

Paula Hazlewood - Advanced Southwest Iowa Update

Pete Tulipana - TIF follow up report

Review Agenda



## **City Council Meeting Minutes October 22, 2018**

### **CALL TO ORDER**

A regular meeting was called to order by Mayor Matthew J. Walsh on Monday October 22, 2018 at 7:00 p.m.

Council Members Present: Roger Sandau, Nate Watson, Sharon White and Mike Wolf.

Council Member Present via telephone: Melissa Head

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 October 8, 2018 City Council Meeting Minutes.

#### **Ordinance 6371**

Ordinance to amend the zoning map as adopted by reference in Section 15.27.020 and setting a Public Hearing for November 5, 2018 at 7:00 p.m., by rezoning 6.19 acres of land, more or less, legally described as Lot 2, Arbor Creek, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District with a P-R/Planned Residential Overlay; as set forth and defined in Chapters 15.10 and 15.28. Location: Generally located at the Northwest corner of College Road and Railroad Avenue. ZC-18-013 and PR-18-003

#### **Resolution 18-296**

Resolution setting a public hearing for November 5, 2018 at 7:00 p.m., for granting an easement and right-of-way across Mosquito Creek Drainage District #22 in connection with an underground pipeline installation by Buckeye Pipe Line Transportation LLC.

Resolution 18-297

Resolution to amend the *Bluffs Tomorrow: 2030 Plan (Comprehensive Plan)* and setting Public Hearing for November 5, 2018 at 7:00 p.m., specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek from "Rural Residential/Agricultural" to "Medium-Density Residential". Location: Generally located at the Northwest corner of College Road and Railroad Avenue. CP-18-001

Resolution 18-298

Resolution of intent to dispose and setting Public Hearing for November 5, 2018 at 7:00 p.m. of City property legally described as Lot 2, Arbor Creek. Location: Northwest corner of College Road and Railroad Avenue. OTB-18-028.

Resolution 18-300

Resolution of intent to execute an easement agreement with the Council Bluffs Board of Water Works Trustees.

September 2018 Financial Reports

Notice of Right of Redemption

Offers to Buy

Claims

Heard from Ron Wolfe, 536 College Road

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

**MAYORS PROCLAMATIONS**

A. Extra Mile Day

**PUBLIC HEARINGS**

Reconsider 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 ¼ of Section 29-75-43. Location: Immediately north of the intersection of Railroad Avenue and College Road. SUB-18-015

Heard from Deborah Peterson, 215 South Main Street asking that the record reflect the people who opposed the Resolution at the September 24, 2018 meeting.

Citizens in opposition on September 24, 2018:

- 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

No Motion or Vote. Resolution remains as previously approved.

Resolution 18-299

Resolution to dispose of City described as Lot 8, Block 14, Pierce's Subdivision. Location: Formerly addressed as 1813 8<sup>th</sup> Avenue. OTB-18-026

Roger Sandau and Nate Watson moved and seconded approval of Resolution 18-299. Unanimous, 5-0 vote.

## **ORDINANCES ON 1ST READING**

Ordinance 6373

Ordinance to amend Title 1 "Administration and Personnel" by amending Chapter 1.12 "City Council" Section 1.12.020 "Compensation for office of City Council".

Heard from Bruce Kelly, 864 McKenzie Avenue in favor of the Ordinance. Roger Sandau and Nate Watson moved and seconded approval of First Consideration of Ordinance 6373 as amended to reflect an annual cost of living increase built in to the Ordinance and an effective date of January 2020. Second Consideration will be November 5, 2018 at 7:00 p.m.. Unanimous, 4-1 vote.  
(Nays: White)

## **ORDINANCES ON 2ND READING**

Ordinances 6351 - 6359 & 6361- 6370

Ordinances 6351 - 6359 & 6361-6370 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 6361 to amend Chapter 4.32 "Private Sewage Disposal Systems" by repealing existing Sections 4.32.010 through 4.32.170.
- 11) Ordinance 6362 to amend Chapter 4.33 "Private Wells" by repealing existing Sections 4.33.010 through 4.33.040.
- 12) Ordinance 6363 to amend Title 4 "Health and Sanitation" by amending Chapter 4.50 "Noise Control."
- 13) Ordinance 6364 to amend Chapter 4.70 "High-Risk Sexual Conduct" by repealing existing Sections 4.70.010 through 4.70.050.
- 14) Ordinance 6365 to amend Chapter 4.60 "Hazardous Substances" by repealing existing Sections 4.60.010 through

4.60.080.

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

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

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

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

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

Sharon White and Nate Watson moved and seconded approval of Second Consideration on Ordinances 6351 - 6359 & Ordinances 6361-6370. Unanimous, 5-0 vote.

Nate Watson and Sharon White moved and seconded approval of Motion to Waive 3rd Consideration on Ordinances 6351 - 6359 & Ordinances 6361-6370. Ordinances Pass into Law.. Unanimous, 5-0 vote.

## **ORDINANCES ON 3RD READING**

### **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

Heard from the following in favor of the project:

Paul Kelly, 440 North 64th Street, Omaha

Clint Brunow, 16935 State Orchard Rd

Watson motioned to Receive & File, Seconded by White. Unanimous

Mark McKeever, 5102 Ballard Circle

Andy Raymond, 24037 195th Street

Watson motioned to Receive & File, Seconded by White. Unanimous

Bruce Kelly, 864 McKenzie Avenue

Roger Sandau and Sharon White moved and seconded approval of Third Consideration of Ordinance 6349. Ordinance Passes into Law.. Passed, 3-

2 vote.  
(Nays: Watson, Wolf)

## **RESOLUTIONS**

### **Resolution 18-301**

Resolution to adopt a planned residential development plan on 8.50 acres of undeveloped land zoned R-4/High Density Multi-Family Residential District with an appended Planned Residential Overlay, legally described as being part of Tract 4, Sherwood Subdivision (Phase 2) located in the NE 1/4 of Section 29-75-43 and the SE 1/4 of Section 20-75-43. Location: Undeveloped land lying immediately East of 2009 Sherwood Court.

Heard from Mark McKeever, 5102 Ballard Circle and Bruce Kelly 864 McKenzie Avenue in favor of the project.  
Roger Sandau and Melissa Head moved and seconded approval of Resolution 18-301. Passed, 3-2 vote.  
(Nays: Watson, Wolf)

### **Resolution 18-302**

Resolution authorizing the Mayor and City Clerk to execute an agreement with Veenstra & Kimm, Inc. for engineering services in connection with a Sanitary Sewer Rate Study. Project # PW19-04

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-302. Unanimous, 5-0 vote.

### **Resolution 18-303**

Resolution authorizing the Mayor to execute Iowa Department of Transportation Agreement No. 2019-TS-019 for Traffic Safety Improvement Program Funding.

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-303. Unanimous, 5-0 vote.

### **Resolution 18-304**

Resolution authorizing one additional year of 50% Property Tax Abatement Incentives to Echo Group, Inc. for their project at 4325 Gifford Road.

Sharon White and Melissa Head moved and seconded approval of Resolution 18-304. Unanimous, 5-0 vote.

## **APPLICATIONS FOR PERMITS AND CANCELLATIONS**

### **Liquor License Renewals**

- 1) Casey's General Store, 2301 South 24th Street
- 2) Hard Luck Saloon, 626 16th Avenue
- 3) Hy-Vee Clubhouse, 1745 Madison Avenue
- 4) Mega Saver, 3540 West Broadway
- 5) Pizza King, 1101 North Broadway

Roger Sandau and Nate Watson moved and seconded approval of Liquor Licenses 10A 1-5. Unanimous, 5-0 vote.

## **OTHER BUSINESS**

## **CITIZENS REQUEST TO BE HEARD**

Heard from Bruce Kelly, 864 McKenzie Avenue regarding Bike Trail, extra lane on Kanseville and street light on Mckenzie Avenue.

## **ADJOURNMENT**

Mayor Walsh adjourned the meeting at 8:18 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: City Clerk  
Case/Project No.:  
Submitted by: Jodi Quakenbush

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

Council Action: 10/22/2018

**Description**

**Background/Discussion**

**Recommendation**

### Council Communication

Department: City Clerk  
Case/Project No.:  
Submitted by: Jodi Quakenbush

Reading, correction and approval of the October  
8, 2018 City Council Meeting Minutes.

Council Action: 10/22/2018

<b>Description</b>
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<b>Background/Discussion</b>
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<b>Recommendation</b>
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**ATTACHMENTS:**

Description

[10-8-18 Minutes](#)

Type

Other

Upload Date

10/12/2018



## **City Council Meeting Minutes October 8, 2018**

### **CALL TO ORDER**

A regular meeting was called to order by Mayor Matthew J. Walsh on Monday October 8, 2018 at 7:00 p.m.  
Council Member Present: Nate Watson, Sharon White and Mike Wolf.  
Council Members Present via telephone: Melissa Head & Roger Sandau.  
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 24, 2018 City Council Meeting Minutes.

#### **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

#### **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

#### **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.

#### **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.



#### 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

#### Mayor's Appointments

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

#### Claims

Sharon White and Nate Watson moved and seconded approval of Consent Agenda and editing the agenda to move Item 7D to 7A, Resolution 18-293.. Unanimous, 5-0 vote.

### **PUBLIC HEARINGS**

#### 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 SE 1/4 SW 1/4 of Section 29-75-43, and a part of Lot 1, Auditor's Subdivision of the NE 1/4 NW 1/4 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

Sharon White and Nate Watson moved and seconded approval of Second Consideration of Ordinance 6349. Third Consideration will be October 22, 2018 at 7:00 p.m.. Passed, 4-1 vote.

(Nays: Wolf)

#### 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

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-286 per staff recommendations. Unanimous, 5-0 vote.

#### 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

Nate Watson and Mike Wolf moved and seconded approval of Resolution 18-287. Unanimous, 5-0 vote.

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

Sharon White and Mike Wolf moved and seconded approval of Resolution 18-288. Unanimous, 0-0 vote.

Resolution 18-289

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

Mike Wolf and Nate Watson moved and seconded approval of Resolution 18-189. Unanimous, 5-0 vote.

**ORDINANCES ON 1ST READING**

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."

Nate Watson and Mike Wolf moved and seconded approval of First Consideration of Ordinances 6351-6370, Second Consideration will be held October 22, 2018 at 7:00 p.m.. Unanimous, 5-0 vote.

## **ORDINANCES ON 2ND 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 Mike Wolf moved and seconded approval of Second Consideration of Ordinance 6350. Unanimous, 5-0 vote.

Sharon White and Mike Wolf moved and seconded approval of Motion to Waive Third Consideration. Ordinance passes to law. Unanimous, 5-0 vote.

## **RESOLUTIONS**

### **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 Kanesville Boulevard) and College Road across from Iowa Western Community College. TU-18-006(M)

Nate Watson and Sharon White moved and seconded approval of Resolution 18-293 for purposes of discussion only. , 0-0 vote.

Heard from Alex & Brook with Knife River Midwest and Steve Smeuling with Smeuling Construction from Sioux City

Watson moved and Wolf seconded to receive and file documents from Brook with Knife River Midwest.

Sharon White and Nate Watson moved and seconded approval of Resolution 18-293 as amended to change the hours to 7:00 am to 6:00 pm, Monday through Friday with a maximum 15 working days.. Unanimous, 5-0 vote.

### **Resolution 18-290**

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

Sharon White and Melissa Head moved and seconded approval of Resolution 18-290. Unanimous, 5-0 vote.

### **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.

Sharon White and Melissa Head moved and seconded approval of Resolution 18-291. Unanimous, 5-0 vote.

#### Resolution 18-292

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

Nate Watson and Mike Wolf moved and seconded approval of Resolution 18-292. Unanimous, 5-0 vote.

#### Resolution 18-294

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

Sharon White and Melissa Head moved and seconded approval of Resolution 18-294. Unanimous, 5-0 vote.

#### Resolution 18-295

Resolution rejecting all bids for the Levee Certification Project, Geotechnical MR\_4 and MR\_5. Project # FY15-06C.

Nate Watson and Mike Wolf moved and seconded approval of Resolution 18-295. Unanimous, 5-0 vote.

### **APPLICATIONS FOR PERMITS AND CANCELLATIONS**

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  
Veteran's Day Parade

Nate Watson and Mike Wolf moved and seconded approval of Applications for permits & Cancellations 8A & 8B inclusive. Unanimous, 5-0 vote.

### **OTHER BUSINESS**

White explained that at the September 24, 2018 meeting the City Council approved Resolution 18-273 with the understanding that they were not the ones to grant the variance and they have since learned they are the only ones who can grant the variance. Although White doesn't think the outcome will change, she wants it to be transparent to the public what is happening. Sharon White and Melissa Head moved and seconded approval of Motion to reconsider Resolution 18-273 on October 22, 2018 at 7:00 p.m..  
Unanimous, 5-0 vote.

### **CITIZENS REQUEST TO BE HEARD**

Heard from Bruce Kelly, 864 McKenzie Avenue, requesting a trail, additional lane and Street light.

Heard From Wayne Grapp, 2445 Avenue H, requesting a roller Rink for the kids in the community.

## **ADJOURNMENT**

Mayor Walsh adjourned the meeting at 7:44 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.

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Matthew J. Walsh, Mayor

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Attest: Jodi Quakenbush, City Clerk

## Council Communication

Department: Community Development  
Case/Project No.: ZC-18-013 and PR-18-003  
Submitted by: Chris Meeks, Planner

Ordinance 6371

Council Action: 10/22/2018

### Description

Ordinance to amend the zoning map as adopted by reference in Section 15.27.020 and setting a Public Hearing for November 5, 2018 at 7:00 p.m., by rezoning 6.19 acres of land, more or less, legally described as Lot 2, Arbor Creek, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District with a P-R/Planned Residential Overlay; as set forth and defined in Chapters 15.10 and 15.28. Location: Generally located at the Northwest corner of College Road and Railroad Avenue. ZC-18-013 and PR-18-003

### Background/Discussion

See attachments.

### Recommendation

#### **ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">Staff Report</a>	Other	10/16/2018
<a href="#">ZC-18-013 Zimmerman Rezoning PH Notice CC</a>	Other	10/12/2018
<a href="#">Attach A Case Map</a>	Other	10/12/2018
<a href="#">Attach B Letter of Intent</a>	Other	10/12/2018
<a href="#">Attach C Lot 2 Arbor Creek Map</a>	Other	10/12/2018
<a href="#">Attach D Development Plan</a>	Other	10/12/2018
<a href="#">Attach E Geotechnical Analysis</a>	Other	10/12/2018
<a href="#">Attach F Land Use Plan Amendment Map</a>	Other	10/12/2018
<a href="#">Attach G Site Photos</a>	Other	10/12/2018
<a href="#">Ordinance 6371</a>	Ordinance	10/16/2018

## Council Communication

<p>Department: Community Development Department</p> <p>CASES #ZC-18-013 and #PR-18-003</p> <p>Applicant/Owner: Zimmerman Properties Development, LLC Attn: Jamie McDonald 1329 East Lark Street Springfield, MO 65804</p> <p>Engineer: Kaw Valley Engineering, Inc. 14700 West 114<sup>th</sup> Terrace Lenexa, KS 66215</p> <p>Property Owner: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503</p>	<p>Ordinance No. _____</p> <p>Resolution No. _____</p> <p>Resolution No. _____</p>	<p>City Council: 10/22/18</p> <p>Planning Commission: 10/9/18</p>
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### Subject/Title

**Request:** CASES #ZC-18-013, #PR-18-003, and #CP-18-001- Combined public hearings on the request of Zimmerman Properties Development, LLC, represented by Jamie McDonald, for the following:

- 1) Rezone 6.19 acres of land, more or less, legally described as Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District; and
- 2) Append a PR/Planned Residential Overlay District on Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, and adopt an associated development plan for the Valley Ridge Apartments.
- 3) Amend the Bluffs Tomorrow: 2030 Comprehensive Plan, specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential”.

**Location:** Generally located at the Northwest corner of College Road and Railroad Avenue.

### Background/Discussion

The Community Development Department has received applications from Zimmerman Properties Development, LLC, represented by Jamie McDonald for the following requests; 1) to rezone approximately 6.19 acres of land known as Lot 2, Arbor Creek, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District; 2) to append a PR/Planned Residential Overlay District on Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, and adopt an associated development plan for the Valley Ridge Apartments. The Community Development Department expanded the request to include; 3) Amend the Bluffs Tomorrow: 2030 Comprehensive Plan, specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential”.



The purpose of these requests is to accommodate a proposed 60 unit multifamily residential development project to be known as Valley Ridge Apartments. Valley Ridge Apartments will provide housing for people whose incomes are at or below 60% of the area median income. The developer will also apply for Low Income Housing Tax Credits from the Iowa Finance Authority in January of 2019 to help finance this project. The Valley Ridge Apartment development will feature amenities such as a clubhouse, playground, shelter and barbeque area, and potentially a dog park and sports court.

CASE #ZC-18-013: Rezone approximately 6.19 Acres of land, more or less, that is legally described as Lot 2, Arbor Creek, from A-2/Parks, Estates and Agricultural District to R-3/Low Density Multifamily Residential District (and to append a PR/Planned Residential Overlay District, as is addressed in CASE #PR-18-003 below). The rezoning is to accommodate a 60 unit multifamily residential development project to be known as Valley Ridge Apartments, which would not be a permitted use in the A-2/Parks, Estates and Agricultural District, but would be considered a principal use in the R-3/Low-Density Multifamily Residential District.

#### Land Use and Zoning

The subject property is currently undeveloped, and is zoned A-2/Parks, Estates and Agricultural District. Surrounding land uses and zoning districts are as follows:

North: The Midlands Humane Society which is zoned A-2/Parks, Estates and Agricultural District.

South: Single Family Dwellings that are zoned A-2/Parks, Estates and Agricultural District.

East: A Single Family Dwelling, BNSF Railway line, and Iowa Western Community College, all of which are located in the A-2/Parks, Estates and Agricultural District

West: Single Family Dwellings, some of which are zoned R-1/Single Family Residential District, and some zoned A-2/Parks, Estates and Agricultural

The future land use plan of the Bluffs Tomorrow 2030 (comprehensive plan) currently designates the subject property as Rural Residential/Agricultural. The Land Use Plan designates property to the North and East as Public/Semi-Public, property to the West as Rural Residential/Agricultural, and property the South as Low-Density Residential.

CASE #PR-18-003: Append a Planned Residential Overlay District, and adopt the associated development plan for Valley Ridge Apartments on property legally described as being Lot 2, Arbor Creek. The Planned Residential Overlay District, along with the proposed rezoning outlined in CASE #ZC-18-013, will allow for the construction of the 60 unit multifamily development, along with amenities and features for the residents of the complex. Per the submitted development plan (as shown on Attachment D), the multifamily residential building will be three stories in height, and will feature 20 units on each floor. The development will also feature a one-story clubhouse and maintenance building, gazebos, barbeque areas, a playground, common space in the clubhouse, and potentially a dog park and sport court. The submitted development plan will establish standards for site development (e.g. building height, setbacks, and lot coverage), landscaping, architecture, signage, off street parking, and stormwater management.

CASE #CP-18-001: The Community Development Department expanded the request to amend the Future Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan in order to reclassify the subject from property from "Rural Residential/Agricultural" to "Medium-Density Residential". The proposed comprehensive plan amendment will accomplish the following: 1) It will address the urbanizing nature of development in the general vicinity of the area, including but not limited to the nearby College View Elementary School and Iowa Western Community College, as well as the existing Sherwood Apartments located North of the subject property, and proposed Senior Care facilities on College Road, located East of the subject property. 2) The amendment will ensure the proposed rezoning is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan.

City Departments and Utilities: The appropriate City departments and utilities have reviewed the proposed request and their comments are incorporated below.

- The Fire Marshall stated he has no comments regarding any of the cases.
- The Permits and Inspections Division stated that the parcel is in the floodplain, and has a designation of AE.
- The Public Works Department has the following comments:
  - 1) No comments on the rezoning request.
  - 2) On the Planned Residential Overlay District Request:
    - a) A drainage report was submitted, and the Public Works Department will work with the engineer to finalize the drainage report to meet current standards and specifications for stormwater management. A PCSMP conceptual application, Engineer's estimate of probable cost, performance bond, and maintenance & easement agreement will be required in regards to water quality. In regards to water quantity, stormwater management will be required for all events through a 100 year event. Floodplain permitting will also be required for this project.
    - b) A full geotechnical report will be required.
    - c) The Public Works Department will work with the engineer to meet all current standards and specifications for site development.
    - d) The Public Works Department noted there is existing infrastructure along Railroad Avenue and part of College Road.
  - 3) No comments on the comprehensive plan amendment.
- Council Bluffs Water Works stated that they have comments for the engineer regarding fireline looping and would like review authority for any improvements located in their 25 foot easement along Railroad Avenue, but otherwise had no comments in regards to the rezoning, planned residential overlay and development plan, or comprehensive plan amendment requests.
- MidAmerican Energy stated they have an underground 3-phase line on the West side of Railroad Avenue between the road and the sidewalk that is located within the right-of-way. MidAmerican Energy stated they have no conflicts for the proposed development at this location.

The following attachments have been included for your review:

Attachment A: Location and Zoning Map  
Attachment B: Letter of Intent  
Attachment C: Lot 2, Arbor Creek Map  
Attachment D: Development Plan  
Attachment E: Preliminary Geotechnical Evaluation  
Attachment F: Proposed Land Use Plan Amendment  
Attachment G: Site Photos

### **Comments**

#### Rezoning (CASE #ZC-18-013)-

1. The subject property is currently zoned A-2/Parks, Estates and Agricultural District. Surrounding zoning districts include A-2/Parks, Estates and Agricultural District to the North, East, and South, and R-1/Single Family Residential to the South. The applicant has proposed to rezone the subject property to R-3/Low-Density Multifamily Residential to accommodate the construction of a 60 unit multifamily residential development. In the R-3 District, the minimum lot size requirement for a multifamily development is dictated based upon the number of units. Per Section 15.10.050, *Site Development Regulations of the R-3 District* multifamily development with five or more units shall provide a minimum lot size as follows: 9,000 square feet for the first five units, plus an increase of 2,000 square feet for each additional unit. The applicant's proposal is for a 60 unit multifamily development which requires a minimum of 119,000 square feet of land area, or 2.73 acres. Lot 2, Arbor Creek contains 6.19 acres of land, therefore, the land is suitable in size for a 60 unit multifamily development and will comply with R-3 District minimum lot size requirements.

2. The future land use plan of the Bluffs Tomorrow 2030 (comprehensive plan) designates the subject property as Rural Residential/Agriculture. The Community Development Department has proposed an amendment to the Land Use Plan to designate the property as Medium-Density Residential. The purpose of this comprehensive plan amendment is to: 1) Address the urbanizing nature of development in the general vicinity of the area, including but not limited to the nearby College View Elementary School and Iowa Western Community College, as well as the existing Sherwood Apartments located North of the subject property, and proposed Senior Care facility on College Road, located East of the subject property. 2) Ensure the proposed rezoning is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan.
3. All property owners located within 200 feet of the proposed rezoning area were notified by direct mail. The following comments were received on the request.
  - a) The BNSF Railroad contacted the Community Development Department and had a general inquiry about the project, and is not in opposition.

**Development Plan (CASE #PR-18-003)-**

Section 15.28.010, P-R/Planned Residential Overlay, Statement of Intent of the Council Bluffs (Municipal Code) Zoning Ordinance states “the planned residential overlay is established to permit flexibility in the use and design of structures and land in situations where conventional development may be inappropriate and where modifications of the requirements of the underlying zone would not be inconsistent with the Comprehensive Plan or harmful to the neighborhood in which it is located”.

