeast intersection of U.S. Highway 6 (East Kanesville Boulevard) and College Road across from IWCC.

City/State/Zip: Council Bluffs, IA 51503

Property legal description: Lot 1, Auditor's Subdivision of the SW1/4 SE1/4 of Section 21-75-43, except City right-of-way, Council Bluffs, Pottawattamie County, Iowa (See Exhibits A & B).

Zoning Classification: PC Planned Commercial

Use of Property: Temporary Batch Plant. The temporary plant will comprise approximately six acres of land on property legally described above and will be used for the production of concrete in association with Iowa Department of Transportation construction of Highway 6.

Duration: July 1, 2018 to November 30, 2018.

Comments: The permit is issued subject to the comments and conditions below. Failure to comply is cause for revocation of the permit.

1. Dust and other bi-products must be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street.
2. The operator is responsible to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses and drain inlets.
3. All applicable permits necessary to meet local, state and federal requirements shall be the operator's responsibility.

Based on the description of use provided by the applicant, said use at the stated legal description of real property is a permitted temporary use for the time duration stated above.

Christopher N. Gibbons, AICP
Acting Planning Coordinator
Community Development Department

Brandon Garrett, AICP
Director
Community Development Department



City of Council Bluffs, Iowa
209 Pearl Street
Council Bluffs, Iowa 51503
Phone: 712-328-4629 Fax: 712-328-4915

TEMPORARY USE PERMIT APPLICATION

Each request for a temporary use permit shall include a completed application form and a site plan sufficient to meet the requirements of the Site Plan Review Procedure.

A. General Information

1. Applicant Name: Knife River Midwest, LLC
Address: 2220 Hawkaya Drive
City/State/Zip: Sioux City, IA 51108
Phone/Fax/E-Mail/ Address: (712)279-7570 brooke.muhlack@kniferiver.com
Status: Property Owner ☐ Legal Option Holder ☐ ☒ Contract Purchaser ☐ Auth. Agent ☐
2. Property Owner: (If not the same as applicant above)
Name: Iowa Western Community College
Address: 2700 College Road
City/State/Zip: Council Bluffs, IA 51503
Phone/Fax/E-Mail/ Address: (712)325-3200
3. Property location address: 2750 College Road Council Bluffs, IA 51503
4. Property legal description: Section 21, T75N, R43W Pottawattamie County, IA
5. Zoning Classification: Agricultural

B. Temporary Use Requested -- Mark proposed temporary use.

- | | |
|---|--|
| <input type="checkbox"/> Christmas Tree Sales Lot & Pumpkin Sales Patch | <input type="checkbox"/> Temporary Contractor Trailers & Real Estate Model Units |
| <input type="checkbox"/> Outdoor Retail Sales | <input type="checkbox"/> Temporary Storage Containers |
| <input type="checkbox"/> Farm Stands & Farmers Markets | <input type="checkbox"/> Temporary Storage Trailer |
| <input checked="" type="checkbox"/> Batch Plant | <input type="checkbox"/> Other, subject to review by the City Council |

1. Description of proposed temporary use:

Portable concrete plantsite for the construction of Highway 6

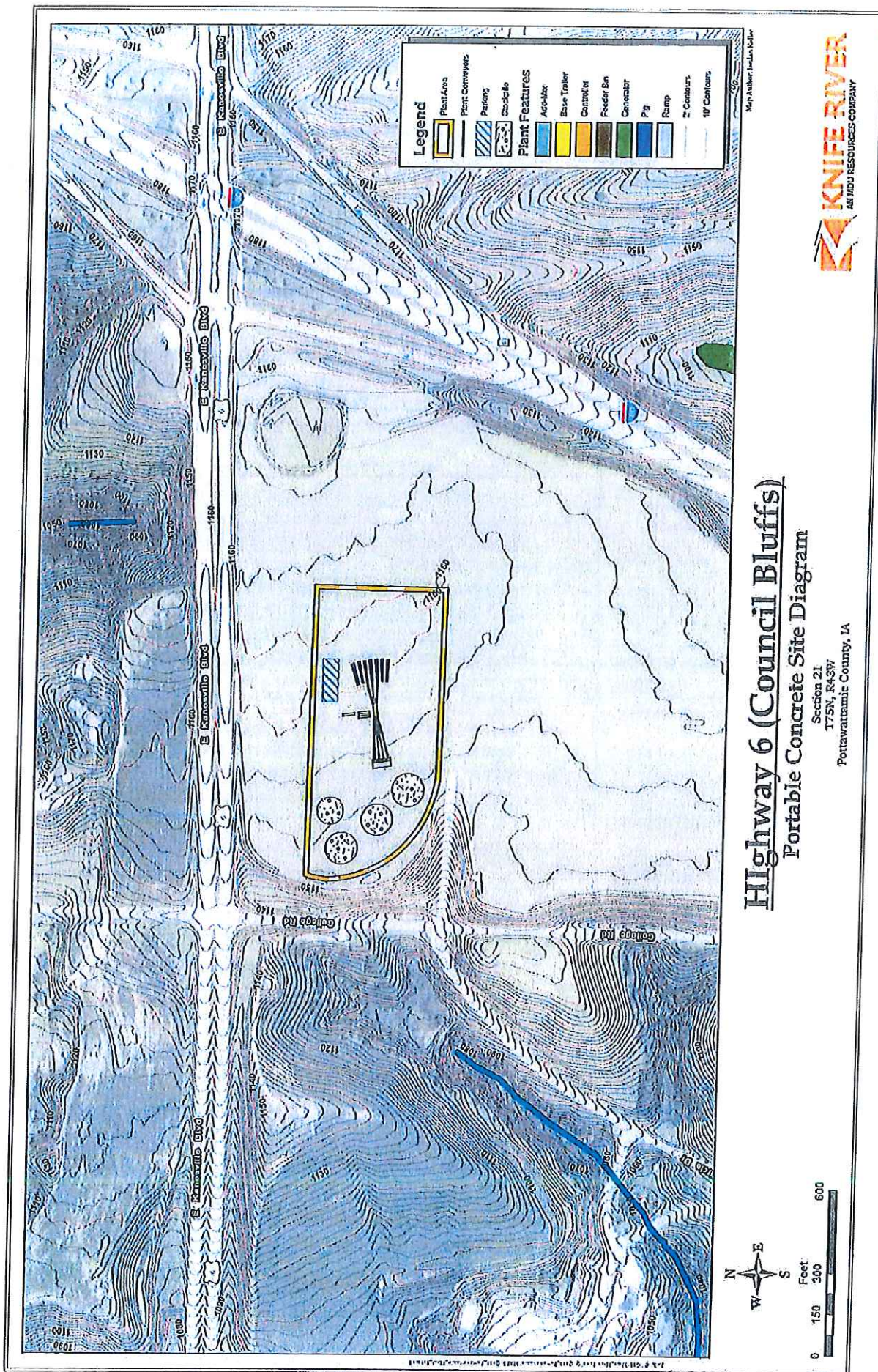
2. Duration of temporary use: Beginning July 1, 2018 ending November 30, 2018