The following development standards shall apply to the subject property:

**1. Site Development**

- a. The subject property contains 6.19 acres and is capable of supporting up to a maximum of 135 multifamily units based upon the lot size requirements stated in the R-3 District. The applicant has proposed 60 units, which is less than the total maximum allowed per city code.
- b. All construction shall comply with the setback, building height, and lot coverage standards stated in Chapter 15.10 R-3/Low Density Multi-Family Residential District of the Municipal Code (Zoning Ordinance). The submitted development plan shows all buildings will comply with R-3 District site development standards.
- c. The applicant shall install a sidewalk along the frontage of College Road. Sidewalks shall connect all buildings, parking lots, and amenity spaces within the interior of the development. A minimum five foot wide sidewalks shall be extended from the trail system along Railroad Avenue and College Road into the development. Sidewalks shall be installed prior to the issuance of a Certificate of Occupancy.
- d. The submitted site plan shows two trash enclosures. Trash enclosures shall be enclosed on three sides, and shall be screened from public view with materials similar to those of the primary building. The enclosure shall have a gate which when closed completely eliminates the view of the dumpster.
- e. All fencing standards shall comply with Section 15.24.040, Fence regulations of the Council Bluffs Municipal Code (Zoning Ordinance). If the potential dog park is constructed, an eight-foot tall fence, as measured from the finished grade, will be permitted only around the specified dog-park area.
- f. All site lighting shall comply with the standards stated in Section 15.24.050, *Lighting controls* of the Council Bluffs Municipal Code (Zoning Ordinance).

**2. Off-Street Parking**

- a. Off street parking for multifamily developments is calculated by the number of bedrooms in each unit. The submitted site plan shows that approximately 116 parking stalls will be constructed. Parking shall be based on the standards stated in Section 15.23.060, *Parking spaces required*, of the Municipal Code (Zoning Ordinance) as follows: 1 parking space shall be required for each efficiency and 1 bedroom apartment, and 1 ½ parking spaces shall be required for each 2 or more bedroom apartment. Parking shall also be provided at 1 space for every 400 square feet of office space in the clubhouse. The total number of required off street

parking spaces will be determined at the time of building permit review, and will be based upon the previously stated parking calculations.

- b. All parking/loading areas, driveways and drive aisles shall comply with the standards stated in Chapter 15.23, *Off-Street Parking, Loading and Unloading* of the Municipal Code (Zoning Ordinance).
- c. All off-street parking shall comply with the Parking for Persons with Disabilities Chapter of the Iowa Administrative Code.
- d. All parking lots and drive aisles shall be landscaped in accordance with the proposed landscaping plan.

### **3. Landscaping**

- a. The proposed landscaping plan shows a mixture of shade trees, evergreen trees, and flowering trees on the property, with native sod/grasses being planted throughout the property. The proposed landscaping plan is generally acceptable, with the following conditions:
  - 1) Trees shall be planted at a quantity of 1 tree per 30 feet of frontage along Railroad Avenue and College Road, between the sidewalk/trail and the street.
  - 2) An evergreen tree buffer, or a six-foot tall privacy fence to be planted or installed on the western property line to screen the adjacent single-family residential structure from the proposed development.
  - 3) Trees shall be planted in the vicinity of the north property line at a quantity of 1 tree per 50 feet.
  - 4) Trees shall sporadically be planted along the detention ponds, Dog Park, playground area, and common yards as shown in the submitted landscape plan.
  - 5) Landscaping shall be installed with the completion of the apartment building, and prior to issuance of a Certificate of Occupancy.
  - 6) An ornamental iron fence shall be installed along the frontage of Railroad Avenue and College Road to help screen and buffer the development.

### **4. Architecture**

- a. The development plan shows one three story apartment building, and a one single story clubhouse building. The appearance and design of these structures are compatible with other multifamily developments in the vicinity. Approved building materials for all structures shall be as follows: brick masonry, cement lap siding, wood siding, split-face CMU and decorative architectural metal. The architectural designs are generally acceptable, as proposed. All building construction, materials and design shall be consistent with the proposed development plan with the following conditions:
  - 1. All roof-top mechanical units shall be screened from view.
  - 2. Windows shall have shutters, with the exception of the windows situated on porches or decks.
  - 3. A minimum of 30% of all building façade shall be constructed of brick masonry.

### **5. Signage**

- a. The submitted development plan shows a monument sign along the frontage area of Railroad Avenue. The size and height of the sign is unknown at this time. No information on any attached signage was submitted with this request. All signage (detached and attached) shall comply with Section 15.33.160(03), PR/Planned Residential District, Signs of the Municipal Code (Zoning Ordinance).

### **Comprehensive Plan Amendment (CASE #CP-18-001)-**

- 1) The subject property is currently designated as Rural Residential/Agricultural, per Chapter 5, Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan, and is described as follows: "Rural residential and agricultural areas include large-lot housing, estates, farmhouses, agricultural activities, and other uses that support farming. These areas and estates typically develop in an unplanned manner along rural roadways. Agricultural uses include crop or livestock production, as well as storage, processing, and other uses related to farming operations."
- 2) The Community Development Department has proposed to designate the subject property "Medium-Density Residential". Per Chapter 5, Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan, this designation is as follows: "Medium-density residential areas include a series of lots with one or more single

family units that may share a wall, typically arranged horizontally with a dedicated entrance for each housing unit. These included duplexes and townhouses, though small-lot detached single-family or limited multi-family development may be present in these areas. Throughout the planning area, there are several clusters of medium-density housing arranged in subdivision where structures create a consistent character on a planned residential street.”

- 3) Development in the vicinity of the proposed multifamily residential complex has prompted the need for amendments to the Bluffs Tomorrow: 2030 Comprehensive Plan to best suit the needs of the City of Council Bluffs. The purpose of this comprehensive plan amendment is to address the urbanizing nature of development in the general vicinity of the area, including but not limited to the nearby College View Elementary School and Iowa Western Community College, as well as the existing Sherwood Apartments located North of the subject property, and proposed Senior Care facility on College Road, located East of the subject property. Additionally, the amendment will ensure the proposed rezoning is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan.
- 4) The subject property is currently designated as Rural Residential/Agriculture, which would include large-lot housing, estates, farm-houses, agricultural activities, and uses supporting farming. The Land Use Plan states these areas typically develop in an unplanned manner along rural roadways. New development to the East and to the North of the proposal is planned and approved by City of Council Bluffs Boards and Commissions with development plans in many situations, therefore an unplanned agricultural activity could be considered out of the character of surrounding properties.
- 5) The Comprehensive Plan Amendment would support residential uses, both single-family and multifamily, and will provide new housing opportunities in the city.
- 6) The Comprehensive Plan Amendment, along with the application of a PR/Planned Residential Overlay District would not adversely affect neighboring properties, as the City would require prior approval of any development through the approval of a development plan.
- 7) The Housing Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan outlines the following Housing Policies for Neighborhood Character that apply to this development: 1) Appropriate bulk and scale that establishes a rhythm of buildings and a sense of place. 2) Design elements that reflect a specific range of architectural styles. 3) Residential development standards that ensure context-sensitive infill that address building massing and scale, site planning, access management, etc. The proposed planned residential development plan will establish design standards for any residential use on the property to ensure it is consistent with the Bluffs Tomorrow: 2030 Comprehensive Plan.

### **Recommendation**

The Community Development Department recommends:

- A. Approval of the request to rezone 6.19 acres of land, more or less, legally described as Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District subject to the following conditions:
  1. The rezoning shall become effective upon Zimmerman Properties Development, LLC, taking ownership of the subject property.
- B. Approval of the request to append a PR/Planned Residential Overlay District on Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, and approval of the associated development plan, subject to compliance of the above stated comments, and subject to the following conditions:
  1. The application of a PR/Planned Residential Overlay District and approval of the development plan will not be effective until Zimmerman Properties Development, LLC, takes ownership of the subject property.
  2. Council Bluffs Water Works shall have review authority over any improvements proposed to be located in their 25 foot easement along Railroad Avenue.
  3. A PCSMP conceptual application, Engineer’s estimate of probably cost, performance bond, and

maintenance & easement agreement will be required in regards to water quality prior to development.

4. All stormwater management shall comply with current city standards as determined by the Council Bluffs Public Works Department.
5. A full geotechnical report shall be submitted to the city prior to any development permits being issued.
6. Floodplain permitting through the City of Council Bluffs will be required for this project.
7. All utilities must be installed underground.

- C. Approval of the amendment to the Bluffs Tomorrow: 2030 Comprehensive Plan, specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential”.

### **Public Hearing**

#### **Speakers in favor:**

1. Jeff Beckler, Zimmerman Properties Development, LLC, 1329 East Lark Street, Springfield, MO 65804
2. Michael Osbourn, Kahn Engineering, 14700 West 114<sup>th</sup> Terrace, Lenexa, KS 66215
3. Tom Ackley, Koley Jesson Law Firm, 1125 South 103<sup>rd</sup> Street, Omaha, NE 68124

#### **Speakers against:**

1. Ron Wolfe, 536 College Road, Council Bluffs, IA 51503
2. Randy Nash, 723 College Road, Council Bluffs, IA 51503
3. Deborah Petersen, 215 South Main Street, Council Bluffs, IA 51503
4. Linda Kemp, Midlands Humane Society, 11801 Gow Circle, Bellevue, NE 68133
5. Marti Nerenstone, 33 Indian Hills Road, Council Bluffs, IA 51503

### **Planning Commission Recommendation**

The Planning Commission recommends denial of the request.

VOTE: AYE 5    NAY 1    ABSTAIN 2    ABSENT 2    VACANT 1    Motion: Denied

Attachment A: Location and Zoning Map

Attachment B: Letter of Intent

Attachment C: Lot 2, Arbor Creek Map

Attachment D: Development Plan

Attachment E: Preliminary Geotechnical Evaluation

Attachment F: Proposed Land Use Plan Amendment

Attachment G: Site Photos

Prepared by: Chris Meeks, Planner

## **NOTICE OF PUBLIC HEARING**

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 an ordinance to amend the zoning map as adopted by reference in Section 15.02.070, by rezoning property legally described Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District.

You are further notified that the Public Hearing on said matters 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 5<sup>th</sup> day of November, 2018, in the City Council Chambers, 2<sup>nd</sup> 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.

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Jodi Quakenbush, City Clerk



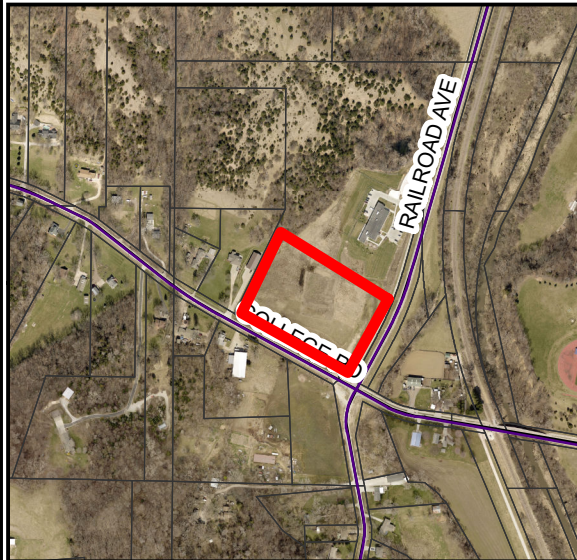
# CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION

## CASE #ZC-18-013, #PR-18-003 LOCATION/ZONING MAP

### Map Legend

-  Subject Property
-  Parcels

0 125 250  
1 Inch = 254 Feet

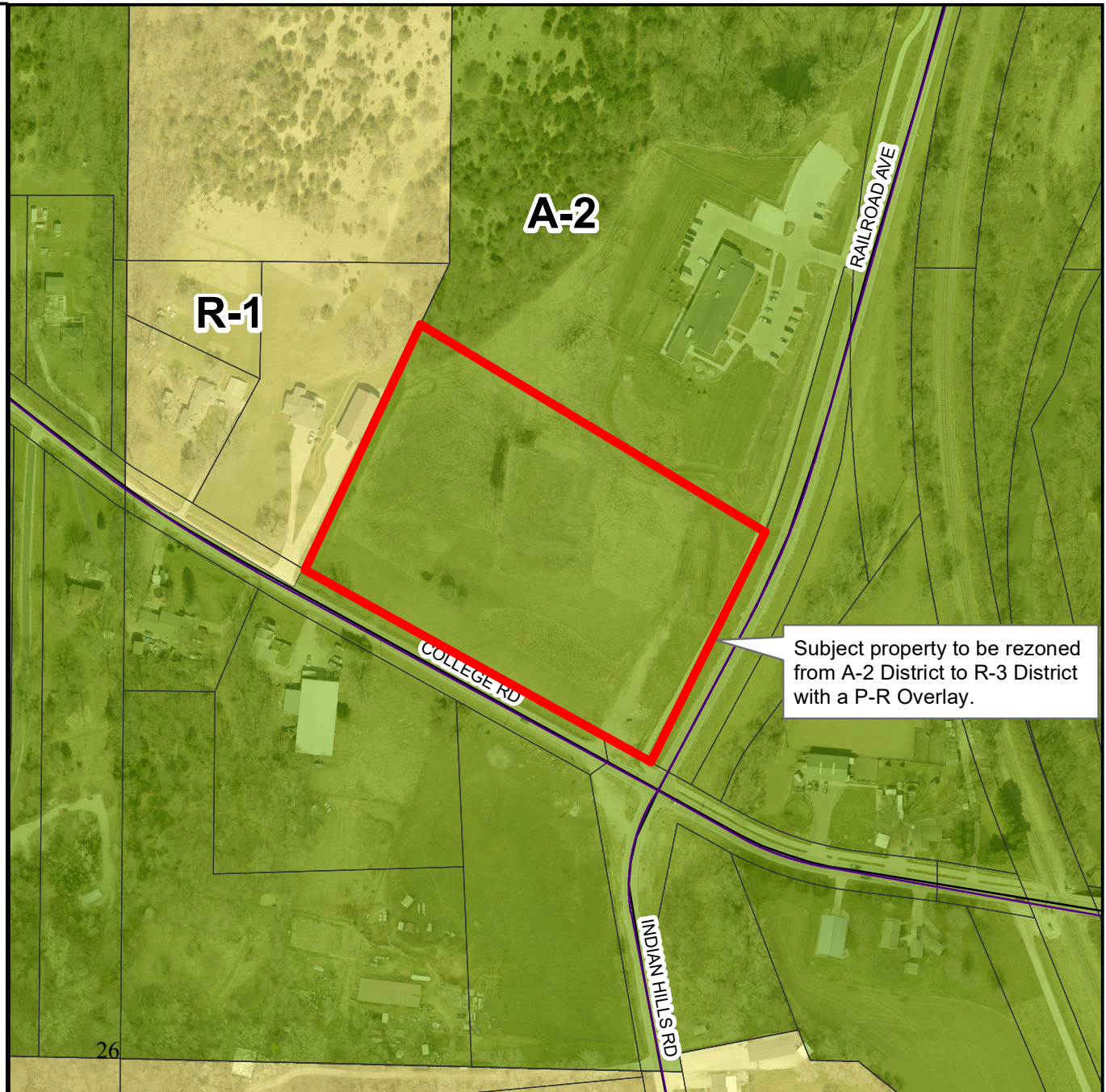


Last Amended: 9/17/18

Council Bluffs Community  
Development Department  
209 Pearl Street  
Council Bluffs, IA 51503  
Telephone: (712) 328.4629

#### DISCLAIMER

This map is prepared and compiled from City documents, plans and other public records data. Users of this map are hereby notified that the City expressly disclaims any and all responsibilities for errors, if any, in the information contained on this map of the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.







Office: 913.894.5150

Fax: 913.894.5977

Web: www.kveng.com

Address: 14700 West 114<sup>th</sup> Terrace  
Lenexa, KS 66215

September 10, 2018

**C17D9615**

Planning Department  
City of Council Bluffs, Iowa  
209 Pearl Street  
Council Bluffs, Iowa 51503

**RE: LETTER OF INTENT  
VALLEY RIDGE APARTMENTS  
COLLEGE ROAD AND RAILROAD AVENUE  
COUNCIL BLUFFS, IOWA**

Zimmerman Properties Investments, LLC intends to develop a 60-unit multi-family housing facility upon the northeast corner of College Road and Railroad Avenue in Council Bluffs, Iowa. The corner site is generally six acres in size.

The facility will be a single three-story building with separate clubhouse and maintenance building. Parking spaces will be placed along the north and east perimeters of the building. General amenities will include gazebo, BBQ grills, playground, and common spaces within the clubhouse.

The project will be developed in one phase and the construction time period is anticipated to be 12 to 16 months.

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 and Railroad Avenue. A public 6-foot sidewalk is planned for the north side of 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 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.

If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,  
**Kaw Valley Engineering, Inc.**

Michael R. Osbourn  
Principal

VMLX-FILE Projects C17\_9615 Design Correspondence 2018-09-10 Ltr of Intent Valley Ridge Apts Council Bluffs IA.docx

# Attachment C

## ARBOR CREEK

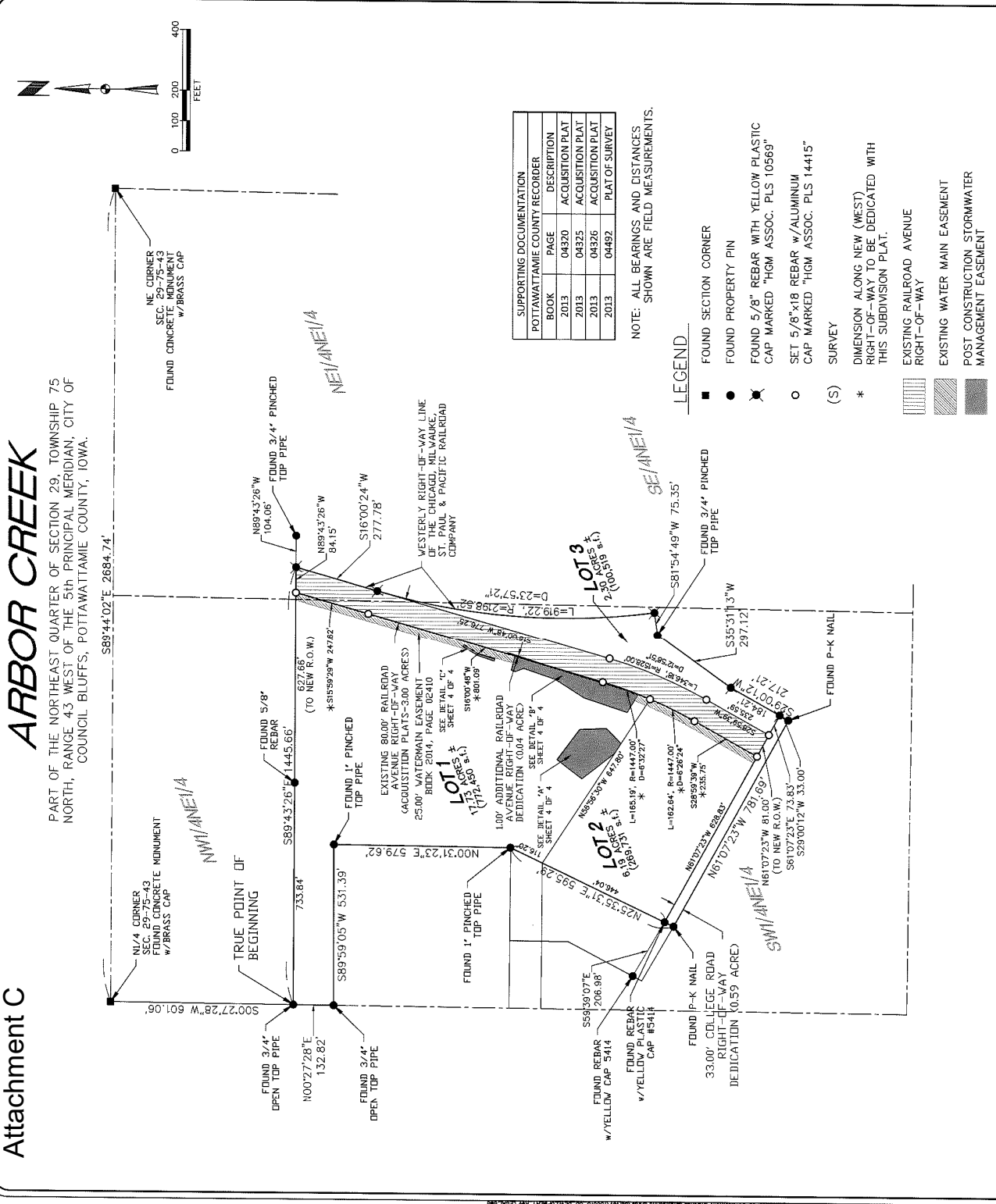
PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

**hgm**  
ENGINEERING ARCHITECTURE SURVEYING  
COUNCIL BLUFFS, IOWA

DATE: \_\_\_\_\_  
REVISION: \_\_\_\_\_  
DRAWN: \_\_\_\_\_  
CHECKED: \_\_\_\_\_  
DESIGNED: \_\_\_\_\_  
APPROVED: \_\_\_\_\_  
MAY 18 2013

PROJECT: ARBOR CREEK  
CLIENT: 209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503  
NORTHEAST QUARTER SECTION 29-75-43  
149 WEST BROADWAY, COUNCIL BLUFFS, IOWA 51502

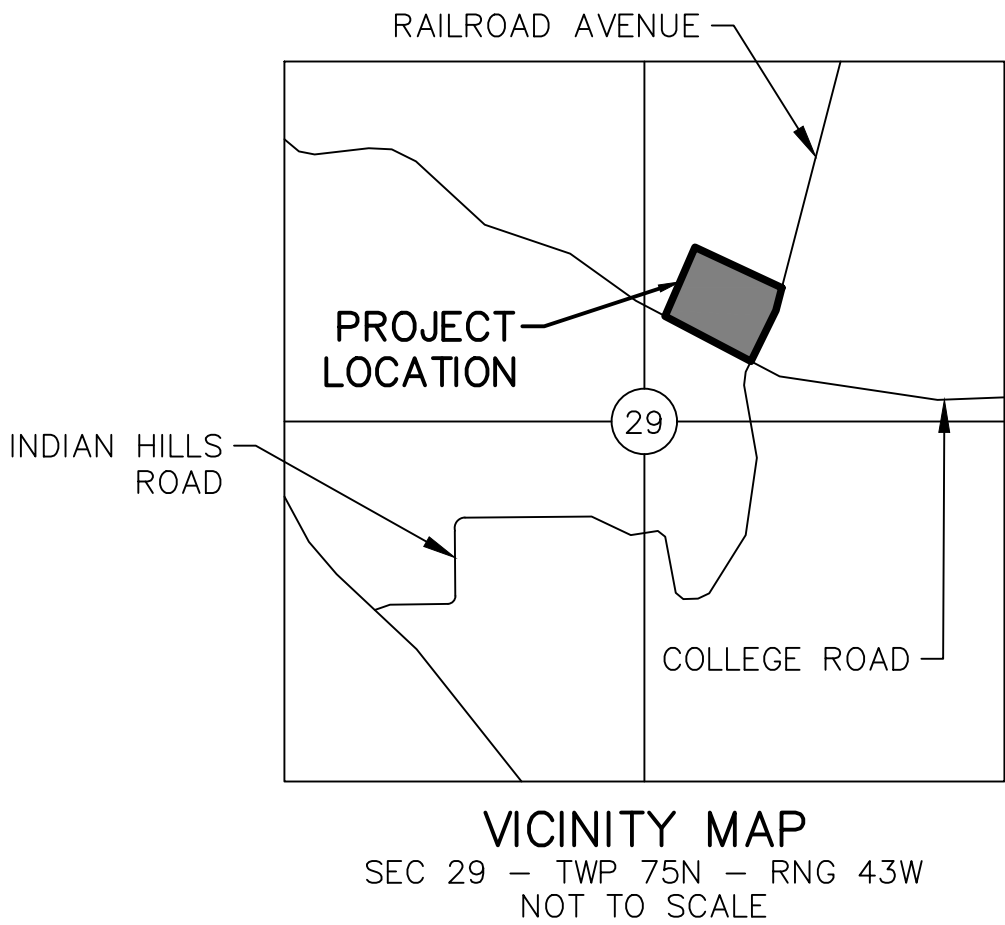
PROJECT NO. 150018  
SHEET 3 OF 4



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)