AFFIDAVIT: I hereby certify that the information furnished in this application is accurate, true, and correct to the best of my knowledge. By signing below, the property owner consents to the processing of the application by the applicant and authorizes the applicant to comply with the requirements placed on the application by the City of Council Bluffs. Applicant certifies that the provisions and guidelines of Chapter 15.02.060 and Chapter 15.02.110 of the Council Bluffs Municipal Code have been read, understood and agrees to observe the regulations and conditions for temporary outdoor sales/display.

	Ronald A. Hall, President Knife River Midwest, LLC	May 8, 2018
Applicant Signature	Print Name	Date
	Dan Kinney	5-15-18
Owner Signature	Print Name	Date

FOR OFFICE USE ONLY

Date Received: _____ Received by: _____



Use:	Temporary Portable Concrete Plant site location for 2018 road construction on HWY 6.
Begin:	Stripping of site will be in May 2018 Plant site operations will begin December 2018
End:	Plant site operations will cease December 2018 (dependent on weather)
Site reclamation:	Plant site will be reclaimed to agricultural land use and released at the discretion of the landowner. The topsoil will be spread back evenly across the surface, and then seeded and mulched to ensure revegetation of the site.
Site Development:	Site will be stripped to the B, C, or R horizon, where the A, E, O horizons will be utilized for topsoil berms around the perimeter of the site. Stockpiles will protect stormwater runoff to the drainage areas off site. A current Iowa DNR General Permit for Portable Concrete Batch Plants is on record and a copy will be kept at the office building on site, and in the Environmental Manager's office in Sioux City, Iowa. A site-specific Stormwater Pollution Prevention Plan and Spill Prevention Countermeasure and Control Plan has been developed and will be located both in the office building on site and in the Environmental Manager's office in Sioux City, Iowa.
Methods of Grading:	Knife River Midwest owns and operates our machinery for the building of our sites. Stripping of the site may be subcontracted out.
Best Management Practices:	Site entrance tracking control, dust mitigation, perimeter berm, vegetative buffer strip, perimeter silt fence if needed, inlet protection if needed, perimeter berm, and other practices as needed. Topsoil is bermed on the perimeter of the site, blocking any runoff from site.
Dust Control:	A baghouse attached to our Portable Concrete Batch Plant assists in eliminating dust in our emissions, and we run a water truck with sprayers on the plant site to eliminate dust plumes.
Noise Abatement:	Any plant site will have noise. With the berms, shelterbelts, and operating hours, we plan on abating as much noise as possible, and willing to work with concerned landowners within the proximity of the plant site.
New Buildings:	Temporary Concrete Plant with trailers for offices
Roads:	College Avenue
Maps:	Proposed plant layout, drainage, contour
Water:	Iowa Western Community College Campus hydrant

RESOLUTION NO. 18-293

A RESOLUTION GRANTING A MODIFICATION OF AN APPROVED TEMPORARY USE PERMIT TO ALLOW CONCRETE CRUSHING TO OCCUR ON-SITE FOR THE HIGHWAY 6 CONSTRUCTION PROJECT AND AN EXTENSION OF TIME OF OPERATION FOR THE TEMPORARY PORTABLE CONCRETE BATCH PLANT.