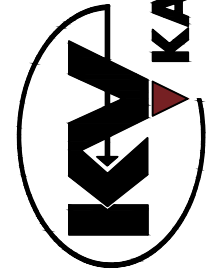
**UTILITY STATEMENT:**  
THE UNDERGROUND UTILITIES SHOWN HEREON ARE FROM FIELD SURVEY INFORMATION OF ONE-CALL LOCATED UTILITIES, FIELD SURVEY INFORMATION OF ABOVE GROUND OBSERVABLE EVIDENCE, AND/OR THE SCALING AND PLOTTING OF EXISTING UTILITY MAPS AND DRAWINGS AVAILABLE TO THE SURVEYOR AT THE TIME OF 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

A

REV

DATE

DESCRIPTION

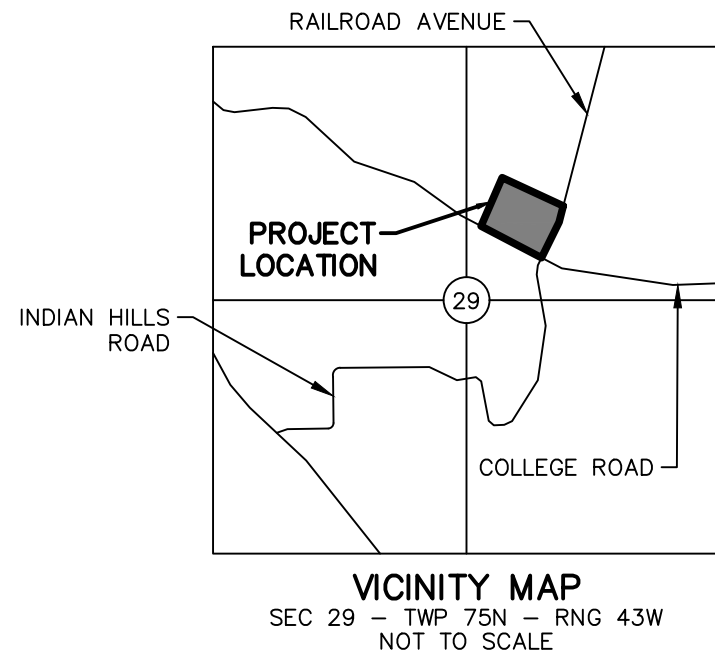
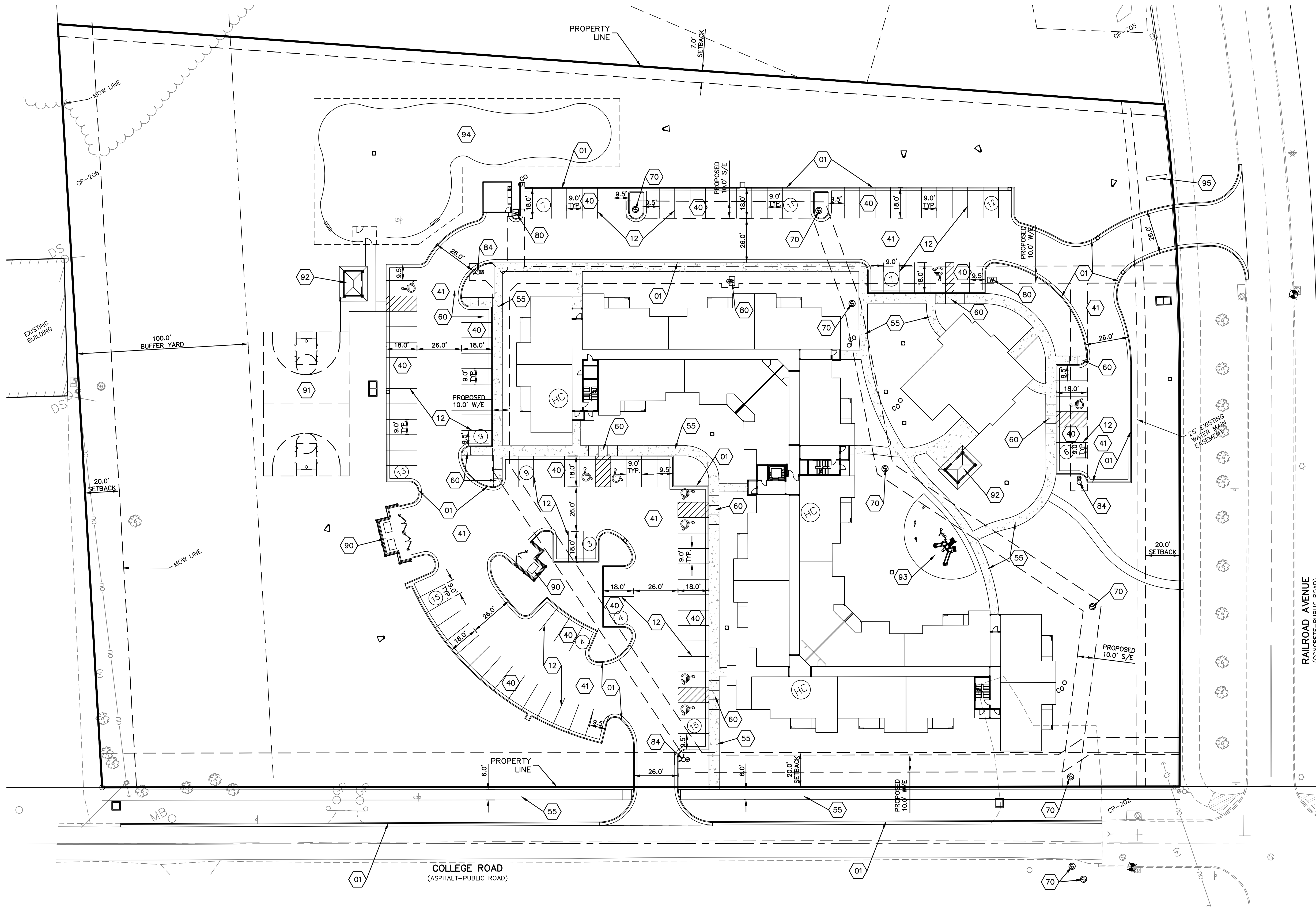
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DWN

CHK

MRO

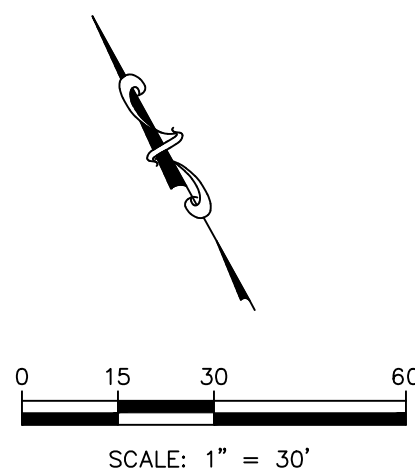




LEGEND:

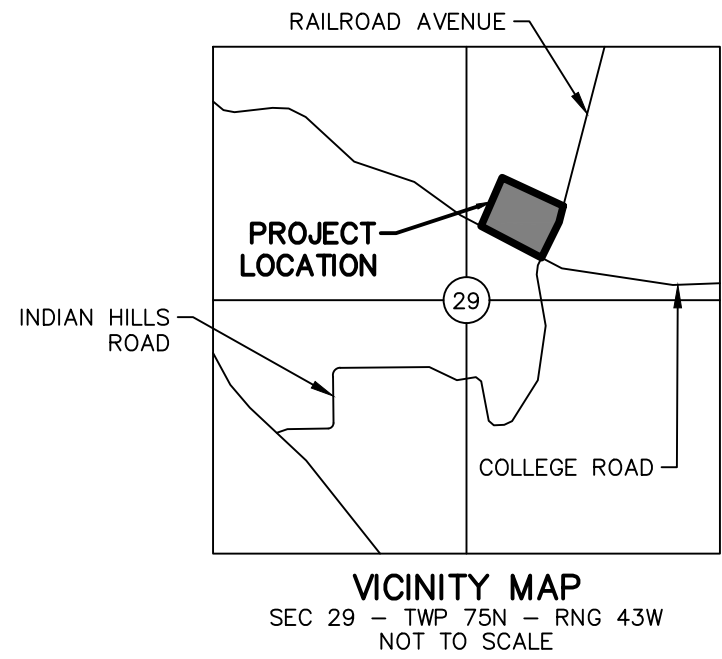
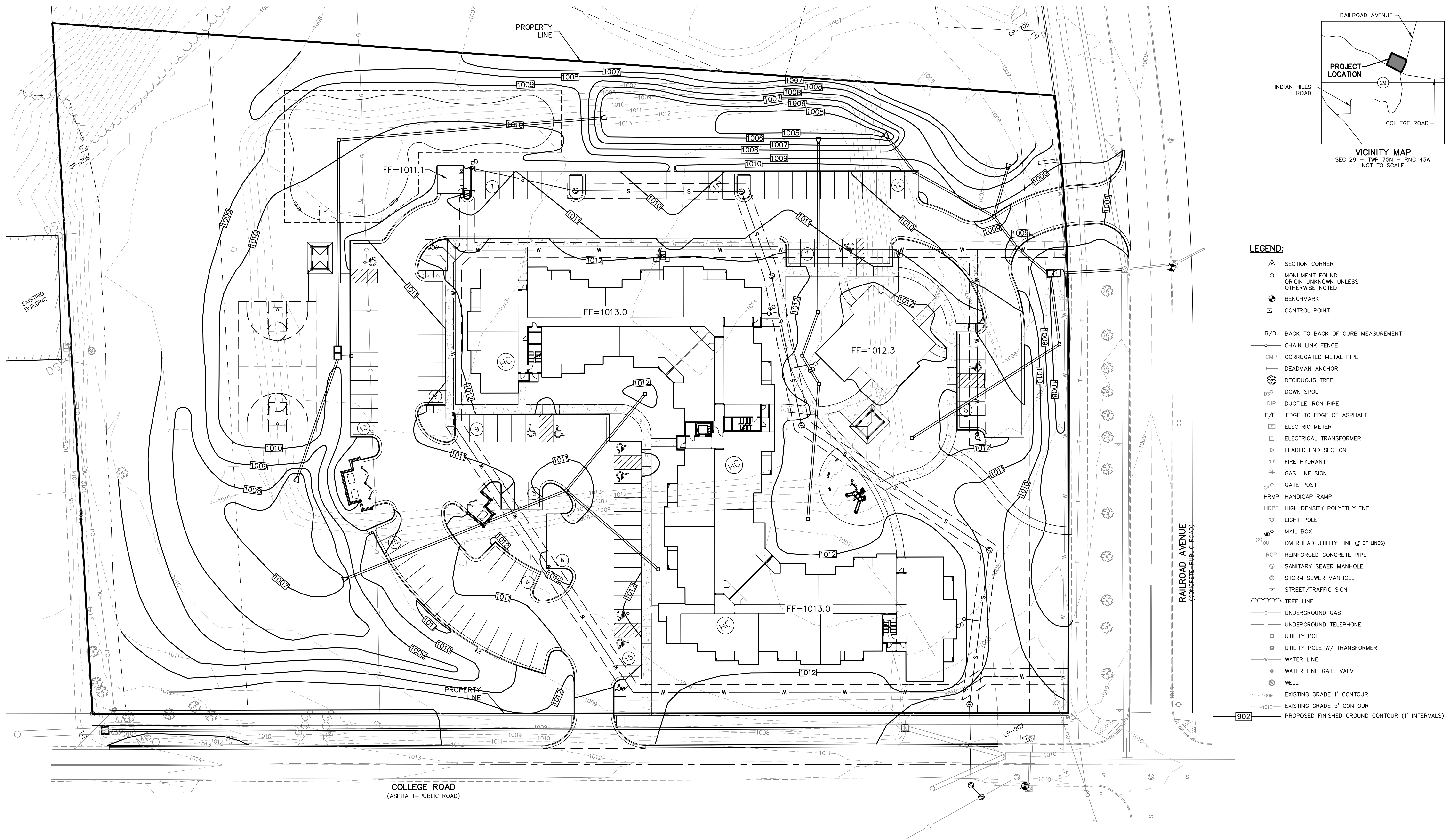
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- MONUMENT FOUND ORIGIN UNKNOWN UNLESS OTHERWISE NOTED
- BENCHMARK
- CONTROL POINT
- B/B BACK TO BACK OF CURB MEASUREMENT
- CHAIN LINK FENCE
- CMP CORRUGATED METAL PIPE
- DEADMAN ANCHOR
- DECIDUOUS TREE
- DOWN SPOUT
- DIP DUCTILE IRON PIPE
- E/E EDGE 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
- 1009 EXISTING GRADE 1' CONTOUR
- 1010 EXISTING GRADE 5' CONTOUR

- NOTES:
- 01 CONCRETE CURB AND GUTTER
  - 12 WHITE PARKING LOT STRIPING (SHERWIN-WILLIAMS TM 2160 LEAD FREE OR APPROVED EQUAL)
  - 40 REGULAR DUTY ASPHALT PAVEMENT
  - 41 HEAVY DUTY ASPHALT PAVEMENT
  - 42 CONCRETE PAVEMENT
  - 55 CONCRETE SIDEWALK
  - 60 SIDEWALK RAMP
  - 70 SANITARY SEWER MANHOLE
  - 80 WATER APPURTENANCES
  - 84 FIRE HYDRANT
  - 90 TRASH ENCLOSURE
  - 91 SPORTS COURT
  - 92 PAVILION
  - 93 PLAYScape
  - 94 DOG PARK
  - 95 MONUMENT SIGN



14700 WEST 114TH TERRACE LENEXA, KANSAS 66215 PH. (913) 894-5150   FAX (913) 894-5977 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 SITE PLAN	
PROJ. NO. C17_9615		DESIGNER KGK DRAWN BY JON	
CFN		REV	
SHEET C100		REV 0	
REV DATE DESCRIPTION		A 9/10/18 INITIAL ISSUE	
DSN		DWN	
MRO		CHK	



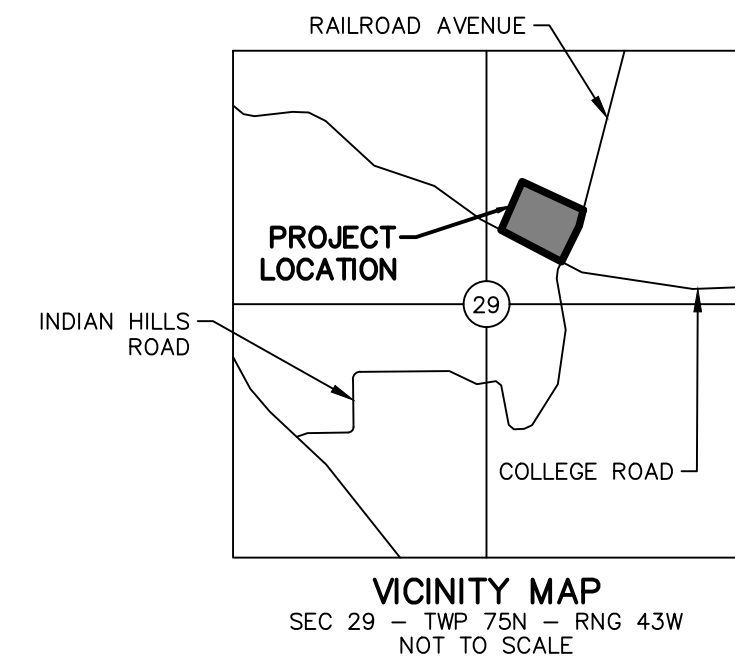







































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  - UTILITY POLE W/ TRANSFORMER
  - WATER LINE
  - WATER LINE GATE VALVE
  - WELL
  - EXISTING GRADE 1' CONTOUR
  - EXISTING GRADE 5' CONTOUR
  - PROPOSED FINISHED GROUND CONTOUR (1' INTERVALS)

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	
SHEET C300		REV 0	
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	







-  SECTION CORNER  
 MONUMENT FOUND  
 ORIGIN UNKNOWN UNLESS OTHERWISE NOTED  
 BENCHMARK  
 CONTROL POINT  
  
B/B BACK TO BACK OF CURB MEASUREMENT  
 CHAIN LINK FENCE  
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 UTILITY POLE  
 UTILITY POLE W/ TRANSFORMER  
 WATER LINE  
 WATER LINE GATE VALVE  
 WELL  
 EXISTING GRADE 1' CONTOUR  
 EXISTING GRADE 5' CONTOUR

- NOTES:
- 60 PRIVATE STORM SEWER  
61 EX PUBLIC SANITARY SEWER MANHOLE  
70A EXISTING 8" PUBLIC SANITARY SEWER MAIN  
71 PUBLIC SANITARY SEWER MANHOLE  
72A 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

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.

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

## DEVELOPMENT PLANS

### UTILITY PLAN

PROJ. NO.		C17_9615	
DESIGNER		DRAWN BY	
K GK		JQN	
CFN			
SHEET		REV	
C500		0	

**KAW VALLEY ENGINEERING**

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

KAW VALLEY ENGINEERING, INC. IS AUTHORIZED TO OFFER ENGINEERING SERVICES BY IOWA STATE CERTIFICATE OF AUTHORIZATION # J14844.  
EXPIRES 04/01/20





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

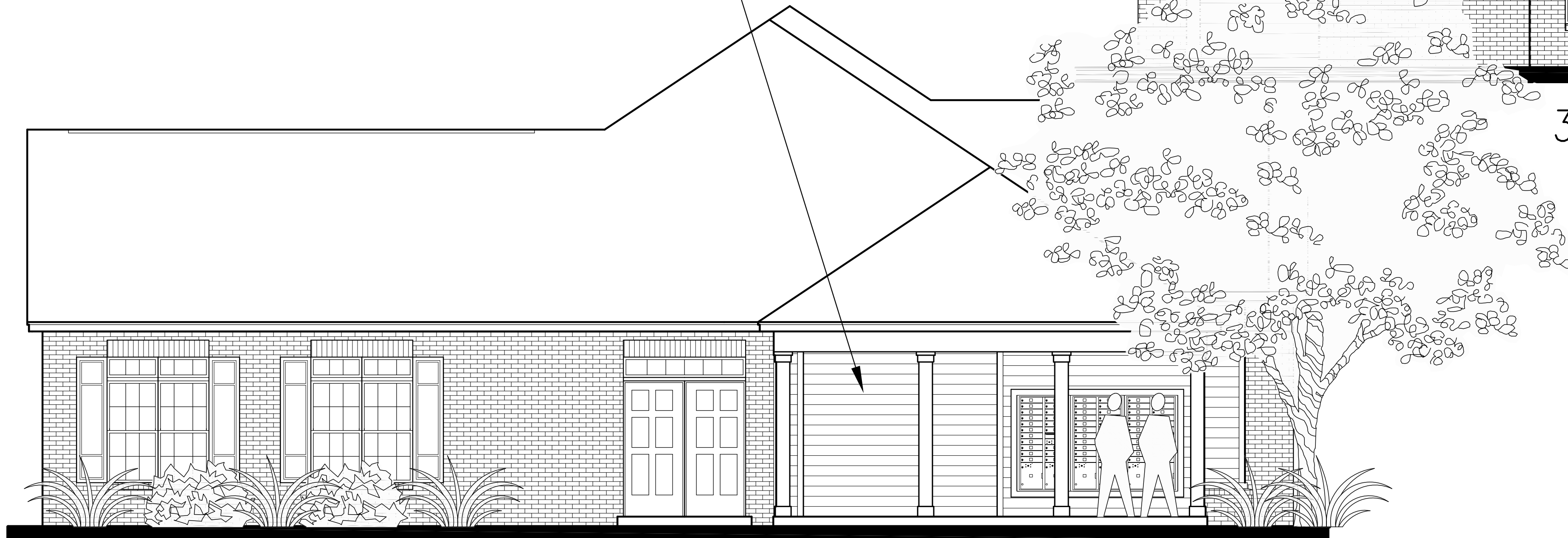
VINYL WINDOWS (E-STAR RATED) WITH  
MFR-SHUTTERS

CEMENT BOARD SIDING ON SHEATHING  
AND WOOD STUD FRAMING

BRICK VENEER ON SHEATHING AND  
WOOD STUD FRAMING



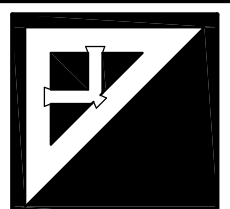
3 EAST (SIDE) ELEVATION  
SCALE: 1/4" = 1'-0" (24X36 SHEET)



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

Zimmerman  
Properties  
LLC

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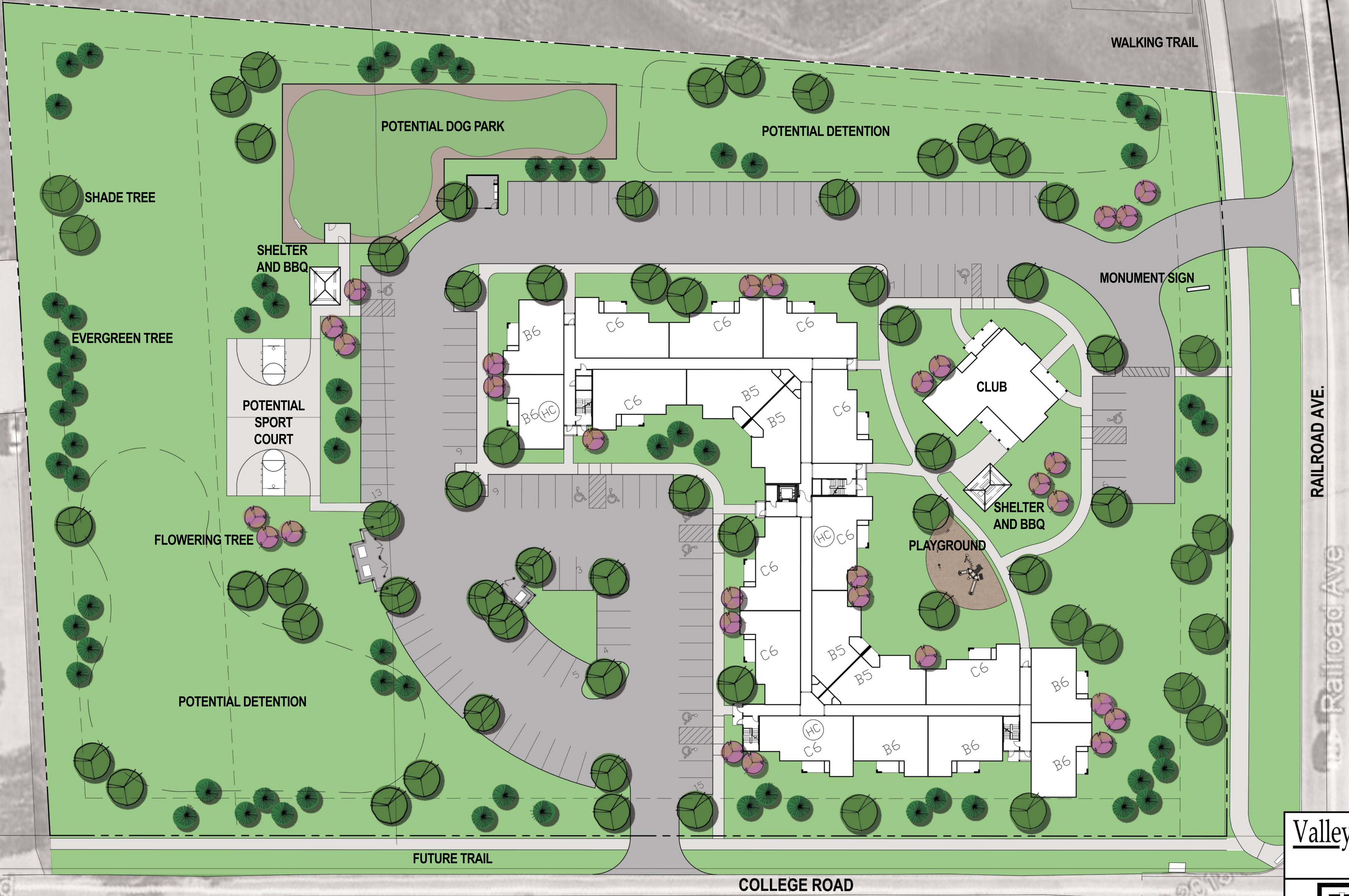
BRYAN E. HULST — ARCHITECT OF RECORD  
IOWA LICENSE ARC 07536

SHEET: CA1 BUILDING ELEVATIONS 09/10/2018

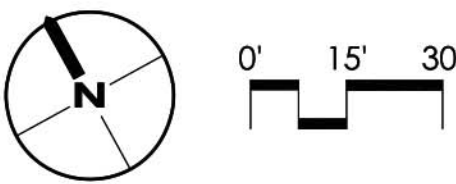


**PRELIMINARY PLANT SCHEDULE**

- 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 74116  
(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





Office: 913.894.5150

Fax: 913.894.5977

Web: www.kveng.com

Address: 14700 West 114<sup>th</sup> Terrace  
Lenexa, KS 66215

September 10, 2018

**C17G9615**

Mr. Justin Zimmerman  
Zimmerman Properties Investments, LLC  
1329 East Lark Street  
Springfield, Missouri 65804

**RE: PRELIMINARY GEOTECHNICAL EVALUATION  
VALLEY RIDGE APARTMENTS  
COLLEGE ROAD AND RAILROAD AVENUE  
COUNCIL BLUFFS, IOWA**

Dear Mr. Zimmerman:

Kaw Valley Engineering, Inc. has performed a preliminary geotechnical review of the proposed project. This site is located at the northeast corner of College Road and Railroad Avenue in Council Bluffs, Iowa. The proposed project is to consist of a three-story, slab-on-grade wood-framed structure. Site reconnaissance indicates generally a 5-foot grade change across the site, except the extreme northeast corner which grades up an additional 10 feet. Historical review indicates up to six feet of fill has been placed in the central portion of the site.

Review of regional soils data indicates that a combination of loess and glacial till make up the upper soil stratum, and the fill placed upon the site. Exact water table has not been determined at the time of the issuance of this preliminary evaluation.

Preliminary grading plans indicate the building finished floor to be 1,012 feet which is within one foot of the existing surface grade in the building area.

Due to the existence of up to six feet of apparently uncontrolled fill, it is anticipated the site will need to be overexcavated to a depth of at least three feet below the existing uncontrolled fill, and recompacted to bearing and slab elevations. The need for dewatering is unknown at this time.

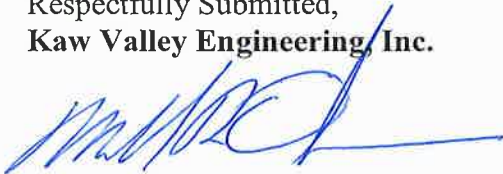
Preliminary recommendations are that the building be founded using shallow foundations bearing upon newly placed engineered fill. An allowable bearing capacity of 2,500 psf is anticipated.

Shallow foundations shall bear at a minimum depth of 42 inches below lowest adjacent exterior grade.


Further details and specific recommendations will be presented once field work and full laboratory evaluations are completed.

If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,  
**Kaw Valley Engineering, Inc.**



Michael R. Osbourn  
Principal

  
*for* Martin T. Arling, P.E.  
Principal

## Attachment F

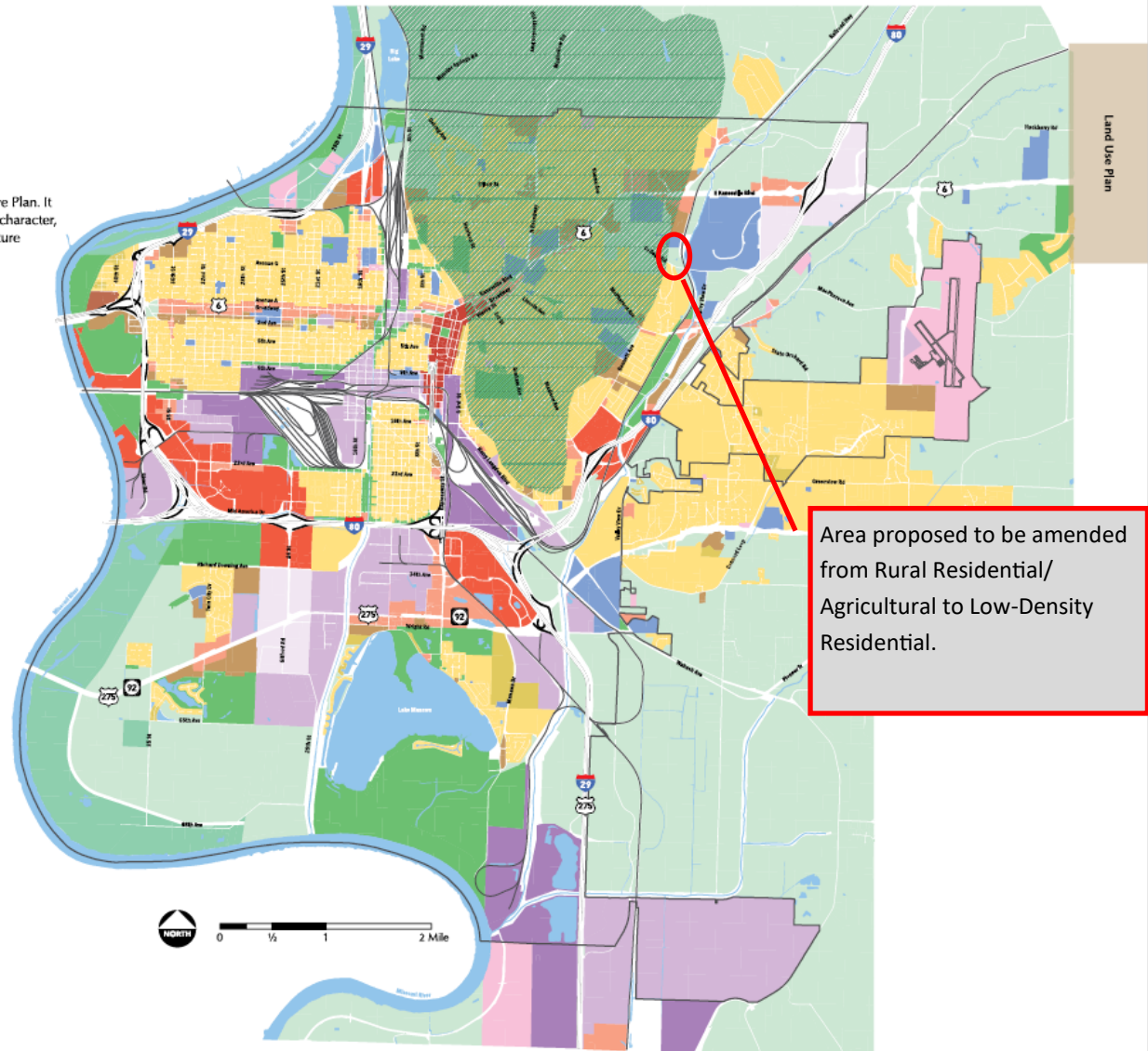
### BLUFFS TOMORROW 2030 LAND USE PLAN

The Land Use Plan is one of the most important elements of the Bluffs Tomorrow 2030 Comprehensive Plan. It outlines how properties in different parts of the planning area should be used, and identifies the type, character, and intensity of use for all areas of the community. The intent of the Land Use Plan is to ensure that future development takes into account land use compatibility, access, market viability, environmental features, and community services. In that light, the recommendations of this chapter should be implemented in coordination with the recommendations of subsequent chapters.

The Land Use Plan sets forth policies for land use and development at the City-wide level. The Plan also includes specific policies and strategies for the City's residential, commercial, and industrial areas. Subsequent chapters provide additional detail regarding open space, environmental areas, and community facilities.

#### Land Use Legend

<b>Residential</b>	<b>Industrial</b>
Rural Residential/Agriculture	Office/Industrial
Low-Density Residential	Light Industrial
Medium-Density Residential	Heavy Industrial
High-Density Residential	
Multifamily/Mixed-use	
<b>Commercial</b>	<b>Public Land Uses</b>
Local Commercial	Natural Areas
Regional Commercial	Public Park
Downtown/Mixed-use	Public/Semipublic
	Transportation/Utility
	Loess Hills Preservation Area





Attachment G

Site Photos



\*Red outline shows the approximate boundaries of Lot 2, Arbor Creek.



**Photo 1:** Aerial photo of the subject property.

**Photo 2:** Google Street-View photo facing North from College Road.

**Photo 3:** Google Street-View photo facing Southwest from Railroad Avenue.



**ORDINANCE NO. 6371**

**AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.27.020 OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY REZONING 6.19 ACRES OF LAND, MORE OR LESS, LEGALLY DESCRIBED AS LOT 2, ARBOR CREEK, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM A-2/PARKS, ESTATES AND AGRICULTURAL DISTRICT TO R-3/LOW-DENSITY MULTIFAMILY RESIDENTIAL DISTRICT WITH A P-R/PLANNED RESIDENTIAL OVERLAY; AS SET FORTH AND DEFINED IN CHAPTERS 15.10 AND 15.28 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 15.27.020 of the 2015 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended to rezone 6.19 acres of land, more or less, legally described as Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District with a P-R/Planned Residential Overlay.

**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 upon Zimmerman Properties Development, LLC, and/or their assignee taking ownership of the subject property and approval of a Planned Residential Development Plan for Valley Ridge Apartments.

ADOPTED  
AND  
APPROVED

November 26, 2018.

\_\_\_\_\_  
MATTHEW J. WALSH

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
JODI QUAKENBUSH

\_\_\_\_\_  
City Clerk

First Consideration: 10-22-18  
Second Consideration: 11-5-18  
Public Hearing: 11-5-18  
Third Consideration: 11-26-18

Planning Case No. #ZC-18-016 & PR-18-003

## Council Communication

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

Resolution 18-296

Council Action: 10/22/2018

### Description

Resolution setting a public hearing for November 5, 2018 at 7:00 p.m., for granting an easement and right-of-way across Mosquito Creek Drainage District #22 in connection with an underground pipeline installation by Buckeye Pipe Line Transportation LLC.

### Background/Discussion

Drainage District #22 for Mosquito Creek is operated by the City of Council Bluffs.

An easement is required for construction and operation of a new petroleum pipeline. Due to the condition of the existing pipe that crosses Mosquito Creek, a replacement pipe must be installed on a new alignment located outside the existing easement. The old easement will be released when the new one is granted.

The benefits to the Drainage District as a result of the project include:

- The existing 300' wide easement will be released and replaced by a 50' wide easement.
- The existing 1930's pipeline that is currently exposed within the creek bank will be removed, eliminating the risk of a leak.
- The new pipe will be horizontally directionally drilled underneath Mosquito Creek.

The new permanent easement and right-of-way is 50 feet in width, centered on the pipeline. It is located in the Northeast Quarter of Section 18, Township 74 North, Range 43 West of the 5th P.M., Pottawattamie County, Iowa. The easement encompasses 18,748 square feet.

The permanent easement allows for the construction, installation, operation, maintenance, reconstruction, replacement, and abandonment of a pipeline or pipelines and all appurtenances thereto, including markers, valves, and cathodic protection equipment, over, under, upon, through, and across the right-of-way for the transportation of gases, liquids, solids, or any combination thereof, together with the right to enter upon said right-of-way to maintain the pipeline(s).

### Recommendation

Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
<a href="#">easement Agreement</a>	Agreement	10/17/2018
<a href="#">Exhibit "A1"</a>	Other	10/11/2018
<a href="#">Exhibit "A2"</a>	Other	10/11/2018
<a href="#">Resolution 18-296</a>	Resolution	10/16/2018

## **EASEMENT AND RIGHT-OF-WAY GRANT**

### **Recorder's Cover Sheet**

**Preparer Information:** (name, address and phone number)

Wesley D. Pekarek  
Buckeye Pipe Line Transportation LLC  
1315 N. Sterling Ave.  
Sugar Creek, MO 64054  
(816) 836-6096

**Taxpayer Information:** (name and complete address)

Trustees of Mosquito Creek Drainage District #22  
City of Council Bluffs  
209 Pearl Street  
Council Bluffs, IA 51503

**Return Document To:** (name and complete address)

Right of Way Department  
Buckeye Pipe Line Transportation LLC  
Five TEK Park  
9999 Hamilton Boulevard  
Breinigsville, PA 18031

**Grantor:** TRUSTEES OF MOSQUITO CREEK DRAINAGE DISTRICT #22

**Grantee:** BUCKEYE PIPE LINE TRANSPORTATION LLC

**Date of Document:** See Page 2

**Legal Description:** See EXHIBIT A1 & EXHIBIT A2



**EASEMENT AND RIGHT-OF-WAY GRANT**

This indenture, made and entered in the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ by and between the TRUSTEES OF MOSQUITO CREEK DRAINAGE DISTRICT #22, (hereinafter called “Grantor”), and BUCKEYE PIPE LINE TRANSPORTATION LLC, a Delaware limited liability company, with offices at Five TEK Park, 9999 Hamilton Blvd., Breinigsville, Pennsylvania 18031 (hereinafter called “Grantee”).

WITNESSETH:

That Grantor, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other good and valuable consideration, receipt whereof is hereby acknowledged, does hereby Grant and Convey unto the Grantee, its successors and assigns, a perpetual easement (hereinafter called the “Right-of-Way”) to be used as hereinafter provided, over the lands of the Grantor in the City of Council Bluffs, County of Pottawattamie, and State of Iowa, said lands being more particularly described in EXHIBIT “A1”, attached hereto and made a part hereof, said Right-of-Way area being described as fifty (50) feet in width, the centerline of which is the pipeline, being more fully depicted and described in detail in EXHIBIT “A2” attached hereto and made a part hereof.

1. The Right-of-Way and easement hereby granted shall be used for the construction, installation, operation, maintenance, reconstruction, replacement, and abandonment of a pipeline or pipelines, and all appurtenances thereto, including markers, valves, and cathodic protection equipment, over, under, upon, through, and across the Right-of-Way for the transportation of gases, liquids, solids, or any combination thereof, together with the right at any time to enter upon said Right-of-Way on foot or with vehicles for any purpose connected with such use and to maintain such pipeline(s) in good operating condition and to make such alterations, repairs, or replacements thereof from time to time as Grantee may require; and also together with the right of reasonable ingress to and egress from said Right-of-Way over lands of Grantor to and from a public road or highway at such locations as Grantor may reasonably direct.

2. It is a condition of this Grant and Conveyance of Right-of-Way that (a.) Grantee shall construct the pipeline(s) at own expense and shall pay all costs of any reconstruction, relocation, modification, or reinstallation of drainage district facilities which may be necessary as a result of construction; that (b.) said pipeline(s) shall be located beneath the surface of the ground except for pipeline(s) surface access points, and all ground disturbances: trenches or bores made in installation, emplacement, maintenance and repair of said pipeline(s) shall be backfilled or filled and compacted and cover stabilized by said Grantee, its agents, servants or contractor; that (c.) after construction of the pipeline(s) the Grantee, or the Grantee’s successors in interest, shall maintain the pipeline(s) at the Grantee’s or successor’s own expense; that (d.) Grantor reserves the right to build over said Right-of-Way above granted subject to ordinances of the City of Council Bluffs, Iowa, and laws of the State of Iowa in effect at said time, and the terms, conditions and provisions contained in paragraph three (3) herein; that (e.) the Grantor subsequently undertakes any maintenance, improvement, or reconstruction of the drainage

district facility which requires the modification, relocation, or reconstruction of the Grantee's pipeline(s), the expense of such Grantee modification, relocation, or reconstruction shall be borne by the Grantee or the Grantee's successors in interest.

3. Grantor covenants and agrees not to place or permit the placement of any building, structure, tree, shrub or object over, under, or upon said Right-of-Way which might interfere with Grantee's free access thereto or to said pipeline(s) and appurtenances and Grantee's free and uninterrupted use thereof and exercise of its rights hereunder and not to move or place heavy objects within a limit of twenty-five (25) feet of such pipeline(s) or appurtenances. Grantee shall have the right to remove any building, structure, tree, shrub or object, located in violation of the aforesaid limit or which otherwise might interfere with Grantee's free access to said Right-of-Way, pipeline(s), and appurtenances and Grantee's free and uninterrupted use thereof and exercise of its rights hereunder. Grantee shall have the right to remove and/or trim any trees or tree limbs and to mow, cut, or otherwise control any brush, weeds, or other undesirable vegetation located within or overhanging the Right-of-Way at any time, without any compensation due to Grantor.

4. The Grantor hereby covenants, promises, and agrees, to and with the Grantee, that the Grantor shall warrant generally and forever defend, all and singular, the rights and privileges hereby granted to the Grantee, against the Grantor, its administrators, personal representatives, successors, and assigns, and against all and every person or persons lawfully claiming the same or any part thereof.

5. Grantee hereby releases, indemnifies and holds Grantor harmless from any damages and expenses for loss or injury to persons or property that may be caused by Grantee, its employees, representatives, agents or contractors and sub-contractors while performing its activities on or about Grantor's land, except to the extent such damages and expenses are caused solely by the intentional acts or omissions of Grantor.

6. It is hereby agreed that this Right-of-Way and the rights granted hereunder may be assigned in whole or in part by Grantee; that the covenants made herein shall extend to and be binding upon the administrators, personal representatives, successors, and assigns of the parties hereto; that no one representing himself to be an agent, officer, or employee of Grantee shall have authority to make any commitment or agreement in regard to the subject matter hereof which is not expressed herein and that no commitments and agreements other than those contained herein will be binding upon the Grantee; and that if the term "Grantor" represents more than one owner, a payment made to any one of them shall be accepted as and deemed payment to all.

*(Remainder of page intentionally left blank; signature pages follow)*

IN WITNESS WHEREOF, the parties have caused these presents to be duly executed the day and year aforesaid.

GRANTOR:

Signed in the presence of:

TRUSTEES OF MOSQUITO CREEK DRAINAGE  
DISTRICT #22

\_\_\_\_\_

By: \_\_\_\_\_

Witness:

Name:

Title: Mayor of Council Bluffs, Iowa &  
Trustee, Chairman  
Mosquito Creek Drainage District #22

STATE OF IOWA

:

§

COUNTY OF POTTAWATTAMIE

:

On the \_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_ Mayor of the City Bluffs, Iowa to me know to be the identical person(s) named herein and who executed the foregoing instrument and acknowledged that \_\_\_\_\_ executed same as \_\_\_\_\_ voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

GRANTEE:

Signed in the presence of:

BUCKEYE PIPE LINE TRANSPORTATION LLC

Witness:

By: \_\_\_\_\_

Name: David G. Boone

Title: Sr. Manager, Right of Way, Real Estate and  
Damage Prevention

COMMONWEALTH OF PENNSYLVANIA :

§

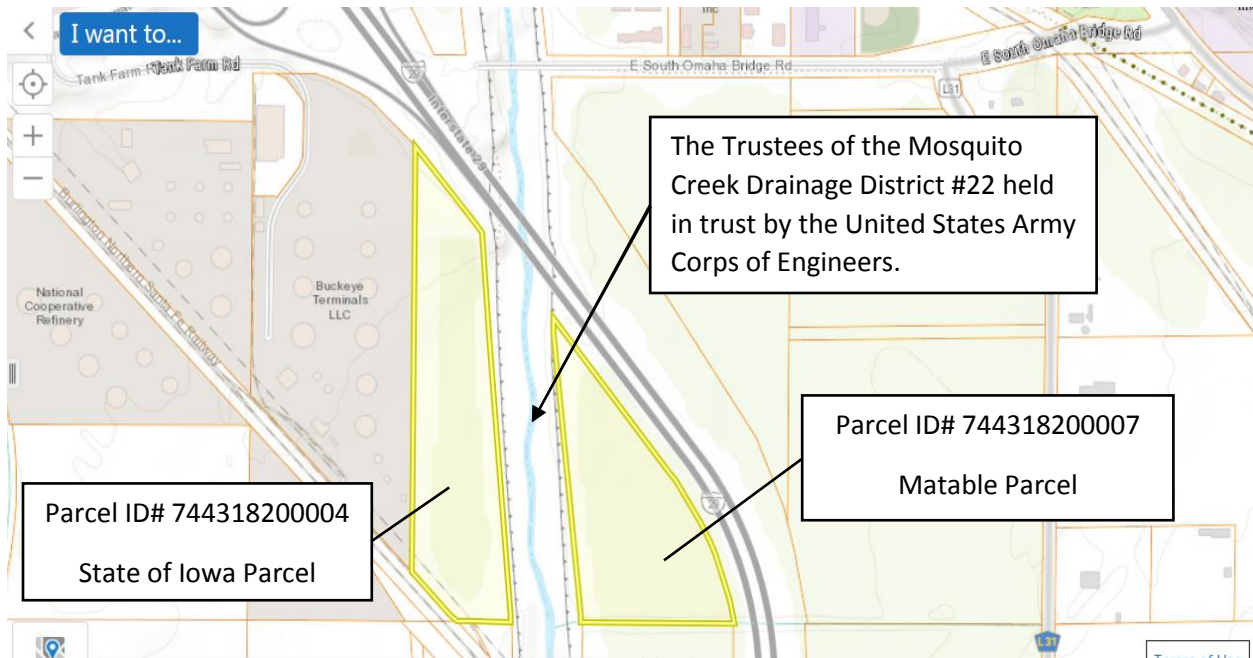
COUNTY OF LEHIGH :

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above-named David G. Boone, acting in his capacity as Sr. Manager, Right-of-Way, Real Estate and Damage Prevention, of BUCKEYE PIPE LINE TRANSPORTATION LLC, a Delaware limited liability company, personally appeared before me and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

## EXHIBIT “A1”



A property that contains Mosquito Creek, located between the East property line of Parcel ID# 744318200004 owned by the State of Iowa and the West property line of Parcel ID# 744318200007 owned by Stanley Matable and Betty A. Matable and Betty Ann Matable, Trustee of the Betty Ann Matable Living Trust dated December 23, 1996. Located in part of the NE/4 of Section 18, Township 74 North, Range 43 West in Pottawattamie County, Iowa.

Project No. EGA181125  
Date: 7/19/18

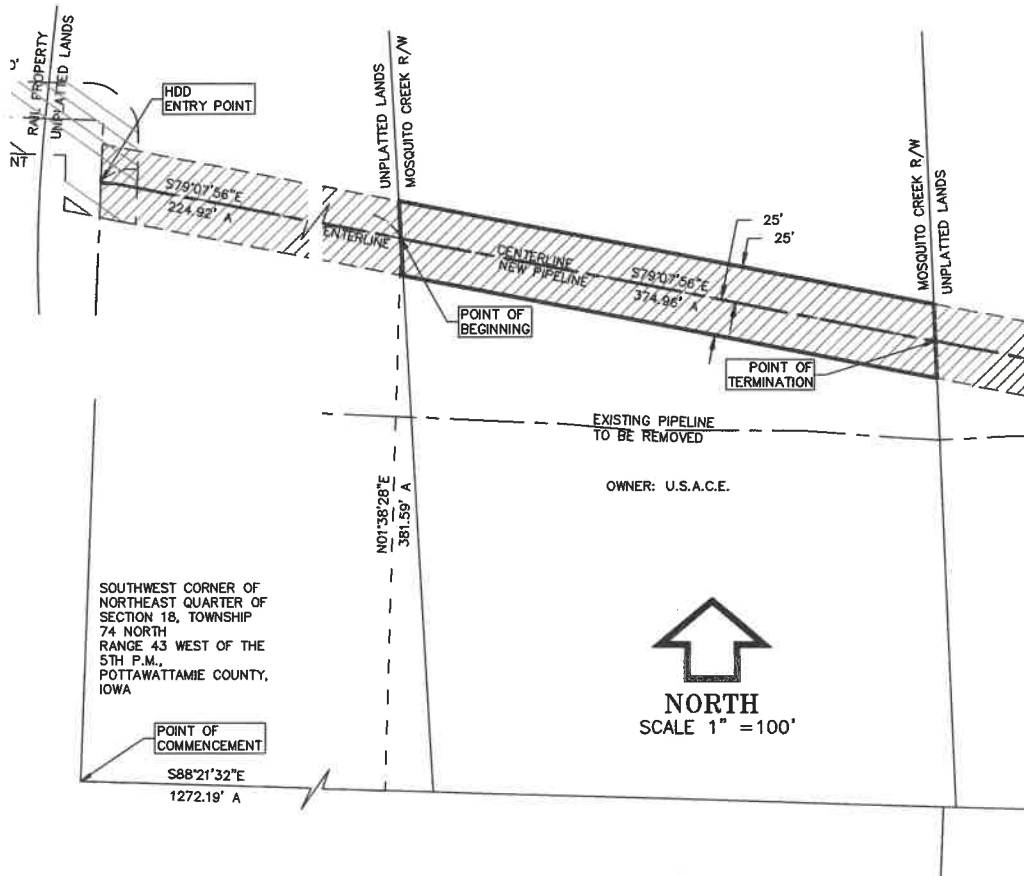
## EXHIBIT "A2"

### LEGAL DESCRIPTION:

A 50 FOOT WIDE EASEMENT LOCATED IN PART OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 88°21'32"EAST ON THE SOUTH LINE OF SAID QUARTER, A DISTANCE OF 1272.19 FEET; THENCE NORTH 01°38'28"EAST, A DISTANCE OF 381.59 FEET TO THE POINT OF BEGINNING OF SAID 50 FOOT WIDE EASEMENT BEING 25 FEET WIDE ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE; THENCE SOUTH 79°07'56"EAST ALONG SAID CENTERLINE, A DISTANCE OF 374.96 FEET TO THE POINT OF TERMINATION OF SAID EASEMENT. CONTAINING 18,748 SQUARE FEET, MORE OR LESS.