WHEREAS, Knife River Midwest, LLC has requested modification of an approved temporary use permit issued in June of 2018, to allow concrete crushing to occur on-site for the Highway 6 construction project and an extension of time of operation for the temporary batch plant from December 1, 2018 to June 30, 2019; and

WHEREAS, The subject property is located on six acres of undeveloped land located at the southeast intersection of U.S. Highway 6 (East Kanesville Boulevard) and College Road across from Iowa Western Community College (IWCC) and is legally described as Lot 1, Auditor's Subdivision of the SW1/4 SE1/4 of Section 21-75-43, except City right-of-way, Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, The following comments were received:

1. Council Bluffs Engineering Department: stated the following: "The previous agreement included SWPPP control to be put in place and maintained. This is required for the crushing operations also, which includes dust control on site. Upon completion the contractor shall request a site inspection to ensure that the site has been restored to pre-use conditions."
2. Council Bluffs Community Development Department:
 - A. A 'salvage operation' use is defined in Section 15.03.594, Definitions, Salvage Operation of the Council Bluffs Zoning Ordinance as "an establishment engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automobile wrecking yards, junk yards, salvage yards and scrap processing yards." The stockpiles and crushing operation would fall under this definition.
 - B. The crushing of concrete is considered a 'salvage operation' in the context of the Zoning Ordinance and is only allowed as a permanent use if established in an I-2/General Industrial District with the issuance of a conditional use permit by the Zoning Board of Adjustment. The requested use is not defined as a temporary use that can be administratively authorized. In order for temporary crushing to be allowed the City Council would have to authorize the use through the issuance of a temporary use permit per Section 15.02.110 Temporary Use Permit of the Council Bluffs Zoning Ordinance that states: "*Temporary uses not specifically listed here shall require the specific approval of the City Council. Such uses may be allowed in any zoning district, provided that such temporary use is consistent with the purpose and intent of this*

Ordinance and the zoning district in which it is located.”

- C. Council Bluffs Municipal Code section 15.02.110 Temporary Use Permit states: *“Temporary batch plants permits are valid only for the duration of a project, not to exceed six (6) months. However, at the end of the six (6) month period, the Zoning Administrator may renew the permit for another six (6) months or to the conclusion of the project, whichever comes first. At the end of such a project, the contractor must restore the area to its original condition.”*
- i. The applicant has requested to modify the duration of time for the temporary use permit to December 1, 2018 to June 30, 2019 which exceeds the six (6) month time period allowed for an extension. This time extension cannot be granted administratively and requires the approval of City Council.
- D. Council Bluffs Municipal Code section 15.02.110(E)(1)(b) states: *“b. Temporary batch plants shall be located at least one thousand (1,000) feet from any recreational area, school, or residence.”*
- i. The space the applicant is occupying for their temporary use is located 1,352 feet from the closest building on Iowa Western Community College’s (IWCC) campus. A map showing the distances between IWCC’s buildings and the temporary use site is included as Attachment “B.”
- E. The hours of operation for the crushing operation shall be limited to Monday through Friday from 8:00 AM-5:00 PM for a maximum of ten (10) calendar days per month. This restriction of hours of operation addresses the building department’s concern for noise abatement in regards to the IWCC campus being in close proximity to the crushing operation.
- F. Dust and other bi-products shall be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street.
- G. The operator is responsible to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses, and drain inlets.
- H. All applicable permits necessary to meet local, state, and federal requirements shall be the operator’s responsibility.
- I. The applicant shall provide an updated lease agreement with Iowa Western Community College that is consistent with the December 1, 2018 to June 30, 2019 duration requested, prior to the temporary use permit becoming effective.
- J. The amount of material stored on site should be kept to a

reasonable level with crushing operations occurring routinely. Material stockpiles shall not exceed 25 feet in height as specified in the applicant's submittal. If processing is ever to cease in operation for an extended period of time then no additional material should be brought on to that site. A salvage operation is not intended to be a place for long term storage or disposal of material or debris.

- K. Upon completion of the project, the contractor shall request a site inspection to ensure that the site has been restored to pre-use conditions.
- L. The Storm Water Pollution Prevention Plan provided by the applicant shall be followed for both the concrete batching and concrete crushing operations.
- M. The Erosion Control Implementation Plan provided by the applicant shall be followed to reduce the potential for erosion on site.
- N. The dust control measures outlined in the submitted application shall be followed; and

WHEREAS, The Community Development Department recommends approval of the request to modify an approved temporary use permit to allow concrete crushing to occur on-site for the Highway 6 construction project and an extension of time for the temporary portable concrete batch plant operation subject to the comments stated above and the following conditions:

- 1. Dust and other bi-products shall be minimized at all times. Equipment shall be located on site to control and/or remove mud from the public street.
- 2. The operator is responsible to mitigate water quality impacts to receiving water bodies, including locations away from watercourses, drainage courses, and drain inlets.
- 3. All applicable permits necessary to meet local, state, and federal requirements shall be the operator's responsibility.
- 4. The applicant shall provide an updated lease agreement with Iowa Western Community College that is consistent with the December 1, 2018 to June 30, 2019 duration requested, prior to the temporary use permit becoming effective.
- 5. The hours of operation for the crushing operation shall be limited to Monday through Friday from 8:00 AM-5:00 PM for a maximum of ten (10) calendar days per month.
- 6. The amount of material stored on site should be kept to a reasonable level with crushing operations occurring routinely. Material stockpiles shall not exceed 25 feet in height as specified in the applicant's submittal. If processing is ever to cease in operation for an extended period of time then

no additional material should be brought on to that site. A salvage operation is not intended to be a place for long term storage or disposal of material or debris.

7. The Storm Water Pollution Prevention Plan provided by the applicant shall be followed for both the concrete batching and concrete crushing operations.
8. The Erosion Control Implementation Plan provided by the applicant shall be followed to reduce the potential for erosion on site.
9. The dust control measures outlined in the submitted application shall be followed.
10. Upon completion of the project, the contractor shall request a site inspection to ensure that the site has been restored to pre-use conditions.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the modification of the previously approved temporary use permit to allow concrete crushing to occur on-site for the Highway 6 construction project and the extension of time for the temporary portable concrete batch plant operation, as shown on Attachment “D”, is hereby approved subject to the conditions set forth above.

ADOPTED
AND
APPROVED

October 8, 2018.

MATTHEW J. WALSH

Mayor

Attest: _____

JODI QUAKENBUSH

City Clerk

Council Communication

Department: Public Works Admin
Case/Project No.: Matthew Cox,
City Engineer
Submitted by: Matthew Cox, City
Engineer

Resolution 18-294

Council Action: 10/8/2018

Description

Resolution endorsing an application for RISE Program Funding to reconstruct portions of 192nd Street for the development of an industrial subdivision.

Background/Discussion

192nd Street, south of E. South Omaha Bridge Road is located on the shared boundary of the City of Council Bluffs and Pottawattamie County.

Armstrong Industrial Park is located off of 192nd Street. The property is conveniently located approximately 1-mile from Interstate 29 (North & South) and 2-miles from Interstate 80 (East & West). It is also adjacent to Highway 275 with convenient access to US Highway 92. Highway 275 and Bunge Avenue (Mills County) are both feeder roads for 192nd Street. In addition, Union Pacific is within 1.5 miles of the site offering trans-loading facilities. The property is zoned I-1 for industrial development and currently has electric and water infrastructure.

Currently the City of Council Bluffs and Pottawattamie County are experiencing a high demand for industrial property with the availability of developable property being limited. The Armstrong Industrial Park will meet the need for small and mid-sized industrial users in this market. This development will provide an opportunity to expand on the attraction of businesses to the 192nd Street area adding to the businesses that are already in the area including Easton Trucking and Roll Right Tarps.

The reconstruction of 192nd will allow for future industrial traffic and the extension of the roadway into the development will provide for easy access to each of the planned lots. The proposed street improvements are to extend 192nd Street from East South Omaha Bridge Road, South approximately 2,800 feet to the South line of the NW quarter of Section 17, Township 74N, Range 44W and 6,044 feet of interior roads.

The total cost of the project is estimated to be \$1,425,777.10. If the RISE Program application is successful, the proposed funding is \$1,140,621.68 from RISE funds with the remaining match paid equally by the Developer and Pottawattamie County.

The City of Council Bluffs and Pottawattamie County will have joint responsibility for future maintenance.

Recommendation

Approval of this resolution.

ATTACHMENTS:

Description	Type	Upload Date
RISE Grant Location Map	Map	9/28/2018

Map
Resolution 18-294

Map 9/28/2018
Resolution 10/1/2018

192ND STREET RISE GRANT
LOCATION

E SOUTH OMAHA BRIDGE RD

WABASH AVE

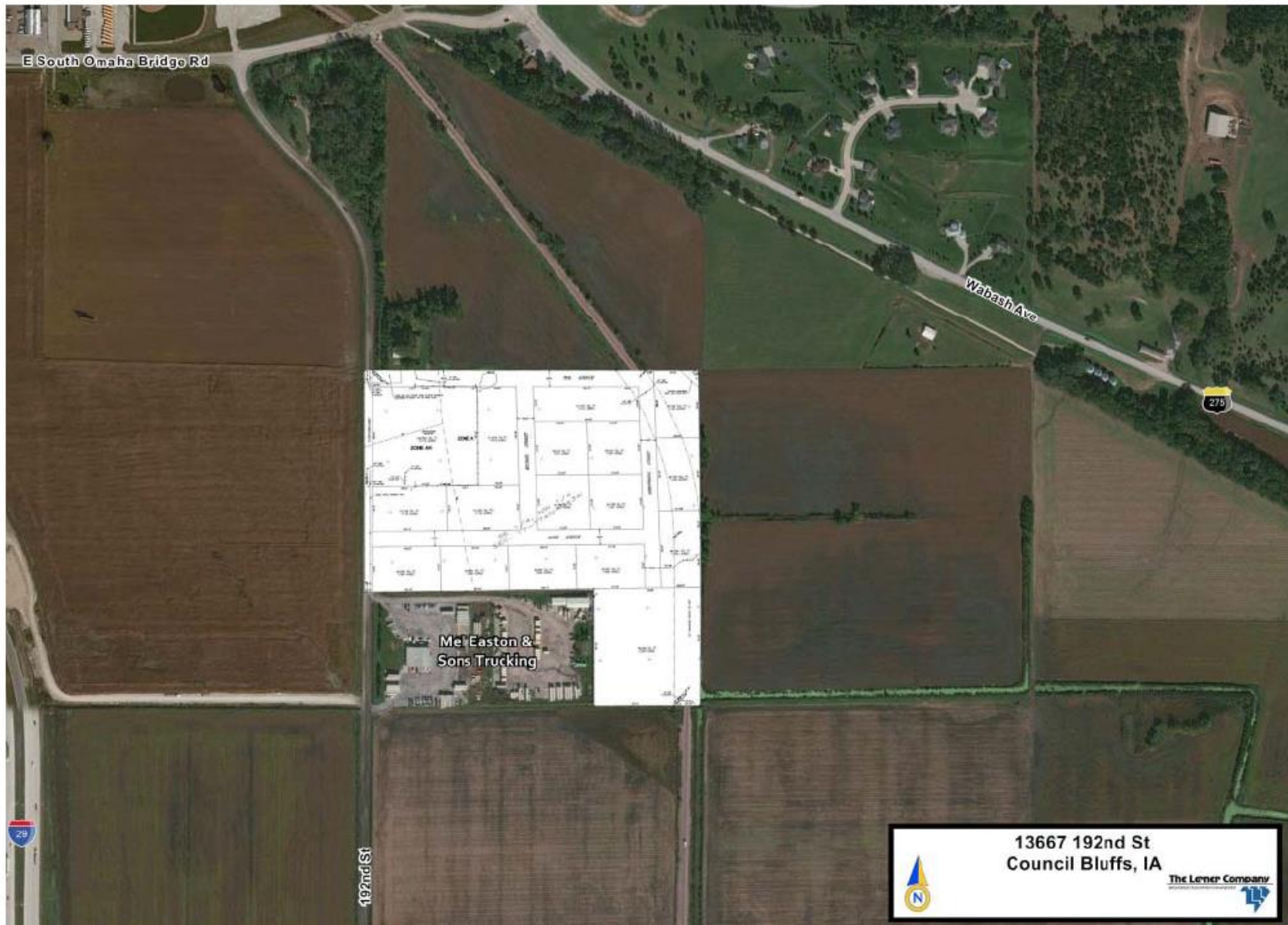
192ND STREET

Legend

 192ND ST. RISE GRANT LOCATION

CITY LIMITS

 Council Bluffs



RESOLUTION
NO 18-294

**RESOLUTION ENDORSING AN APPLICATION FOR RISE PROGRAM FUNDING
TO RECONSTRUCT PORTIONS OF 192ND STREET
FOR THE DEVELOPMENT OF AN INDUSTRIAL SUBDIVISION**

- WHEREAS, the shared boundary between the City of Council Bluffs and Pottawattamie County is located along the centerline of 192nd Street, south of E. South Omaha Bridge Road; and
- WHEREAS, the City of Council Bluffs and Pottawattamie County desire to improve 192nd Street by reconstructing 2,800 lineal feet of roadway; and
- WHEREAS, RISE funds are requested in the amount of \$1,140,621 with the match funds provided by Pottawattamie County and the Developer; and
- WHEREAS, the proposed improvements will provide roadway infrastructure to 26 acres of land designated for industrial use known as the Armstrong Industrial Park; and
- WHEREAS, the RISE program was created to promote economic development in Iowa through the establishment, construction, improvement and maintenance of roads and streets; and the improvements to 192nd Street qualify as an eligible expense for the program.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City of Council Bluffs hereby endorses the RISE application dated October 15, 2018, for the improvements to 192nd Street; and

BE IT FURTHER RESOLVED

That the road improvements constructed under the project will be dedicated to public use under the joint jurisdictional responsibility of the City of Council Bluffs and Pottawattamie County and will be adequately maintained by these entities.

ADOPTED
AND
APPROVED

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: Public Works Admin
Case/Project No.: FY15-06C
Submitted by: Matthew Cox, City Engineer

Resolution 18-295

Council Action: 10/8/2018

Description

Resolution rejecting all bids for the Levee Certification Project, Geotechnical MR_4 and MR_5. Project # FY15-06C.

Background/Discussion

On September 11, 2018, bids were received in the office of the city clerk as follows:

	Division I	Division II	Division III	
	<u>General</u>	<u>Pavement</u>	<u>Storm</u> <u>Sewer</u>	<u>Total</u>
Anderson Excavating Co., Council Bluffs, IA	\$6,922,627.86	\$112,347.94	\$231,165.52	\$7,266,141.32
Peterson Contractors, Inc., Reinbeck, IA	\$7,001,426.70	\$102,238.85	\$280,737.80	\$7,384,403.35
Ryan, Inc., Janesville, WI	\$7,697,551.55	\$140,948.00	\$148,780.50	\$7,987,280.05
Pink Grading Inc., Omaha, NE	\$8,347,830.35	\$89,200.00	\$182,450.00	\$8,619,480.35
Engineer's Opinion	\$4,283,292.25	\$88,675.00	\$110,785.00	\$4,482,752.25

In order to meet the criteria for levee certification, improvements to each of the levee systems will be necessary. The purpose of the Geotechnical MR_4 and Geotechnical MR_5 projects is to resolve seepage deficiencies along the Missouri River levee by constructing a seepage and stability berm. The scope of the project will also incorporate the correction of any noted deficiencies from the latest USACE inspection.

Each year of the FY14 thru FY19 CIP budgets have included a programmed amount in Local Option Sales Tax funds for levee improvements. In addition to LOST funds, the City is able to capture a portion of the State sales tax revenues through the Iowa Flood Mitigation Program. Through this program, the City is eligible to receive \$57M over a 20-year period. The accelerated schedule of the levee program requires a funding strategy that will allow large expenditures to occur in the next few years. The financing plan will likely include borrowing money for the short-term and then leveraging the IFMP reimbursements to pay back the loan over a longer period of time. The City's consultant, PFM, is currently exploring multiple scenarios for borrowing the necessary funds.

The estimated project cost for Geotech MR_4 and MR_5 is approximately \$5,500,000 including engineering, ROW acquisition, and construction.

The bid for the project was higher than anticipated with most of the additional cost associated with the price for fill material. The project team will review the constructing schedule and investigate source options for less expensive fill material prior to a re-bid.

Recommendation

Approval of this resolution.