IT IS EXPRESSLY UNDERSTOOD THAT THE OUTER LIMITS OF THE ABOVE DESCRIBED EASEMENT SHALL BE EXTENDED AND/OR SHORTENED AT ANGLE POINTS AND POINTS OF INTERSECTION WITH THE PARCEL OWNERSHIP BOUNDARY LINES.



### LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

MARK E. EHRHART

DATE 7/23/2018 LICENSE NO. 11416  
MY LICENSE RENEWAL DATE IS DECEMBER 31, 2019.



**EGA**  
**EHRHART**  
**GRIFFIN &**  
**ASSOCIATES**

ENGINEERING PLANNING LAND SURVEYING  
3552 Farnam Street • Omaha, Nebraska 68131 • 402 / 551-0631

**RESOLUTION**  
**NO 18-296**

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE  
AND SETTING A PUBLIC HEARING FOR  
GRANTING AN EASEMENT AND RIGHT-OF-WAY  
ACROSS MOSQUITO CREEK DRAINAGE DISTRICT #22  
IN CONNECTION WITH AN UNDERGROUND PIPELINE INSTALLATION  
BY BUCKEYE PIPE LINE TRANSPORTATION LLC**

WHEREAS,           Buckeye Pipe Line Transportation LLC wishes to  
                          to replace an existing pipeline with a new underground  
                          pipeline within the city, as therein described; and

WHEREAS,           the proposed improvements include relocated facilities  
                          which cross Mosquito Creek Drainage District #22; and

WHEREAS,           Buckeye Pipe Line Transportation LLC has submitted a  
                          pipeline easement and right-of-way for said improvements  
                          and the acquisition documents are on file in the office of  
                          the City Clerk.

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

That the City Clerk is hereby ordered to set a public hearing for granting an easement and right-of-way in connection with an underground pipeline installation setting November 5, 2018, at 7:00 p.m. as the date and time of said hearing.

ADOPTED  
AND  
APPROVED

October 22, 2018

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: Community Development  
Case/Project No.: CP-18-001  
Submitted by: Chris Meeks, Planner

Resolution 18-297

Council Action: 10/22/2018

### Description

Resolution to amend the *Bluffs Tomorrow: 2030 Plan (Comprehensive Plan)* and setting Public Hearing for November 5, 2018 at 7:00 p.m., specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek from “Rural Residential/Agricultural” to “Medium-Density Residential”. Location: Generally located at the Northwest corner of College Road and Railroad Avenue. CP-18-001

### Background/Discussion

See attachments.

### Recommendation

#### **ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">CP-18-001 Staff Report (10-22-18) CC</a>	Other	10/12/2018
<a href="#">CP-18-001 Zimmerman Comp Plan PH Notice</a>	Other	10/12/2018
<a href="#">Attach A Case Map</a>	Other	10/12/2018
<a href="#">Attach B Letter of Intent</a>	Other	10/12/2018
<a href="#">Attach C Lot 2 Arbor Creek Map</a>	Other	10/12/2018
<a href="#">Attach D Development Plan</a>	Other	10/12/2018
<a href="#">Attach E Geotechnical Analysis</a>	Other	10/12/2018
<a href="#">Attach F Land Use Plan Amendment Map</a>	Other	10/12/2018
<a href="#">Attach G Site Photos</a>	Other	10/12/2018
<a href="#">Resolution 18-297</a>	Resolution	10/16/2018



## Council Communication

Department: Community Development Department  CASES #CP-18-001  Applicant/Owner: Zimmerman Properties Development, LLC Attn: Jamie McDonald 1329 East Lark Street Springfield, MO 65804  Engineer: Kaw Valley Engineering, Inc. 14700 West 114 <sup>th</sup> Terrace Lenexa, KS 66215  Property Owner: City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503	Ordinance No. _____  Resolution No. _____  Resolution No. _____	City Council: 10/22/18  Planning Commission: 10/9/18
<b>Subject/Title</b> <b>Request:</b> CASES #ZC-18-013, #PR-18-003, and #CP-18-001- Combined public hearings on the request of Zimmerman Properties Development, LLC, represented by Jamie McDonald, for the following:  1) Rezone 6.19 acres of land, more or less, legally described as Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District; and  2) Append a PR/Planned Residential Overlay District on Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, and adopt an associated development plan for the Valley Ridge Apartments.  3) Amend the Bluffs Tomorrow: 2030 Comprehensive Plan, specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential”.  <b>Location:</b> Generally located at the Northwest corner of College Road and Railroad Avenue.		
<b>Background/Discussion</b> The Community Development Department has received applications from Zimmerman Properties Development, LLC, represented by Jamie McDonald for the following requests; 1) to rezone approximately 6.19 acres of land known as Lot 2, Arbor Creek, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District; 2) to append a PR/Planned Residential Overlay District on Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, and adopt an associated development plan for the Valley Ridge Apartments. The Community Development Department expanded the request to include; 3) Amend the Bluffs Tomorrow: 2030 Comprehensive Plan, specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential”.		

The purpose of these requests is to accommodate a proposed 60 unit multifamily residential development project to be known as Valley Ridge Apartments. Valley Ridge Apartments will provide housing for people whose incomes are at or below 60% of the area median income. The developer will also apply for Low Income Housing Tax Credits from the Iowa Finance Authority in January of 2019 to help finance this project. The Valley Ridge Apartment development will feature amenities such as a clubhouse, playground, shelter and barbeque area, and potentially a dog park and sports court.

CASE #ZC-18-013: Rezone approximately 6.19 Acres of land, more or less, that is legally described as Lot 2, Arbor Creek, from A-2/Parks, Estates and Agricultural District to R-3/Low Density Multifamily Residential District (and to append a PR/Planned Residential Overlay District, as is addressed in CASE #PR-18-003 below). The rezoning is to accommodate a 60 unit multifamily residential development project to be known as Valley Ridge Apartments, which would not be a permitted use in the A-2/Parks, Estates and Agricultural District, but would be considered a principal use in the R-3/Low-Density Multifamily Residential District.

#### Land Use and Zoning

The subject property is currently undeveloped, and is zoned A-2/Parks, Estates and Agricultural District. Surrounding land uses and zoning districts are as follows:

North: The Midlands Humane Society which is zoned A-2/Parks, Estates and Agricultural District.

South: Single Family Dwellings that are zoned A-2/Parks, Estates and Agricultural District.

East: A Single Family Dwelling, BNSF Railway line, and Iowa Western Community College, all of which are located in the A-2/Parks, Estates and Agricultural District

West: Single Family Dwellings, some of which are zoned R-1/Single Family Residential District, and some zoned A-2/Parks, Estates and Agricultural

The future land use plan of the Bluffs Tomorrow 2030 (comprehensive plan) currently designates the subject property as Rural Residential/Agricultural. The Land Use Plan designates property to the North and East as Public/Semi-Public, property to the West as Rural Residential/Agricultural, and property the South as Low-Density Residential.

CASE #PR-18-003: Append a Planned Residential Overlay District, and adopt the associated development plan for Valley Ridge Apartments on property legally described as being Lot 2, Arbor Creek. The Planned Residential Overlay District, along with the proposed rezoning outlined in CASE #ZC-18-013, will allow for the construction of the 60 unit multifamily development, along with amenities and features for the residents of the complex. Per the submitted development plan (as shown on Attachment D), the multifamily residential building will be three stories in height, and will feature 20 units on each floor. The development will also feature a one-story clubhouse and maintenance building, gazebos, barbeque areas, a playground, common space in the clubhouse, and potentially a dog park and sport court. The submitted development plan will establish standards for site development (e.g. building height, setbacks, and lot coverage), landscaping, architecture, signage, off street parking, and stormwater management.

CASE #CP-18-001: The Community Development Department expanded the request to amend the Future Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan in order to reclassify the subject from property from "Rural Residential/Agricultural" to "Medium-Density Residential". The proposed comprehensive plan amendment will accomplish the following: 1) It will address the urbanizing nature of development in the general vicinity of the area, including but not limited to the nearby College View Elementary School and Iowa Western Community College, as well as the existing Sherwood Apartments located North of the subject property, and proposed Senior Care facilities on College Road, located East of the subject property. 2) The amendment will ensure the proposed rezoning is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan.

*City Departments and Utilities:* The appropriate City departments and utilities have reviewed the proposed request and their comments are incorporated below.

- The Fire Marshall stated he has no comments regarding any of the cases.
- The Permits and Inspections Division stated that the parcel is in the floodplain, and has a designation of AE.
- The Public Works Department has the following comments:
  - 1) No comments on the rezoning request.
  - 2) On the Planned Residential Overlay District Request:
    - a) A drainage report was submitted, and the Public Works Department will work with the engineer to finalize the drainage report to meet current standards and specifications for stormwater management. A PCSMP conceptual application, Engineer's estimate of probable cost, performance bond, and maintenance & easement agreement will be required in regards to water quality. In regards to water quantity, stormwater management will be required for all events through a 100 year event. Floodplain permitting will also be required for this project.
    - b) A full geotechnical report will be required.
    - c) The Public Works Department will work with the engineer to meet all current standards and specifications for site development.
    - d) The Public Works Department noted there is existing infrastructure along Railroad Avenue and part of College Road.
  - 3) No comments on the comprehensive plan amendment.
- Council Bluffs Water Works stated that they have comments for the engineer regarding fireline looping and would like review authority for any improvements located in their 25 foot easement along Railroad Avenue, but otherwise had no comments in regards to the rezoning, planned residential overlay and development plan, or comprehensive plan amendment requests.
- MidAmerican Energy stated they have an underground 3-phase line on the West side of Railroad Avenue between the road and the sidewalk that is located within the right-of-way. MidAmerican Energy stated they have no conflicts for the proposed development at this location.

The following attachments have been included for your review:

Attachment A: Location and Zoning Map  
Attachment B: Letter of Intent  
Attachment C: Lot 2, Arbor Creek Map  
Attachment D: Development Plan  
Attachment E: Preliminary Geotechnical Evaluation  
Attachment F: Proposed Land Use Plan Amendment  
Attachment G: Site Photos

### **Comments**

#### Rezoning (CASE #ZC-18-013)-

1. The subject property is currently zoned A-2/Parks, Estates and Agricultural District. Surrounding zoning districts include A-2/Parks, Estates and Agricultural District to the North, East, and South, and R-1/Single Family Residential to the South. The applicant has proposed to rezone the subject property to R-3/Low-Density Multifamily Residential to accommodate the construction of a 60 unit multifamily residential development. In the R-3 District, the minimum lot size requirement for a multifamily development is dictated based upon the number of units. Per Section 15.10.050, *Site Development Regulations of the R-3 District* multifamily development with five or more units shall provide a minimum lot size as follows: 9,000 square feet for the first five units, plus an increase of 2,000 square feet for each additional unit. The applicant's proposal is for a 60 unit multifamily development which requires a minimum of 119,000 square feet of land area, or 2.73 acres. Lot 2, Arbor Creek contains 6.19 acres of land, therefore, the land is suitable in size for a 60 unit multifamily development and will comply with R-3 District minimum lot size requirements.

2. The future land use plan of the Bluffs Tomorrow 2030 (comprehensive plan) designates the subject property as Rural Residential/Agriculture. The Community Development Department has proposed an amendment to the Land Use Plan to designate the property as Medium-Density Residential. The purpose of this comprehensive plan amendment is to: 1) Address the urbanizing nature of development in the general vicinity of the area, including but not limited to the nearby College View Elementary School and Iowa Western Community College, as well as the existing Sherwood Apartments located North of the subject property, and proposed Senior Care facility on College Road, located East of the subject property. 2) Ensure the proposed rezoning is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan.
3. All property owners located within 200 feet of the proposed rezoning area were notified by direct mail. The following comments were received on the request.
  - a) The BNSF Railroad contacted the Community Development Department and had a general inquiry about the project, and is not in opposition.

**Development Plan (CASE #PR-18-003)-**

Section 15.28.010, P-R/Planned Residential Overlay, Statement of Intent of the Council Bluffs (Municipal Code) Zoning Ordinance states “the planned residential overlay is established to permit flexibility in the use and design of structures and land in situations where conventional development may be inappropriate and where modifications of the requirements of the underlying zone would not be inconsistent with the Comprehensive Plan or harmful to the neighborhood in which it is located”.

The following development standards shall apply to the subject property:

**1. Site Development**

- a. The subject property contains 6.19 acres and is capable of supporting up to a maximum of 135 multifamily units based upon the lot size requirements stated in the R-3 District. The applicant has proposed 60 units, which is less than the total maximum allowed per city code.
- b. All construction shall comply with the setback, building height, and lot coverage standards stated in Chapter 15.10 R-3/Low Density Multi-Family Residential District of the Municipal Code (Zoning Ordinance). The submitted development plan shows all buildings will comply with R-3 District site development standards.
- c. The applicant shall install a sidewalk along the frontage of College Road. Sidewalks shall connect all buildings, parking lots, and amenity spaces within the interior of the development. A minimum five foot wide sidewalks shall be extended from the trail system along Railroad Avenue and College Road into the development. Sidewalks shall be installed prior to the issuance of a Certificate of Occupancy.
- d. The submitted site plan shows two trash enclosures. Trash enclosures shall be enclosed on three sides, and shall be screened from public view with materials similar to those of the primary building. The enclosure shall have a gate which when closed completely eliminates the view of the dumpster.
- e. All fencing standards shall comply with Section 15.24.040, Fence regulations of the Council Bluffs Municipal Code (Zoning Ordinance). If the potential dog park is constructed, an eight-foot tall fence, as measured from the finished grade, will be permitted only around the specified dog-park area.
- f. All site lighting shall comply with the standards stated in Section 15.24.050, *Lighting controls* of the Council Bluffs Municipal Code (Zoning Ordinance).

**2. Off-Street Parking**

- a. Off street parking for multifamily developments is calculated by the number of bedrooms in each unit. The submitted site plan shows that approximately 116 parking stalls will be constructed. Parking shall be based on the standards stated in Section 15.23.060, *Parking spaces required*, of the Municipal Code (Zoning Ordinance) as follows: 1 parking space shall be required for each efficiency and 1 bedroom apartment, and 1 ½ parking spaces shall be required for each 2 or more bedroom apartment. Parking shall also be provided at 1 space for every 400 square feet of office space in the clubhouse. The total number of required off street

parking spaces will be determined at the time of building permit review, and will be based upon the previously stated parking calculations.

- b. All parking/loading areas, driveways and drive aisles shall comply with the standards stated in Chapter 15.23, *Off-Street Parking, Loading and Unloading* of the Municipal Code (Zoning Ordinance).
- c. All off-street parking shall comply with the Parking for Persons with Disabilities Chapter of the Iowa Administrative Code.
- d. All parking lots and drive aisles shall be landscaped in accordance with the proposed landscaping plan.

### **3. Landscaping**

- a. The proposed landscaping plan shows a mixture of shade trees, evergreen trees, and flowering trees on the property, with native sod/grasses being planted throughout the property. The proposed landscaping plan is generally acceptable, with the following conditions:
  - 1) Trees shall be planted at a quantity of 1 tree per 30 feet of frontage along Railroad Avenue and College Road, between the sidewalk/trail and the street.
  - 2) An evergreen tree buffer, or a six-foot tall privacy fence to be planted or installed on the western property line to screen the adjacent single-family residential structure from the proposed development.
  - 3) Trees shall be planted in the vicinity of the north property line at a quantity of 1 tree per 50 feet.
  - 4) Trees shall sporadically be planted along the detention ponds, Dog Park, playground area, and common yards as shown in the submitted landscape plan.
  - 5) Landscaping shall be installed with the completion of the apartment building, and prior to issuance of a Certificate of Occupancy.
  - 6) An ornamental iron fence shall be installed along the frontage of Railroad Avenue and College Road to help screen and buffer the development.

### **4. Architecture**

- a. The development plan shows one three story apartment building, and a one single story clubhouse building. The appearance and design of these structures are compatible with other multifamily developments in the vicinity. Approved building materials for all structures shall be as follows: brick masonry, cement lap siding, wood siding, split-face CMU and decorative architectural metal. The architectural designs are generally acceptable, as proposed. All building construction, materials and design shall be consistent with the proposed development plan with the following conditions:
  - 1. All roof-top mechanical units shall be screened from view.
  - 2. Windows shall have shutters, with the exception of the windows situated on porches or decks.
  - 3. A minimum of 30% of all building façade shall be constructed of brick masonry.

### **5. Signage**

- a. The submitted development plan shows a monument sign along the frontage area of Railroad Avenue. The size and height of the sign is unknown at this time. No information on any attached signage was submitted with this request. All signage (detached and attached) shall comply with Section 15.33.160(03), PR/Planned Residential District, Signs of the Municipal Code (Zoning Ordinance).

### **Comprehensive Plan Amendment (CASE #CP-18-001)-**

- 1) The subject property is currently designated as Rural Residential/Agricultural, per Chapter 5, Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan, and is described as follows: "Rural residential and agricultural areas include large-lot housing, estates, farmhouses, agricultural activities, and other uses that support farming. These areas and estates typically develop in an unplanned manner along rural roadways. Agricultural uses include crop or livestock production, as well as storage, processing, and other uses related to farming operations."
- 2) The Community Development Department has proposed to designate the subject property "Medium-Density Residential". Per Chapter 5, Land Use Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan, this designation is as follows: "Medium-density residential areas include a series of lots with one or more single

family units that may share a wall, typically arranged horizontally with a dedicated entrance for each housing unit. These included duplexes and townhouses, though small-lot detached single-family or limited multi-family development may be present in these areas. Throughout the planning area, there are several clusters of medium-density housing arranged in subdivision where structures create a consistent character on a planned residential street.”

- 3) Development in the vicinity of the proposed multifamily residential complex has prompted the need for amendments to the Bluffs Tomorrow: 2030 Comprehensive Plan to best suit the needs of the City of Council Bluffs. The purpose of this comprehensive plan amendment is to address the urbanizing nature of development in the general vicinity of the area, including but not limited to the nearby College View Elementary School and Iowa Western Community College, as well as the existing Sherwood Apartments located North of the subject property, and proposed Senior Care facility on College Road, located East of the subject property. Additionally, the amendment will ensure the proposed rezoning is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan.
- 4) The subject property is currently designated as Rural Residential/Agriculture, which would include large-lot housing, estates, farm-houses, agricultural activities, and uses supporting farming. The Land Use Plan states these areas typically develop in an unplanned manner along rural roadways. New development to the East and to the North of the proposal is planned and approved by City of Council Bluffs Boards and Commissions with development plans in many situations, therefore an unplanned agricultural activity could be considered out of the character of surrounding properties.
- 5) The Comprehensive Plan Amendment would support residential uses, both single-family and multifamily, and will provide new housing opportunities in the city.
- 6) The Comprehensive Plan Amendment, along with the application of a PR/Planned Residential Overlay District would not adversely affect neighboring properties, as the City would require prior approval of any development through the approval of a development plan.
- 7) The Housing Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan outlines the following Housing Policies for Neighborhood Character that apply to this development: 1) Appropriate bulk and scale that establishes a rhythm of buildings and a sense of place. 2) Design elements that reflect a specific range of architectural styles. 3) Residential development standards that ensure context-sensitive infill that address building massing and scale, site planning, access management, etc. The proposed planned residential development plan will establish design standards for any residential use on the property to ensure it is consistent with the Bluffs Tomorrow: 2030 Comprehensive Plan.

### **Recommendation**

The Community Development Department recommends:

- A. Approval of the request to rezone 6.19 acres of land, more or less, legally described as Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District subject to the following conditions:
  1. The rezoning shall become effective upon Zimmerman Properties Development, LLC, taking ownership of the subject property.
- B. Approval of the request to append a PR/Planned Residential Overlay District on Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, and approval of the associated development plan, subject to compliance of the above stated comments, and subject to the following conditions:
  1. The application of a PR/Planned Residential Overlay District and approval of the development plan will not be effective until Zimmerman Properties Development, LLC, takes ownership of the subject property.
  2. Council Bluffs Water Works shall have review authority over any improvements proposed to be located in their 25 foot easement along Railroad Avenue.
  3. A PCSMP conceptual application, Engineer’s estimate of probably cost, performance bond, and

maintenance & easement agreement will be required in regards to water quality prior to development.

4. All stormwater management shall comply with current city standards as determined by the Council Bluffs Public Works Department.
5. A full geotechnical report shall be submitted to the city prior to any development permits being issued.
6. Floodplain permitting through the City of Council Bluffs will be required for this project.
7. All utilities must be installed underground.

- C. Approval of the amendment to the Bluffs Tomorrow: 2030 Comprehensive Plan, specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential”.

### **Public Hearing**

Speakers in favor:

1. Jeff Beckler, Zimmerman Properties Development, LLC, 1329 East Lark Street, Springfield, MO 65804
2. Michael Osbourn, Kahn Engineering, 14700 West 114<sup>th</sup> Terrace, Lenexa, KS 66215
3. Tom Ackley, Koley Jesson Law Firm, 1125 South 103<sup>rd</sup> Street, Omaha, NE 68124

Speakers against:

1. Ron Wolfe, 536 College Road, Council Bluffs, IA 51503
2. Randy Nash, 723 College Road, Council Bluffs, IA 51503
3. Deborah Petersen, 215 South Main Street, Council Bluffs, IA 51503
4. Linda Kemp, Midlands Humane Society, 11801 Gow Circle, Bellevue, NE 68133
5. Marti Nerenstone, 33 Indian Hills Road, Council Bluffs, IA 51503

### **Planning Commission Recommendation**

The Planning Commission recommends denial of the request.

VOTE: AYE 5    NAY 1    ABSTAIN 2    ABSENT 2    VACANT 1    Motion: Denied

Attachment A: Location and Zoning Map  
Attachment B: Letter of Intent  
Attachment C: Lot 2, Arbor Creek Map  
Attachment D: Development Plan  
Attachment E: Preliminary Geotechnical Evaluation  
Attachment F: Proposed Land Use Plan Amendment  
Attachment G: Site Photos

Prepared by: Chris Meeks, Planner

## **NOTICE OF PUBLIC HEARING**

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 an resolution to amend the Future Land Use Plan in Chapter 5 of the Bluffs Tomorrow: 2030 Comprehensive Plan to reclassify the property legally described Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, from “Rural Residential/Agricultural” to “Medium-Density Residential”.