ATTACHMENTS:

Description

Type

Upload Date

RESOLUTION
NO 18-295

**RESOLUTION REJECTING ALL BIDS
FOR THE LEVEE CERTIFICATION PROJECT,
GEOTECHNICAL MR_4 AND MR_5
PROJECT #FY15-06C**

WHEREAS, the plans, specifications, and form of contract for the Levee Certification Project, Geotechnical MR_4 and MR_5 are on file in the office of the City Clerk; and

WHEREAS, bids were received in the office of the city clerk on September 11, 2018; and

WHEREAS, it is appropriate to reject all bids.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That all bids received for the Levee Certification Project, Geotechnical MR_4 and MR_5 project are rejected.

ADOPTED
AND
APPROVED

October 8, 2018

Matthew J. Walsh, Mayor

ATTEST:

Jodi Quakenbush, City Clerk

Council Communication

Department: City Clerk

Case/Project No.:

Submitted by:

Liquor Licenses

Council Action: 10/8/2018

Description

- 1) Aldi, 3135 Manawa Center Drive
- 2) Brewski's Beverage, 728 Creek Top
- 3) Casey's General Store, 510 23rd Avenue
- 4) Do Rock, 1200 7th Avenue
- 5) Fareway, 310 McKenzie Ave
- 6) Fast Break Sports, 5 Arena Way (New App)
- 7) Rustic Cuts, 501 Veterans Memorial Hwy (New App)
- 8) Texas Roadhouse, 3231 South 24th Street

Background/Discussion

There have been no alcohol related calls for service on these establishments.

Recommendation

ATTACHMENTS:

Description

Applications

Type

Other

Upload Date

10/2/2018



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Applicant LE0001109, Brewski's Beverage, Council Bluffs

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The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s): Brewski Enterprises, Inc. (Sole Proprietorship, Partnership, Corporation, etc.)
Name of Business (D/B/A): Brewski's Beverage
Address of Premise: 726 Creek Top
Address Line 2:
City: Council Bluffs
County: Pottawattamie
Zip: 51503
Business Phone: (712) 323-3800 **Cell / Home Phone:** (402) 598-3248
Same Address
Mailing Address: 726 Creek Top
Mailing Address Line 2:
City: Council Bluffs **State:** Iowa
Zip: 51503
Contact Name: mike schlueter
Phone: (402) 598-3248 **Email Address:** mikecoun6@aol.com

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Applicant LE0002054, Casey's General Store #3050, Council Bluffs

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Corporation Name/Sole Proprietor Name/Partnership Name(s): Casey's Marketing Company (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Casey's General Store #3050

Address of Premise: 510 23rd Ave

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51503

Business Phone: (712) 242-0640

Cell / Home Phone:

Same Address

Mailing Address: PO Box 3001

Mailing Address Line 2:

City: Ankeny

State: Iowa

Zip: 50021-8045

Contact Name: JESSICA FISHER, Store Operations

Phone: (515) 446-6404

Email Address: JESSICA.FISHER@caseys.c

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Applicant BC0028096, Aldi, Inc., Council Bluffs

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Corporation Name/Sole Proprietor Name/Partnership Name(s): Aldi, Inc. (Kansas) (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Aldi, Inc.

Address of Premise: 3135 Manawa Centre Dr

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (913) 768-1119

Cell / Home Phone:

Same Address

Mailing Address: 10505 S. K7 Highway

Mailing Address Line 2:

City: Olathe

State: Kansas

Zip: 66061

Contact Name: Jennifer Deschacht

Phone: (913) 768-1119

Email Address: Jennifer.Deschacht@aldi.us

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Applicant LC0042915, The Do Rock Inn Restaurant and Pub, Council Bluffs

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Corporation Name/Sole Proprietor: Katherine Giles (Sole Proprietorship, Partnership, Corporation, etc.)

Name/Partnership Name(s):

Name of Business (D/B/A): The Do Rock Inn Restaurant and Pub

Address of Premise: 1200 7th Ave

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 68134

Business Phone: (402) 212-8266

Cell / Home Phone:

Same Address

Mailing Address: 1206 7th Ave

Mailing Address Line 2:

City: Council Bluffs

Zip: 51501

State: Iowa

Contact Name: Katherine Giles

Phone: (402) 212-8266

Email Address: katyjeangiies@gmail.com

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Applicant LE0001591, Fareway Stores, Inc. #073, Council Bluffs

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Corporation Name/Sole Proprietor Name/Partnership Name(s): Fareway Stores, Inc. (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Fareway Stores, Inc. #073

Address of Premise: 310 McKenzie Avenue

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51503

Business Phone: (712) 328-4176

Cell / Home Phone:

Same Address

Mailing Address: 2300 Industrial Park Road

Mailing Address Line 2: PO Box 70

City: Boone

Zip: 50036

State: Iowa

Contact Name: Tracey Wilson

Phone: (515) 433-5336

Email Address: twilson@farewaystores.com

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Applicant LC_V_81733, Fast Break Sports Iowa, LLC , Council Bluffs

After completion click on the NEXT link to continue to the next screen, or the BACK link to return to the previous screen.
The navigation links on the top may also be used to move around the application.