You are further notified that the Public Hearing on said matters 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 5<sup>th</sup> day of November, 2018, in the City Council Chambers, 2<sup>nd</sup> 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



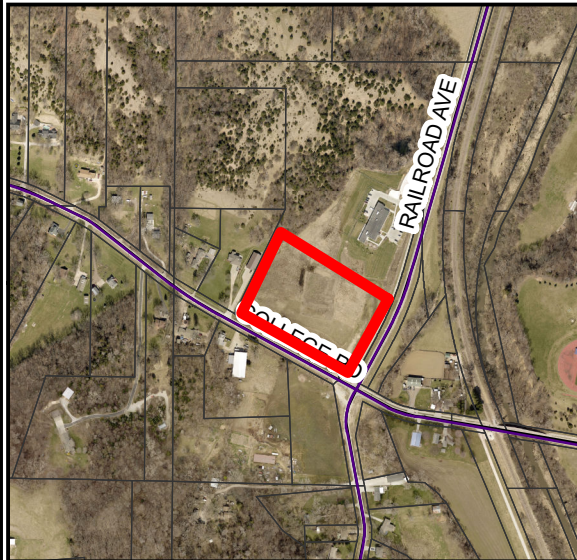
# CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION

## CASE #ZC-18-013, #PR-18-003 LOCATION/ZONING MAP

### Map Legend

-  Subject Property
-  Parcels

0 125 250  
1 Inch = 254 Feet

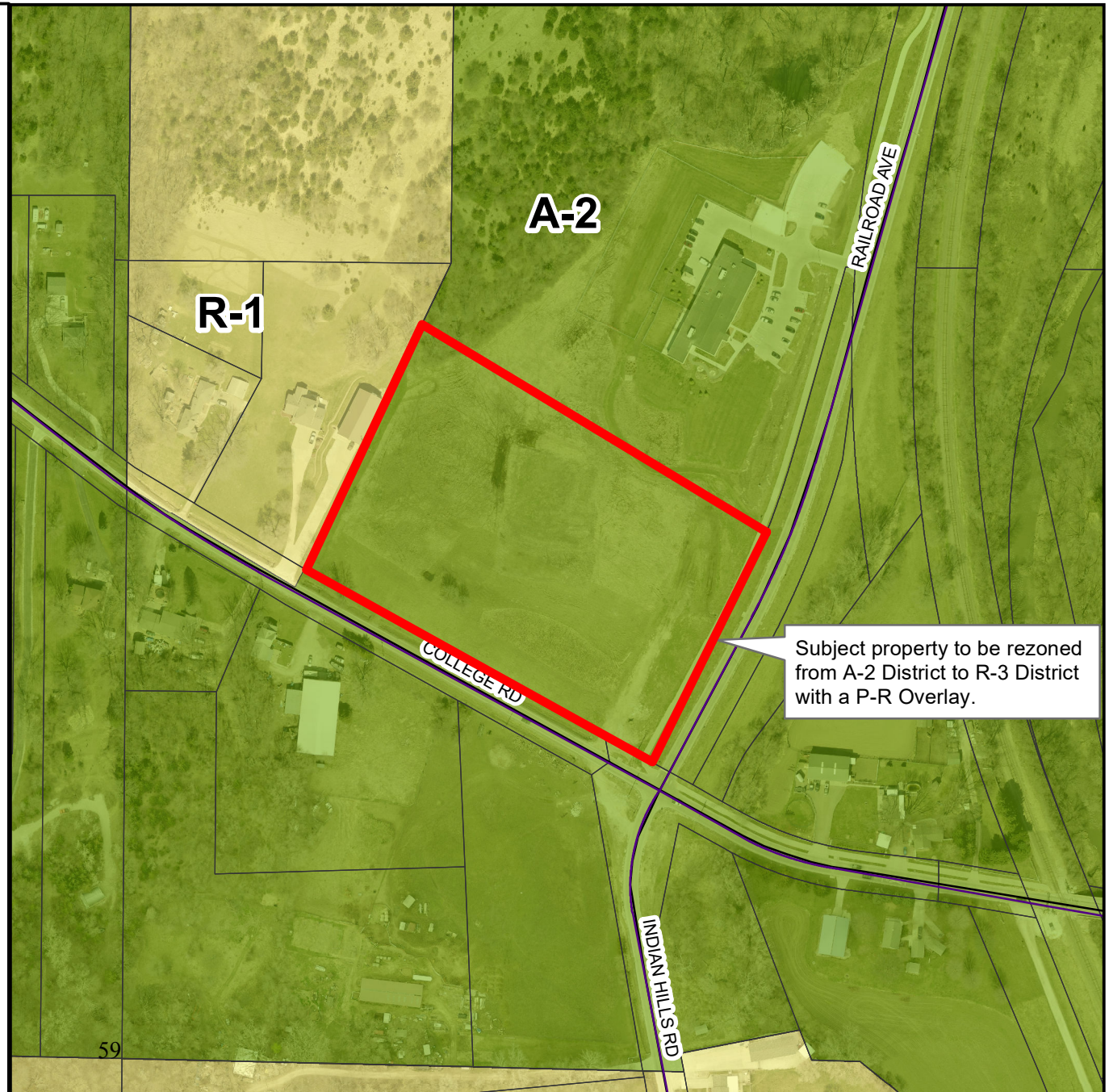


Last Amended: 9/17/18

Council Bluffs Community  
Development Department  
209 Pearl Street  
Council Bluffs, IA 51503  
Telephone: (712) 328.4629

#### DISCLAIMER

This map is prepared and compiled from City documents, plans and other public records data. Users of this map are hereby notified that the City expressly disclaims any and all responsibilities for errors, if any, in the information contained on this map of the misuse of the same by the user or anyone else. The user should verify the accuracy of information/data contained on this map before using it. The City assumes no legal responsibility for the information contained on this map.





Office: 913.894.5150

Fax: 913.894.5977

Web: www.kveng.com

Address: 14700 West 114<sup>th</sup> Terrace  
Lenexa, KS 66215

September 10, 2018

C17D9615

Planning Department  
City of Council Bluffs, Iowa  
209 Pearl Street  
Council Bluffs, Iowa 51503

**RE: LETTER OF INTENT  
VALLEY RIDGE APARTMENTS  
COLLEGE ROAD AND RAILROAD AVENUE  
COUNCIL BLUFFS, IOWA**

Zimmerman Properties Investments, LLC intends to develop a 60-unit multi-family housing facility upon the northeast corner of College Road and Railroad Avenue in Council Bluffs, Iowa. The corner site is generally six acres in size.

The facility will be a single three-story building with separate clubhouse and maintenance building. Parking spaces will be placed along the north and east perimeters of the building. General amenities will include gazebo, BBQ grills, playground, and common spaces within the clubhouse.

The project will be developed in one phase and the construction time period is anticipated to be 12 to 16 months.

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 and Railroad Avenue. A public 6-foot sidewalk is planned for the north side of 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 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.

If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,  
**Kaw Valley Engineering, Inc.**

Michael R. Osbourn  
Principal

VMLX-FILE Projects C17\_9615 Design Correspondence 2018-09-10 Ltr of Intent Valley Ridge Apts Council Bluffs IA.docx



# Attachment C

## ARBOR CREEK

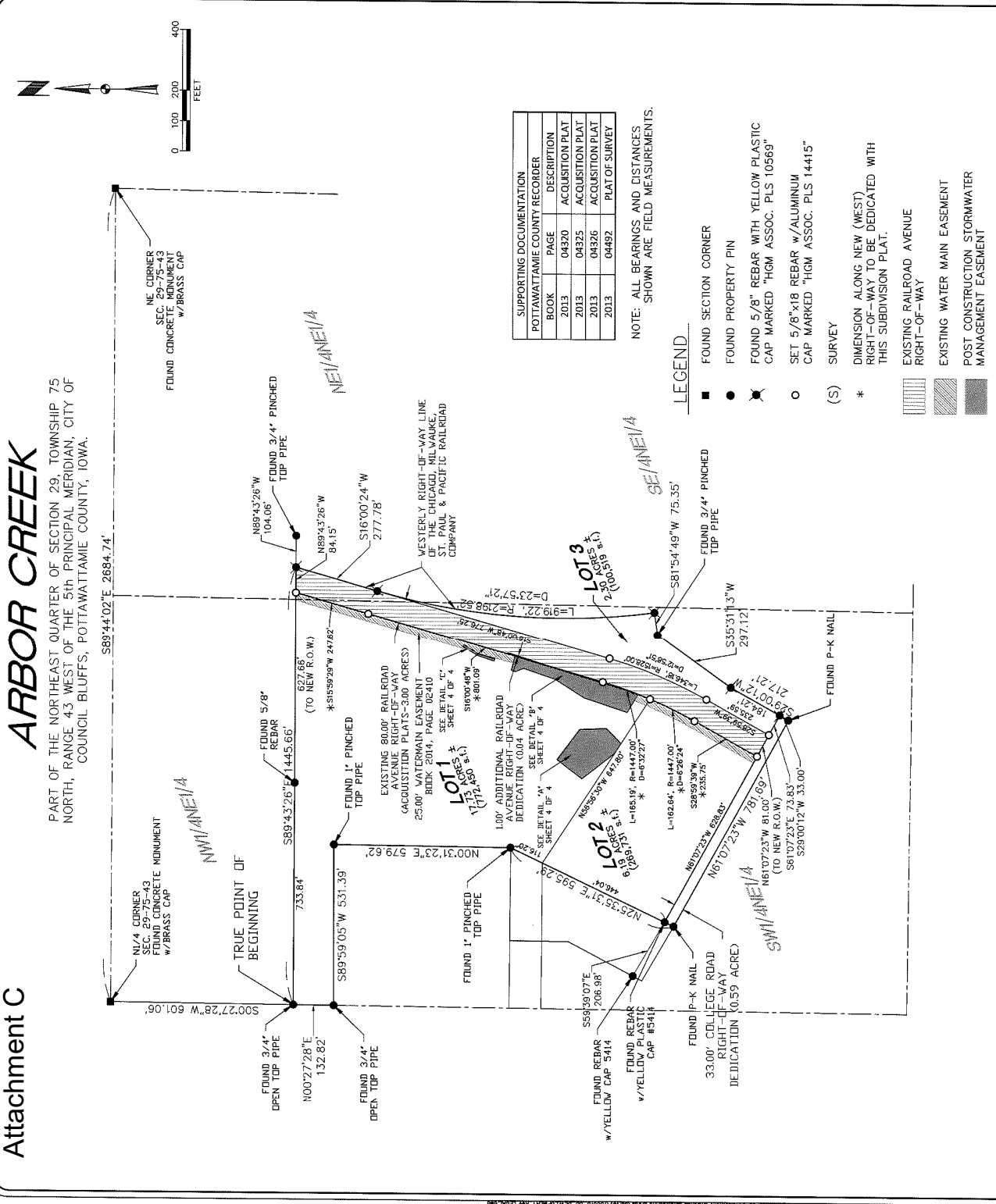
PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

**hgm**  
ENGINEERING ARCHITECTURE SURVEYING  
COUNCIL BLUFFS, IOWA

DATE: MAY 19, 2018  
DESIGNED BY: [blank]  
DRAWN BY: [blank]  
CHECKED BY: [blank]  
APPROVED BY: [blank]

PROJECT: ARBOR CREEK  
CLIENT: 209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503  
NORTHWEST QUARTER SECTION 29-75-43  
149 WEST BROADWAY, COUNCIL BLUFFS, IOWA 51502

PROJECT NO.: 150018  
SHEET: 3 OF 4



**SUPPORTING DOCUMENTATION**

BOOK	PAGE	DESCRIPTION
2013	04320	ACQUISITION PLAT
2013	04325	ACQUISITION PLAT
2013	04326	ACQUISITION PLAT
2013	04492	PLAT OF SURVEY

NOTE: ALL BEARINGS AND DISTANCES SHOWN ARE FIELD MEASUREMENTS.

**LEGEND**

- FOUND SECTION CORNER
- FOUND PROPERTY PIN
- ✕ FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP MARKED "HGM ASSOC. PLS 10569"
- SET 5/8"x18 REBAR w/ALUMINUM CAP MARKED "HGM ASSOC. PLS 14415"
- (S) SURVEY
- \* DIMENSION ALONG NEW (WEST) RIGHT-OF-WAY TO BE DEDICATED WITH THIS SUBDIVISION PLAT.
- [Hatched Box] EXISTING RAILROAD AVENUE RIGHT-OF-WAY
- [Hatched Box] EXISTING WATER MAIN EASEMENT
- [Hatched Box] POST CONSTRUCTION STORMWATER MANAGEMENT EASEMENT

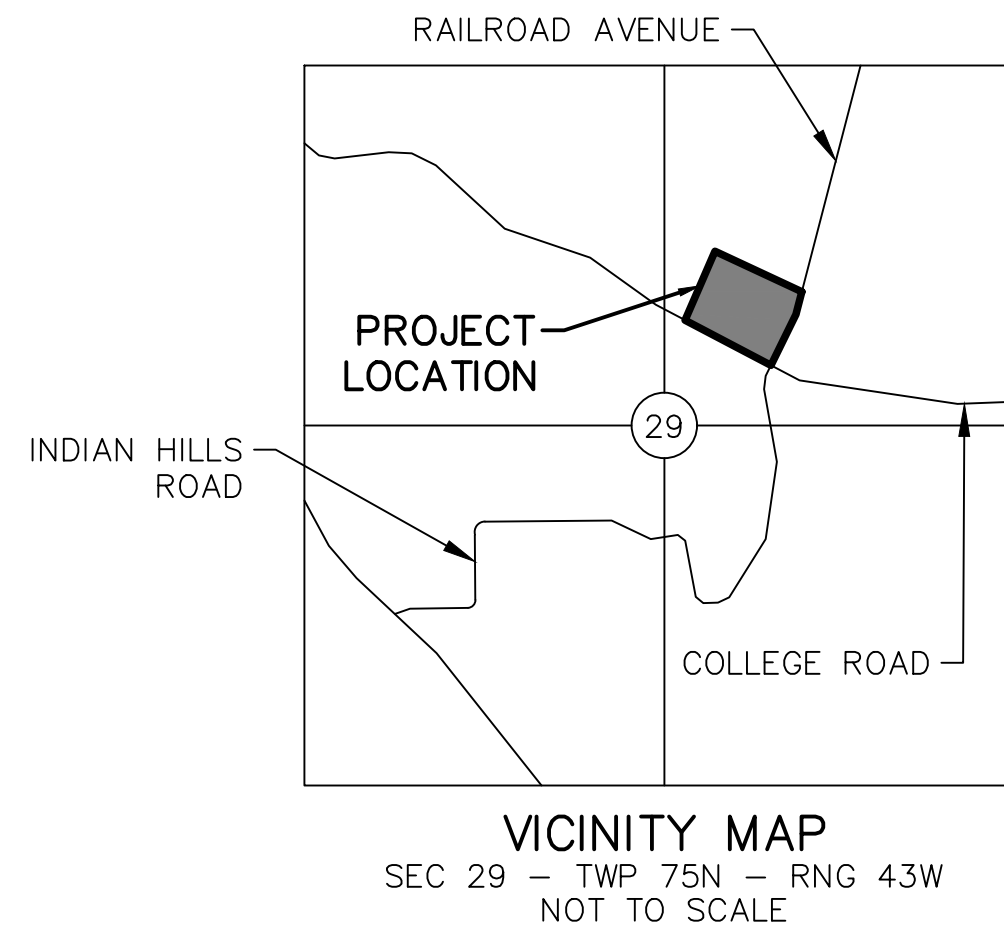
# Attachment D

# 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@kveng.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 RESIDENT 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 AND DEPTH AS INDICATED. THE SURVEYOR 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

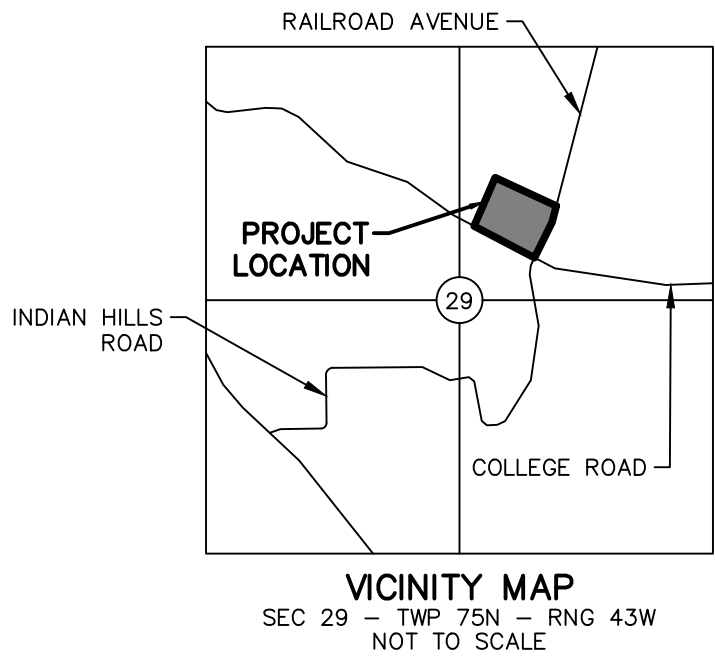
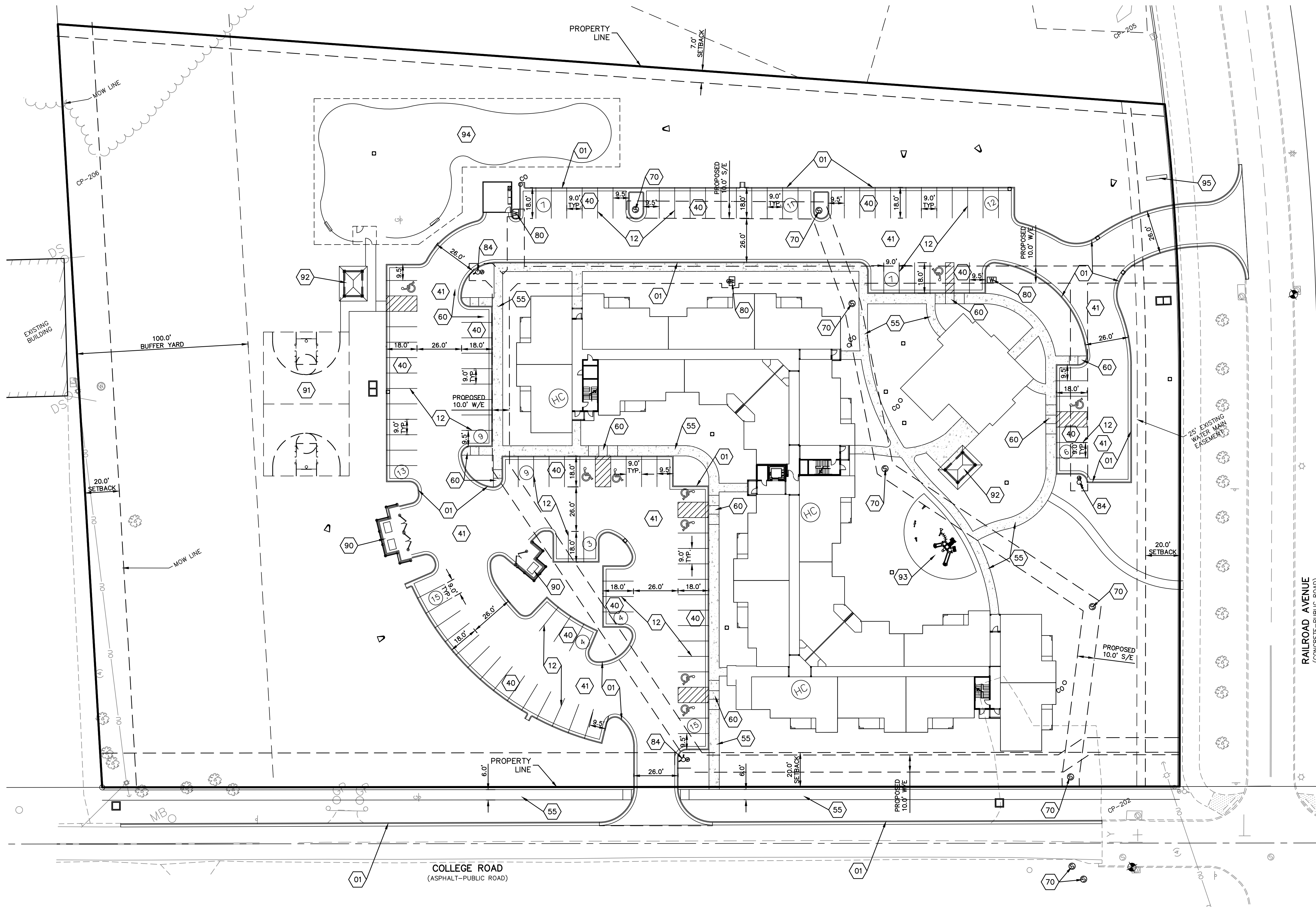
THE DESIGNS REPRESENTED IN THESE PLANS ARE IN ACCORDANCE WITH ESTABLISHED PRACTICES OF CIVIL ENGINEERING FOR THE DESIGN FUNCTIONS AND USES INTENDED BY THE OWNER AT THIS TIME. HOWEVER, NEITHER KAW VALLEY ENGINEERING, INC NOR ITS PERSONNEL CAN OR DO WARRANTY THESE DESIGNS OR PLANS AS CONSTRUCTED, EXCEPT 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 RELATE TO ANY 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.**

<b>VALLEY RIDGE APARTMENTS</b>													
<b>COLLEGE RD AND RAIL ROAD AVE.</b>													
<b>COUNCIL BLIFFS, IOWA 51503</b>													
<b>DEVELOPMENT PLANS</b>													
<b>TITLE SHEET</b>													
PROJ. NO. C17-9615													
DESIGNER KGG			DRAWN BY JQN										
CFN													
SHEET C001			REV 0										

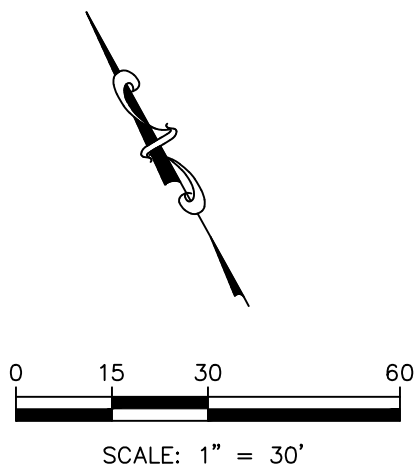




LEGEND:

- 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

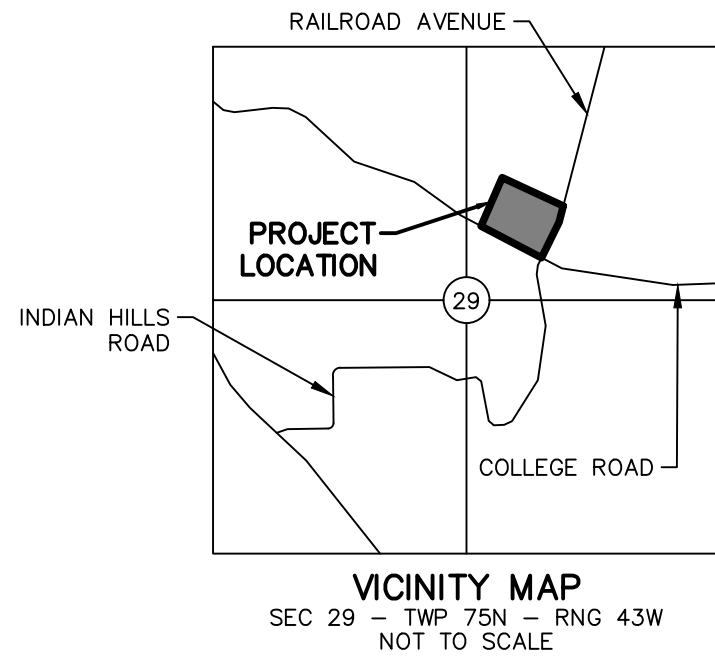
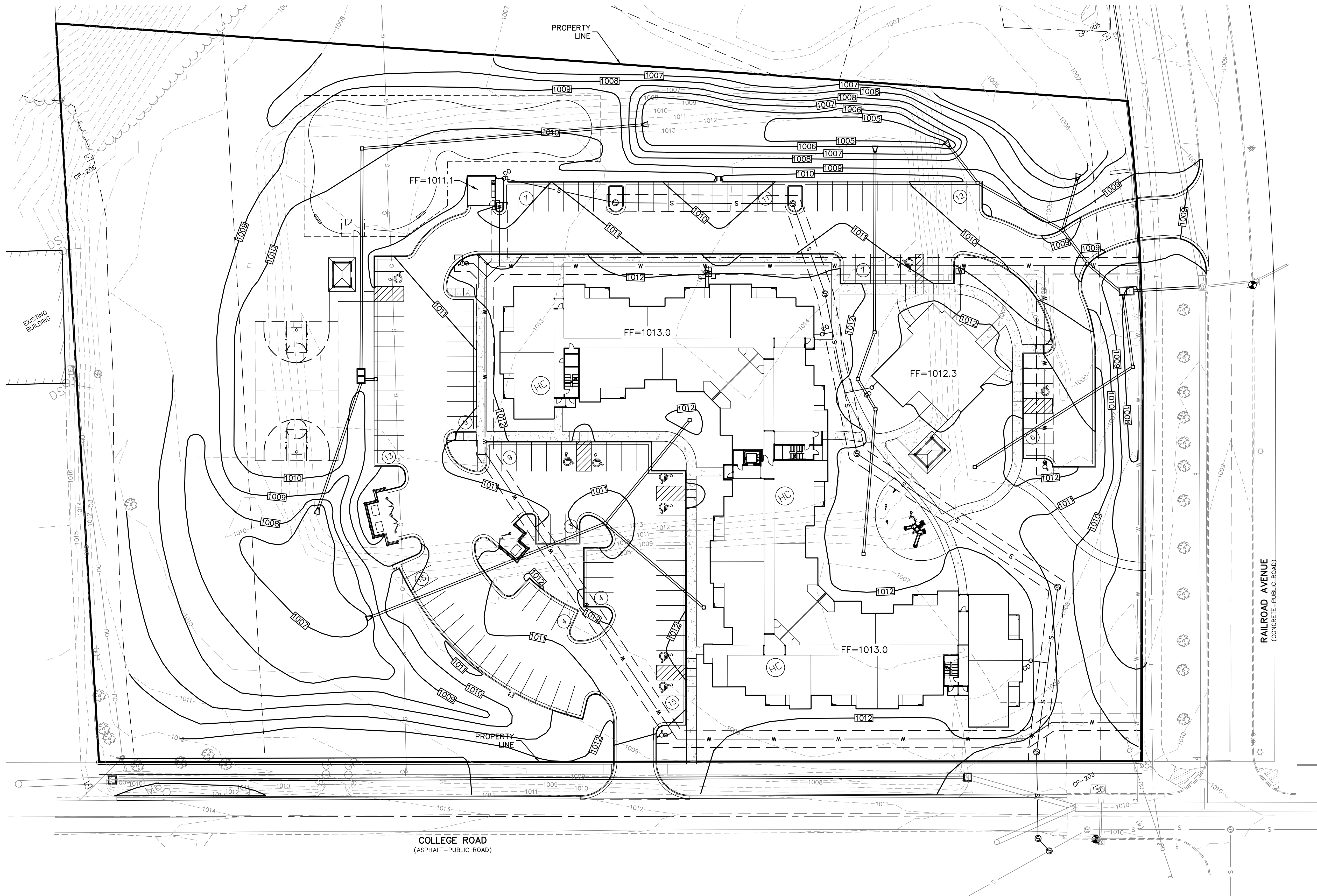
- NOTES:
- 01 CONCRETE CURB AND GUTTER
  - 12 WHITE PARKING LOT STRIPING (SHERWIN-WILLIAMS TM 2160 LEAD FREE OR APPROVED EQUAL)
  - 40 REGULAR DUTY ASPHALT PAVEMENT
  - 41 HEAVY DUTY ASPHALT PAVEMENT
  - 42 CONCRETE PAVEMENT
  - 55 CONCRETE SIDEWALK
  - 60 SIDEWALK RAMP
  - 70 SANITARY SEWER MANHOLE
  - 80 WATER APPURTENANCES
  - 84 FIRE HYDRANT
  - 90 TRASH ENCLOSURE
  - 91 SPORTS COURT
  - 92 PAVILION
  - 93 PLAYScape
  - 94 DOG PARK
  - 95 MONUMENT SIGN



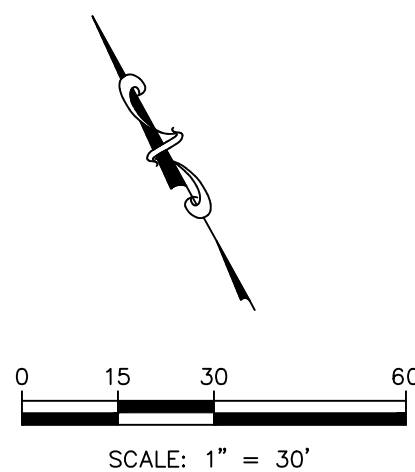
Know what's below.  
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14700 WEST 114TH TERRACE LENEXA, KANSAS 66215 PH. (913) 894-5150   FAX (913) 894-5977 kawvalley.com   www.kawvalley.com		KAW VALLEY ENGINEERING		KAW VALLEY ENGINEERING, INC. IS AUTHORIZED TO OFFER ENGINEERING SERVICES BY IOWA STATE CERTIFICATE OF AUTHORIZATION # 314844. EXPIRES 04/01/20	
VALLEY RIDGE APARTMENTS COLLEGE RD AND RAIL ROAD AVE. COUNCIL BLIFFS, IOWA 51503		DEVELOPMENT PLANS SITE PLAN		PROJ. NO. C17_9615	
DESIGNER KGK		DRAWN BY JON		REV	
CFN		SHEET C100		REV 0	
REV		DATE		DESCRIPTION	
A. 9/10/18		INITIAL ISSUE		DSN DWN MRO	
KGK		JON		CHK	



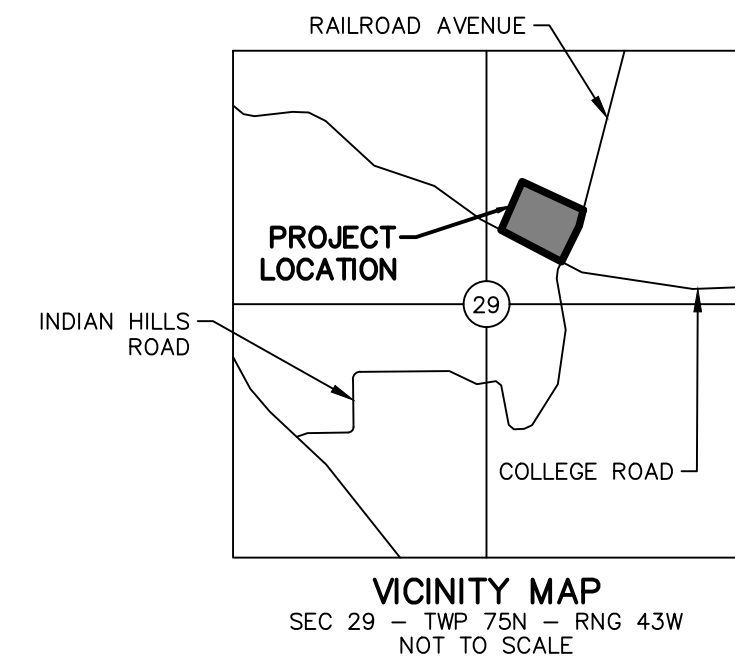






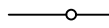





























- LEGEND:**
- SECTION CORNER
  - MONUMENT FOUND ORIGIN UNKNOWN UNLESS OTHERWISE NOTED
  - BENCHMARK
  - CONTROL POINT
  - B/B BACK TO BACK OF CURB MEASUREMENT
  - CHAIN LINK FENCE
  - CMP CORRUGATED METAL PIPE
  - DEADMAN ANCHOR
  - DECIDUOUS TREE
  - DOWN SPOUT
  - DIP DUCTILE IRON PIPE
  - E/E EDGE 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
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  - UNDERGROUND GAS
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  - 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)



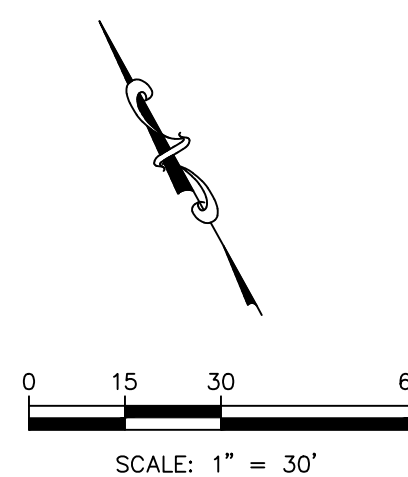
14700 WEST 114TH TERRACE LENEXA, KANSAS 66215 PH. (913) 884-5150   FAX (913) 884-5977 kawvalley.com   www.kawvalley.com		KAW VALLEY ENGINEERING	
KAW VALLEY ENGINEERING, INC. IS AUTHORIZED TO OFFER ENGINEERING SERVICES BY IOWA STATE CERTIFICATE OF AUTHORIZATION # 314844. EXPIRES 04/01/20			
VALLEY RIDGE APARTMENTS COLLEGE RD AND RAIL ROAD AVE. COUNCIL BLIFFS, IOWA 51503		DEVELOPMENT PLANS GRADING PLAN	
PROJ. NO. C17_9615			
DESIGNER KGK	DRAWN BY JON		
CFN			
SHEET C300	REV 0	REV DATE DESCRIPTION	INITIAL ISSUE
		9/10/18	9/10/18
		DSN	CHK
		KGK	MRO






- |   |  |
|---|--|
|    | SECTION CORNER   |
|    | MONUMENT FOUND<br>ORIGIN UNKNOWN UNLESS<br>OTHERWISE NOTED |
|    | BENCHMARK  |
|    | CONTROL POINT  |
|   |  |
| B/B   | BACK TO BACK OF CURB MEASUREMENT                           |
|    | CHAIN LINK FENCE   |
|    | CORRUGATED METAL PIPE                                      |
|    | DEADMAN ANCHOR   |
|    | DECIDUOUS TREE   |
|    | DOWN SPOUT   |
|    | DUCTILE IRON PIPE  |
| E/E   | EDGE TO EDGE OF ASPHALT                                    |
|    | ELECTRIC METER   |
|    | ELECTRICAL TRANSFORMER                                     |
|    | FLARED END SECTION   |
|    | FIRE HYDRANT   |
|    | GAS LINE SIGN  |
|    | GATE POST  |
|    | HANDICAP RAMP  |
| HDPE  | HIGH DENSITY POLYETHYLENE                                  |
|    | LIGHT POLE   |
|    | MAIL BOX   |
|    | OVERHEAD UTILITY LINE (# OF LINES)                         |
|    | 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                                  |

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



Know what's **below**.  
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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.

<b>VALLEY RIDGE APARTMENTS</b> <b>COLLEGE RD AND RAIL ROAD AVE.</b> <b>COUNCIL BLIFFS, IOWA 51503</b>		 <p>14700 WEST 114TH TERRACE          LENEKA, KANSAS 66215          PH. (913) 894-5150   FAX (913) 894-5977  <a href="mailto:info@kveeng.com">info@kveeng.com</a>   <a href="http://www.kveeng.com">www.kveeng.com</a></p> <p><b>KAW VALLEY ENGINEERING</b></p> <p>KAW VALLEY ENGINEERING, INC. IS AUTHORIZED TO OFFER ENGINEERING SERVICES BY IOWA STATE CERTIFICATE OF AUTHORIZATION # 314844.          EXPIRES 04/01/20</p>																	
PROJ. NO.		C17 9615																	
DESIGNER		KGK		DRAWN BY		JQN													
CFN																			
SHEET		C500		REV		0		A		9/10/18		INITIAL		ISSUE					
				REV		DATE		DESCRIPTION											
								KGK		JQN		DSN		DWN		CHK		MFO	





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)

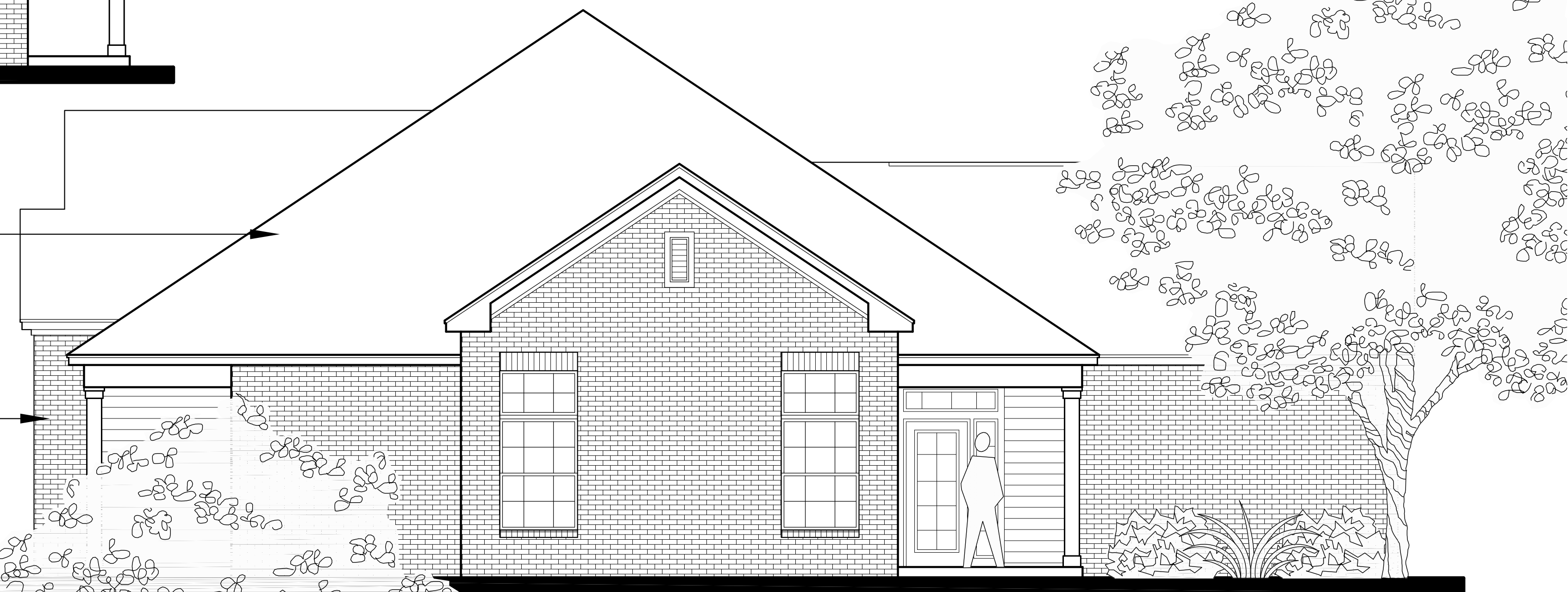
#### FINISH MATERIALS

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

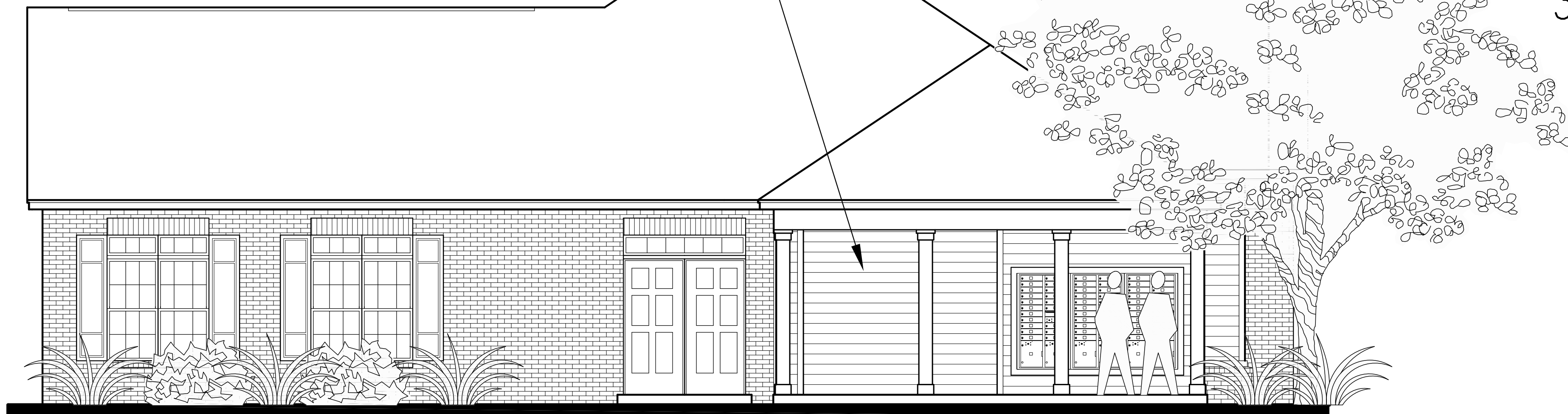
VINYL WINDOWS (E-STAR RATED) WITH  
MFR-SHUTTERS

CEMENT BOARD SIDING ON SHEATHING  
AND WOOD STUD FRAMING

BRICK VENEER ON SHEATHING AND  
WOOD STUD FRAMING



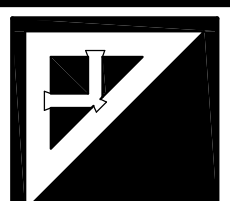
**3 EAST (SIDE) ELEVATION**  
SCALE: 1/4" = 1'-0" (24X36 SHEET)



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

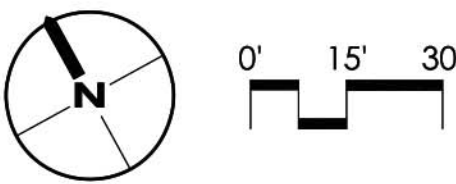


**PRELIMINARY PLANT SCHEDULE**

- 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**  
Tulsa, LLC

2202 E. 49th St. Suite 200  
Tulsa, OK 74112  
(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





Office: 913.894.5150

Fax: 913.894.5977

Web: www.kveng.com

Address: 14700 West 114<sup>th</sup> Terrace  
Lenexa, KS 66215

September 10, 2018

**C17G9615**

Mr. Justin Zimmerman  
Zimmerman Properties Investments, LLC  
1329 East Lark Street  
Springfield, Missouri 65804

**RE: PRELIMINARY GEOTECHNICAL EVALUATION  
VALLEY RIDGE APARTMENTS  
COLLEGE ROAD AND RAILROAD AVENUE  
COUNCIL BLUFFS, IOWA**

Dear Mr. Zimmerman:

Kaw Valley Engineering, Inc. has performed a preliminary geotechnical review of the proposed project. This site is located at the northeast corner of College Road and Railroad Avenue in Council Bluffs, Iowa. The proposed project is to consist of a three-story, slab-on-grade wood-framed structure. Site reconnaissance indicates generally a 5-foot grade change across the site, except the extreme northeast corner which grades up an additional 10 feet. Historical review indicates up to six feet of fill has been placed in the central portion of the site.

Review of regional soils data indicates that a combination of loess and glacial till make up the upper soil stratum, and the fill placed upon the site. Exact water table has not been determined at the time of the issuance of this preliminary evaluation.

Preliminary grading plans indicate the building finished floor to be 1,012 feet which is within one foot of the existing surface grade in the building area.

Due to the existence of up to six feet of apparently uncontrolled fill, it is anticipated the site will need to be overexcavated to a depth of at least three feet below the existing uncontrolled fill, and recompacted to bearing and slab elevations. The need for dewatering is unknown at this time.

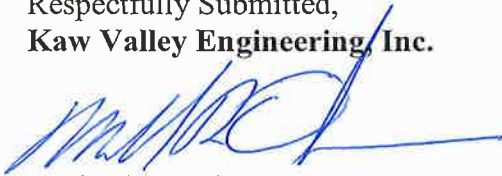
Preliminary recommendations are that the building be founded using shallow foundations bearing upon newly placed engineered fill. An allowable bearing capacity of 2,500 psf is anticipated.

Shallow foundations shall bear at a minimum depth of 42 inches below lowest adjacent exterior grade.


Further details and specific recommendations will be presented once field work and full laboratory evaluations are completed.

If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,  
**Kaw Valley Engineering, Inc.**



Michael R. Osbourn  
Principal

  
*for* Martin T. Arling, P.E.  
Principal

















## Attachment F

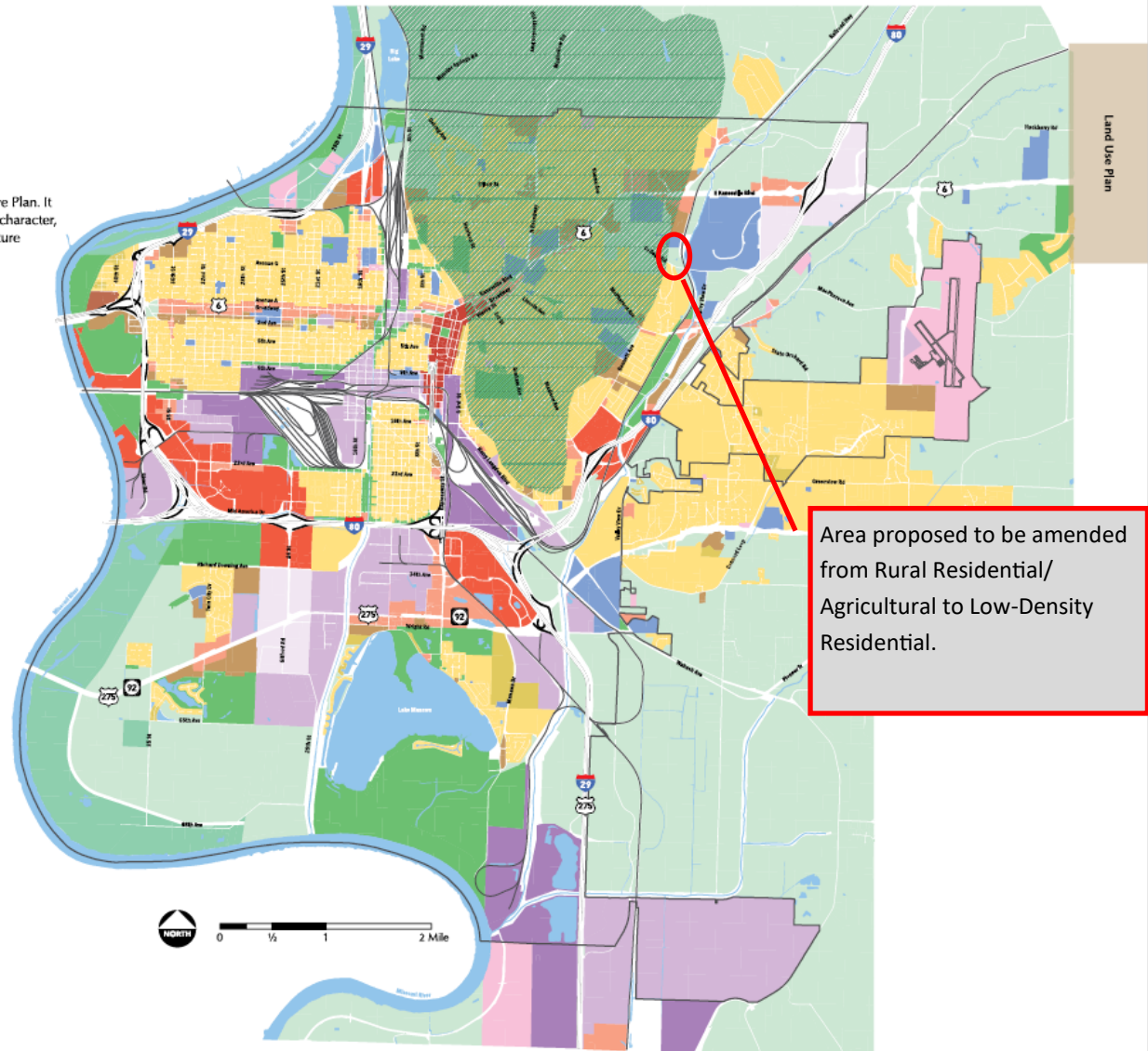
### BLUFFS TOMORROW 2030 LAND USE PLAN

The Land Use Plan is one of the most important elements of the Bluffs Tomorrow 2030 Comprehensive Plan. It outlines how properties in different parts of the planning area should be used, and identifies the type, character, and intensity of use for all areas of the community. The intent of the Land Use Plan is to ensure that future development takes into account land use compatibility, access, market viability, environmental features, and community services. In that light, the recommendations of this chapter should be implemented in coordination with the recommendations of subsequent chapters.