Corporation Name/Sole Proprietor Name/Partnership Name(s): Fast Break Sports Iowa, LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Fast Break Sports Iowa, LLC

Address of Premise: 5 Arena Way

Address Line 2:

City: Council Bluffs

County: Iowa

Zip: 51503

Business Phone: (712) 322-1831

Cell / Home Phone:

Same Address

Mailing Address: 21008 Cumberland Drive, Suite 110

Mailing Address Line 2:

City: Omaha

State: Nebraska

Zip: 68022

Contact Name: William J. Douglas

Phone: (402) 213-1345

Email Address: wdouglas@homesbmailbu.c

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Applicant LC0037971, Texas Roadhouse, Council Bluffs

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Corporation Name/Sole Proprietor Name/Partnership Name(s): Texas Roadhouse Holdings LLC (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Texas Roadhouse

Address of Premise: 3231 South 24th Street

Address Line 2:

City: Council Bluffs

County: Iowa

Zip: 51503

Business Phone: (502) 426-9984

Cell / Home Phone:

Same Address

Mailing Address: 6040 Dutchmans Lane

Mailing Address Line 2: Attn: Licensing

City: Louisville

Zip: 40205

State: Kentucky

Contact Name: Laura Young

Phone: (502) 638-5469

Email Address: laura.young@texasroadhouse.com

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Applicant BC_V_81969, Rustic Cuts LLC, Council Bluffs

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- History

Corporation Name/Sole Proprietor Rustic Cuts LLC

(Sole Proprietorship, Partnership, Corporation, etc.)

Name/Partnership Name(s): Rustic Cuts LLC

Name of Business (D/B/A): Rustic Cuts LLC

Address of Premise: 501 Veterans Memorial Hwy

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 545-3051

Cell / Home Phone: (402) 301-9785

Same Address

Mailing Address: 21795 Mesquite Ave

Mailing Address Line 2:

City: Underwood

State: Iowa

Zip: 51576

Contact Name: Rick Larson

Phone: (712) 545-3051

Email Address: rick@larsonvalley.com

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- Carry out Beer
Butcher Shop

Council Communication

Department: City Clerk

Case/Project No.:

Submitted by:

Veteran's Day Parade

Council Action: 10/8/2018

Description

Background/Discussion

Recommendation

ATTACHMENTS:

Description

Parade Application

Type

Other

Upload Date

9/28/2018

SPECIAL EVENT PERMIT APPLICATION
(Must be turned in at least 10 days prior to event)

A Special Event Permit is required from the City of Council Bluffs for any special activity that requires exclusive use of city streets and sidewalks, requires special assistance of a city department, or is likely to have a large impact on traffic.

Please check any boxes that apply:

I. General Information.

- Organization/Person Requesting: Council Bluffs Veterans Day
- Name of Event: Veteran Day Parade Parade Committee
- Contact Name: Virgil Steenback
- Mailing Address for Contact: 716 South 4th St
- Contact Phone Number: 712-326-4292
- Email: Gramsplace306@gmail.com
- Address of Event: American Legion & Down Riverall & Main
- Estimate of Number of Participants:
 - ☐ 1-50
 - ☒ 251-500
 - ☐ 51-100
 - ☐ 501-1,000
 - ☐ 100-150
 - ☐ > 1,000
- Attach map of event location, set-up, and/or route

II. Type of Event:

- ☐ Circus
- ☐ Carnival
- ☐ Fireworks
- ☒ Parade

*The above events require City Council approval, which could take 2-4 weeks to obtain.

- ☐ Walk, Run, Bicycle Event
- ☐ Concert
- ☐ Neighborhood/Block or Private Party
- ☒ Other: Parade

III. Date of Event

- Date Set Up 11-3-2018
- Date Held 11-3-2018

Date Taken Down 11-3-2018
Times Held 11:00

IV. Brief description of event: Veterans day Parade down
Highway 1 up to Main
Street
Same route as previous years

V. Additional permits required when event includes

- ☐ Sale of Alcoholic Beverages
 - Requires temporary liquor license from the Iowa Alcoholic Beverage Division. Apply on-line at www.iowaabd.com. ABD can be reached at 1-866-469-2223.
 - The application for a temporary liquor license must be reported to the City Clerk's office and approved by multiple City Departments before final approval of the City Council. (this process could take 2-4 weeks)
- ☐ Sale of Food Products
 - Requires permit from Iowa Department of Inspections & Appeals (515-281-6538).
- ☐ Fireworks
 - Requires permit from City Fire Department (712-328-4646).
- ☐ Noise
 - If event includes music, a live band, or noise of any kind a request for a noise variance must be made. A form is available from the City Health Department (712-328-4666).

VI. Traffic Control

☒ Request Police Assistance for If city requires them

Cost for City worker's overtime may be required. Administrative fees for police services and cruisers are provided at additional costs.

- ☒ Street closures (**Must include a Map**)
 - Street closures must be in compliance with the Manual for Uniform Traffic Control Devices. Traffic control barricades and signage must be furnished and placed by qualified companies or by the city. The city charges fees for this service.
 - Street closures require abutting property owners' concurrence. Petition/permission form attached.

VII. Please check any of the following boxes that apply to this event.

- ☒ animals
- ☐ open fires (other than barbeques)
- ☐ portables (porta-potties) – recommendations based on duration/people attending
- ☐ using a park, sidewalk or street surrounding a park
- ☐ using any portion of a public trail
- ☐ using any public area
- ☐ there will alcoholic beverages be sold
- ☐ there will alcoholic beverages be served
- ☐ there will there be a fee/charge to take part in this event

If you checked any of the boxes above, please give a brief description below:

Insurance Requirements: For all events, an *Insurance Certificate* is required in the amount of \$1,000,000.00, for Liability coverage, listing the City of Council Bluffs as an additional insured.

PLEASE NOTE: The request form must be returned to the City Clerk's Office, 209 Pearl Street, at least 10 business days prior to the event or the event will be denied. If you have any questions please contact us at 712-328-4616

For City Use Only:

Name of Special Event: _____

Date of Special Event: _____

Note to Departments: You are requested to review this application and return it to the city Clerk's Office with any comments shown below. Comments should include pertinent laws and ordinances as well as notice of any required changes, fees, permits, and licenses.

Department Comments: _____

☐ Approved

☐ Denied

Department: _____

Signature/Initials: _____

Street Closure Permission

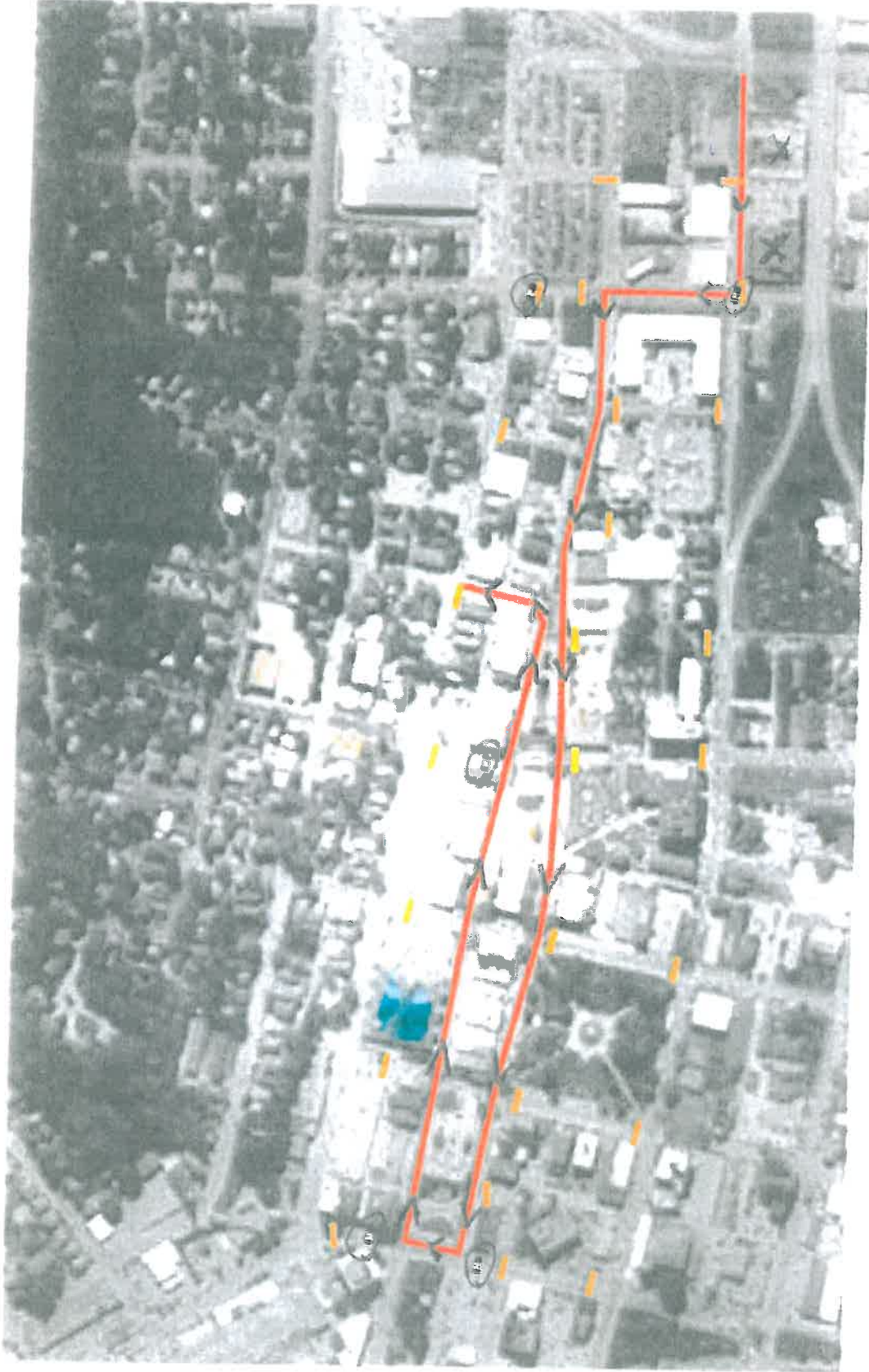
We the undersigned residents in the City of Council Bluffs, Iowa, DO NOT object to the closing of the following street for a special event:

Street: _____

Date and Time: _____

Only one name per household and only residents of a property affected by the closure will be considered as legitimate endorsers.

DATE	PRINTED NAME	SIGNATURE	ADDRESS





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/26/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brocker, Karns & Karns Inc. Insurance Council Bluffs Office 1317 N 16th St Council Bluffs IA 51501	CONTACT NAME: Brocker Karns Karns PHONE (A/C, No, Ext): (712) 322-1228 FAX (A/C, No): (712) 322-1053 E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: Auto Owners INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
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COVERAGES **CERTIFICATE NUMBER:** CL15101507678 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVO	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	39003818	6/30/2018	6/30/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Premises/Operations \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS		4686335200	6/30/2018	6/30/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 2,000
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ OTHER \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A	39889531	06/30/2018	06/30/2019	PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDERCity of Council Bluffs
209 Pearl Street
Council Bluffs, IA 51503**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Chris Karns/CRM

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