The Land Use Plan sets forth policies for land use and development at the City-wide level. The Plan also includes specific policies and strategies for the City's residential, commercial, and industrial areas. Subsequent chapters provide additional detail regarding open space, environmental areas, and community facilities.

#### Land Use Legend

<b>Residential</b>		<b>Industrial</b>	
	Rural Residential/Agriculture		Office/Industrial
	Low-Density Residential		Light Industrial
	Medium-Density Residential		Heavy Industrial
	High-Density Residential		
	Multi-family/Mixed-use	<b>Public Land Uses</b>	
<b>Commercial</b>			Natural Areas
	Local Commercial		Public Park
	Regional Commercial		Public/Semipublic
	Downtown/Mixed-use		Transportation/Utility
			Loess Hills Preservation Area





Attachment G

Site Photos



\*Red outline shows the approximate boundaries of Lot 2, Arbor Creek.



**Photo 1:** Aerial photo of the subject property.

**Photo 2:** Google Street-View photo facing North from College Road.

**Photo 3:** Google Street-View photo facing Southwest from Railroad Avenue.



## RESOLUTION NO. 18-297

**A RESOLUTION TO AMEND THE *BLUFFS TOMORROW: 2030 PLAN (COMPREHENSIVE PLAN)*, SPECIFICALLY THE FUTURE LAND USE PLAN IN CHAPTER 5, TO RECLASSIFY LOT 2, ARBOR CREEK, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA FROM “RURAL RESIDENTIAL/AGRICULTURAL” TO “MEDIUM-DENSITY RESIDENTIAL”.**

**WHEREAS,** On September 22, 2014 the Council Bluffs City Council approved Resolution No. 14-254 which adopted the *Bluffs Tomorrow: 2030 Plan* as the City’s Comprehensive Plan; and

**WHEREAS,** Zimmerman Properties Development, LLC, is requesting to rezone approximately 6.19 acres of land known as Lot 2, Arbor Creek, from A-2/Parks, Estates and Agricultural District to R-3/Low-Density Multifamily Residential District and to append a PR/Planned Residential Overlay District on Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa, and adopt an associated development plan for the Valley Ridge Apartments and Community Development has expanded the request to include amendment of the Bluffs Tomorrow: 2030 Comprehensive Plan, specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential”; and

**WHEREAS,** The proposed comprehensive plan amendment will address the urbanizing nature of development in the general vicinity of the area, including but not limited to the nearby College View Elementary School and Iowa Western Community College, as well as the existing Sherwood Apartments located North of the subject property, and proposed Senior Care facilities on College Road, located East of the subject property and will ensure the proposed rezoning is consistent with the future land use plan of the Bluffs Tomorrow: 2030 Comprehensive Plan; and

**WHEREAS,** The Housing Plan of the Bluffs Tomorrow: 2030 Comprehensive Plan outlines the following Housing Policies for Neighborhood Character that apply to this development: 1) Appropriate bulk and scale that establishes a rhythm of buildings and a sense of place. 2) Design elements that reflect a specific range of architectural styles. 3) Residential development standards that ensure context-sensitive infill that address building massing and scale, site planning, access management, etc. The proposed planned residential development plan will establish design standards for any residential use on the property to ensure it is consistent with the Bluffs Tomorrow: 2030 Comprehensive Plan.

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

That amending the *Bluffs Tomorrow: 2030 Plan (Comprehensive Plan)* specifically the Future Land Use Plan in Chapter 5, to reclassify Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa from “Rural Residential/Agricultural” to “Medium-Density Residential” is hereby approved and will become effective upon Zimmerman Properties Development, LLC, and/or their assignee taking ownership of the subject property.

ADOPTED  
AND  
APPROVED

October 22, 2018.

\_\_\_\_\_  
MATTHEW J. WALSH Mayor

Attest:

\_\_\_\_\_  
JODI QUAKENBUSH City Clerk



## Council Communication

Department: Community Development  
Case/Project No.: OTB-18-028  
Submitted by: Chris Meeks, Planner

Resolution 18-298

Council Action: 10/22/2018

### Description

Resolution of intent to dispose and setting Public Hearing for November 5<sup>th</sup> 2018 at 7:00 p.m. of City property legally described as Lot 2, Arbor Creek. Location: Northwest corner of College Road and Railroad Avenue. OTB-18-028.

### Background/Discussion

See attachments.

### Recommendation

#### **ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">Staff Report</a>	Other	10/18/2018
<a href="#">OTB-18-028 Zimmerman PH Notice (10-22-18) CC</a>	Other	10/12/2018
<a href="#">Resolution 18-298</a>	Resolution	10/16/2018

## Council Communication

Department: Community Development  CASE #OTB-18-028  Applicant: Zimmerman Properties Development, LLC 1329 East Lark Street Springfield, MO 65804	Resolution of Intent No. _____  Resolution to Dispose No. _____	Set Public Hearing: 10/22/2018  Public Hearing: 11/5/2018
<b>Subject/Title</b>		
<p>Request of Zimmerman Properties Development, LLC, to purchase property legally described as Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa.</p> <p><b>Location:</b> Northwest Corner of College Road and Railroad Avenue.</p>		
<b>Background/Discussion</b>		
<p>The City has received an offer to purchase the property described above. The 6.19 acre parcel is currently classified as “Transitional Preserve”, though the City Owned Property Committee has no conflicts with the proposed sale of the property to Zimmerman Properties Development. The applicant has offered \$188,745.00, which is a value established by an appraisal completed on the property by JLL Valuation and Appraisal Services, LLC.</p> <p>The Permits and Inspections Division, Public Works Department, and Legal Department all indicated they have no objections to the request. The Information Technology Department indicated that there is City Fiber infrastructure underneath the trail that runs along Railroad Avenue, but otherwise had no objections to the request.</p> <p>Zimmerman Properties Development, LLC, intend to purchase the property to construct a 60 unit multifamily residential development. Zimmerman Properties Development has also made applications to rezone the property from A-2/Parks, Estates, and Agricultural District to R-3/Low Density Multifamily Residential (CASE #ZC-18-013) and to append a PR/Planned Residential Overlay District and to adopt a development plan (CASE #PR-18-003). The Community Development Department has also proposed a Comprehensive Plan Amendment (CASE #CP-18-001) to reclassify the subject property from “Rural Residential/Agricultural” to “Medium-Density Residential”. The sale of the property would be contingent upon approval of the rezoning request, adoption of the development plan, and reclassification of the property in the Bluffs Tomorrow: 2030 Comprehensive Plan, as well as the applicant receiving Low Income Housing Tax Credits from the Iowa Finance Authority in January of 2019. The applicant has asked that, if approved, the Offer To Buy remain valid until Jul 31, 2019.</p>		

After the submittal of this Offer to Buy, the Community Development Department received a competing offer for Lot 2, Arbor Creek, from the Midland Humane Society, represented by Deborah Petersen of Petersen Law Firm in the amount of \$189,000.00. The public hearing before the City Council for that offer will take place on November 26, 2018, if the City Council does not accept the offer of Zimmerman Properties Development, LLC, before that meeting.

**Recommendation**

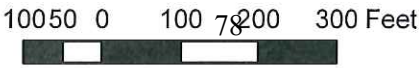
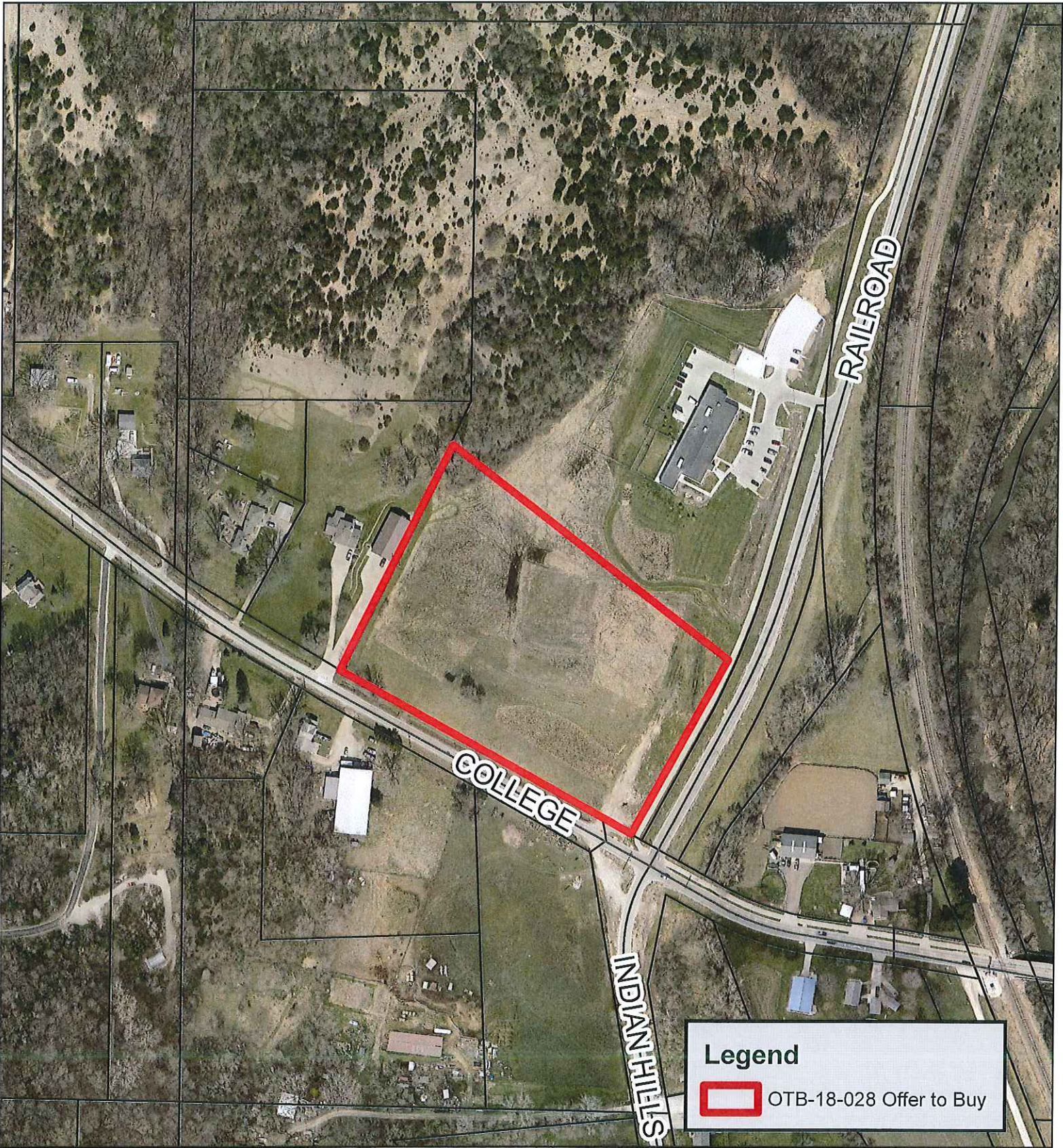
The Community Development Department recommends setting a public hearing on the disposal of the property described as Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa on the November 5, 2018 City Council Meeting.

**Attachment:** Location map.

**Prepared By:** Chris Meeks, Planner, Community Development Department



CASE #OTB-18-028





**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 the request to dispose of property described as Lot 2, Arbor Creek, 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 5<sup>th</sup> day of November, 2018, in the City Council Chambers, 2<sup>nd</sup> 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

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. 18-298

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY LEGALLY DESCRIBED AS LOT 2, ARBOR CREEK, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, the City has received an offer from Zimmerman Properties Development, LLC, to purchase the City owned property legally described as Lot 2, Arbor Creek, 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 Lot 2, Arbor Creek, City of Council Bluffs, Pottawattamie County, Iowa; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for November 5, 2018 at 7:00 pm.

ADOPTED  
AND  
APPROVED:

October 22, 2018

\_\_\_\_\_  
Matthew J. Walsh Mayor

ATTEST: \_\_\_\_\_  
Jodi Quakenbush City Clerk

(Case #OTB-18-028)



## Council Communication

Department: Legal  
Case/Project No.:  
Submitted by: Legal Department

Resolution 18-300

Council Action: 10/22/2018

### Description

Resolution of intent to execute an easement agreement with the Council Bluffs Board of Water Works Trustees.

### Background/Discussion

That this utility relocation is necessary because of the interstate improvement project and that the easement is on land acquired by the Iowa Department of Transportation, and transferred to the City for this purpose.

### Recommendation

Approval of this Resolution.

### ATTACHMENTS:

Description

Type

Upload Date

[Notice for Public Hearing](#)

Other

10/3/2018

[Agreement](#)

Agreement

10/3/2018

[Resolution 18-300](#)

Resolution

10/16/2018

**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 the request to execute an easement agreement with the Council Bluffs Board of Water Works Trustees.

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 5<sup>th</sup> day of November 2018, in the City Council Chambers, 2<sup>nd</sup> 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

Prepared for Council Bluffs City Water Works, 2000 N. 25th St., P. O. Box 309, Council Bluffs, IA 51502, telephone (712) 328-1006 by Douglas P. Drummey General Manager. Reviewed and approved by legal counsel for the Board of Water Works Trustees of the City of Council Bluffs, Iowa.

## EASEMENT AGREEMENT

\* \* \* \* \*

KNOW ALL MEN BY THESE PRESENTS:

THAT the City of Council Bluffs, Iowa, for good and sufficient valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey unto the City of Council Bluffs, Iowa, for the use and benefit of The Board of Water Works Trustees of the City Of Council Bluffs, Iowa (the "City Water Works"), a permanent non-exclusive easement over, across and through the following described real estate situated in the City of Council Bluffs, Pottawattamie County, Iowa, to-wit:

See Exhibit "A"

including the perpetual right to enter upon said real estate, at any time that it may see fit, and construct, inspect, maintain, repair, replace and operate or remove underground pipe lines and/or mains for the purpose of conveying water over, across, through and under said real estate, together with the right to excavate and refill ditches and/or trenches for the location of said pipe lines and/or mains, and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction and maintenance of said pipe lines and/or mains.

The City Water Works shall properly and promptly refill any excavations made on said premises after the purpose of said excavation has been fulfilled and shall leave the premises in the same general condition as it was in before the City Water Works went upon the same; further, that if any fences or existing structures are moved for the purpose of laying, maintaining, operating or replacing said main, such fences and structures shall be promptly replaced by the City Water Works upon completion of the work requiring such removal.

In further consideration for the good and sufficient valuable consideration received by the

undersigned, the undersigned agrees that it will not place any permanent structures upon or over said easement without first obtaining the written consent of the City Water Works; further, the undersigned covenants with Grantee that it is lawfully seized and possessed of the real estate above described; that it has good and lawful right to convey it, or any part thereof, that it is free from all encumbrances, and that it will forever warrant and defend the title thereto against the lawful claims of all persons whomsoever.

Words and phrases herein, including the acknowledgement, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

All provisions of this Agreement shall inure to the benefit of and be binding upon and applicable to the successors, personal representatives, heirs, and assigns of the parties hereto the same as if they were in all instances named herein.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

The City of Council Bluffs, Iowa

By: \_\_\_\_\_  
Mathew J. Walsh, Mayor

By: \_\_\_\_\_  
Jodi Quakenbush, City Clerk

STATE OF IOWA )  
 ) ss  
COUNTY OF POTTAWATTAMIE )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2018, before me, a Notary Public in and for said county, personally appeared Mathew 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 City of Council Bluffs, Iowa; that said instrument was signed and sealed on behalf of the City of Council Bluffs by authority of the City Council of the City of Council Bluffs, as contained in Resolution Number \_\_\_\_\_ adopted and passed by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2018, and that Mathew J. Walsh and Jodi Quakenbush acknowledged the execution of said instrument to be the voluntary act and deed of said City Council by it voluntarily executed.

NOTARY PUBLIC IN AND FOR SAID STATE

## Exhibit "A"

The east twenty (20) feet of a parcel of land located in the NE $\frac{1}{4}$  of Section 4, T74N, R44W of the 5<sup>th</sup> P.M., in the City of Council Bluffs, Pottawattamie County, Iowa, described as follows:

Commencing at the E $\frac{1}{4}$  Corner of said Section 4; thence N86°33'56"W, 835.68 feet along the south line of the NE $\frac{1}{4}$  of said Section 4; thence N3°26'04"E, 39.94 feet to a point on the present northerly right of way line of 23<sup>rd</sup> Avenue, the Point of Beginning; thence N86°34'09"W, 49.21 feet along said present northerly right of way line; thence N29°58'14"W, 682.05 feet; thence N32°06'44"W, 133.79 feet to a point on the present southerly right of way line of the Union Pacific Railroad; thence N54°46'50"E, 45.19 feet along said present southerly right of way line; thence S30°11'01"E, 641.48 feet; thence S29°36'27"E, 205.51 feet to the Point of Beginning; said parcel contains 34,706 square feet.



**RESOLUTION NO. 18-300**

**A RESOLUTION OF INTENT TO EXECUTE AN EASEMENT AGREEMENT WITH  
THE COUNCIL BLUFFS BOARD OF WATER WORKS TRUSTEES.**

**WHEREAS,** The easement is for land acquired by the Iowa Department of Transportation for the interstate improvement project;

**WHEREAS,** The easement is necessary for utility relocation and is described as the east twenty (20) feet of a parcel of land located in the NE1/4 of Section 4, T74N, R44W of the 5<sup>th</sup> P.M., in the City of Council Bluffs, Pottawattamie County, Iowa; and

**WHEREAS,** A public hearing set for November 5, 2018 at 7:00 p.m. for this matter shall be set.

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

That this matter is set for public hearing for the 5<sup>th</sup> day of November, 2018 at 7 o'clock p.m.

ADOPTED  
AND  
APPROVED

October 22, 2018.

\_\_\_\_\_  
MATTHEW J. WALSH

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
JODI QUAKENBUSH

\_\_\_\_\_  
City Clerk

## Council Communication

Department: Finance  
Case/Project No.:  
Submitted by:

September 2018 Financial Reports

Council Action: 10/22/2018

### Description

### Background/Discussion

### Recommendation

#### ATTACHMENTS:

Description	Type	Upload Date
<a href="#">September FY19 Expenditures by Amount</a>	Other	10/15/2018
<a href="#">September FY19 Expenditures by Payee</a>	Other	10/15/2018
<a href="#">September FY19 Receipts and Disbursements by Fund</a>	Other	10/15/2018

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
**September, FY19**  
**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
PAYROLL	1,783,881.91	CITY EMPLOYEE PAYROLL
SAMPSON CONSTRUCTION CO INC	879,025.00	CONSTRUCTION
HAWKINS CONSTRUCTION COMPANY	843,942.82	CONSTRUCTION
EFTPS	495,048.58	EMPLOYEE TAXES
MFPRSI	456,301.39	CITY PAYROLL EXPENDITURES
HGM ASSOCIATES INC	382,133.51	PROFESSIONAL SVCS
POTTAWATTAMIE COUNTY TREASURER	325,436.30	BASS PRO TAXES
COMPASS UTILITY LLC	298,250.25	CONSTRUCTION
RED RIVER WASTE SOLUTIONS LP	293,385.01	REFUSE COLLECTION
US BANK	206,449.45	BASS PRO LOAN
IPERS	187,916.30	RETIREMENT
KARL CHEVROLET	181,265.00	VEHICLES
LAMETTI & SONS INC	155,515.00	CONSTRUCTION
CAESARS ENTERTAINMENT	150,000.00	MAC OPERATING EXPENDITURES
MIDAMERICAN ENERGY	147,639.17	ELECTRICITY
IOWA DEPT OF REVENUE	124,701.00	EMPLOYEE TAXES
WESTERN ENGINEERING COMPANY INC	105,277.34	CONSTRUCTION
DELL MARKETING L P	103,261.00	HARDWARE/SOFTWARE
MIDSTATES BANK, NA	100,091.11	WORK COMP CLAIMS
CARLEY CONSTRUCTION LLC	98,407.27	CONSTRUCTION
KELTEK INCORPORATED	98,305.85	EQUIPMENT/PARTS
INFOR (US) INC	90,402.39	HARDWARE/SOFTWARE
PAYROLL	82,304.27	MAC OPERATING EXPENDITURES
US BANK	80,532.88	CREDIT CARD ACTIVITY
TRANSIT AUTHORITY OF THE CITY OF OMAHA	68,751.00	BUS SERVICE
NATIONWIDE RETIREMENT SOLUTIONS INC	62,711.22	EMPLOYEE CONTRIB
DODGE PAYROLL	55,367.12	DODGE OPERATING EXPENDITURES
NEXT PHASE ENVIRONMENTAL	53,268.00	CONTRACTURAL SVC
LYNNE ANN KUTCHARA	49,900.00	PROPERTY ACQUISITION
OPTIMUM DATA INC	46,675.00	HARDWARE/SOFTWARE
IOWA WASTE SYSTEMS	46,180.36	SOLID WASTE DISPOSAL
READY MIXED CONCRETE	45,638.60	SUPPLIES
IP PATHWAYS LLC	41,446.51	HARDWARE/SOFTWARE
POTTAWATTAMIE COUNTY SHERIFF	39,270.00	INMATE COST
PETROLEUM TRADERS CORPORATION	38,964.63	FUEL
SAPP BROTHERS INC	38,441.53	FUEL
OMNI ENGINEERING	37,582.16	STREET MAINTENANCE SUPLS
MICAH HOUSE CORP	35,000.00	CDBG CONTRIBUTION
JEO CONSULTING GROUP INC	30,632.95	CONSULTANT
POTTAWATTAMIE COUNTY TREASURER	30,530.20	PROPERTY TAXES
BLUFFS PAVING & UTILITY INC	29,975.00	CONSTRUCTION
HOLIDYNAMICS INC	28,476.00	CONTRACTURAL SVC
EIDE BAILLY LLP	24,000.00	AUDIT
SOUTHWEST IOWA PLANNING COUNCIL	23,013.42	CONTRACTURAL SVC
ELIZABETH M AND RICHARD W PORTREY	22,067.00	PROPERTY ACQUISITION

**CITY OF COUNCIL BLUFFS****EXPENDITURES****September, FY19****(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
CLOSED LOOP LOAN FUND	20,830.00	LOAN PAYMENTS
EHRHART GRIFFIN & ASSOCIATES INC	20,691.75	PROFESSIONAL SVCS
BERKLEY RISK ADMINISTRATORS CO LLC	20,000.00	WORK COMP FEES
COX BUSINESS	18,179.41	PHONE/INTERNET SVC
HDR ENGINEERING INC	18,141.29	PROFESSIONAL SVCS
WALDINGER CORPORATION	17,787.52	REPAIRS
KAL CONSTRUCTION INC	17,150.00	CONSTRUCTION
COUNCIL BLUFFS WATER WORKS	16,509.14	WATER
PRIME COMMUNICATIONS INC	16,402.11	HARDWARE/SOFTWARE
HAWKEYE VISION INC	16,143.07	EQUIPMENT/PARTS
COUNCIL BLUFFS AIRPORT AUTHORITY	15,950.48	AIRPORT AUTH TAX
NMC EXCHANGE LLC	15,507.49	EQUIPMENT/PARTS
TS DEVELOPMENT LLC	15,300.00	DEVLPMNT CONTRACT
EBS - FLEX ACOCUNT	14,469.00	CITY PAYROLL EXPENDITURES
GUNDERSON LAWN CARE	14,247.72	CONTRACTURAL SVC
CITY OF OMAHA	14,000.00	INFIL PROGRAM REIMB
COX CONTRACTING	13,684.00	CONSTRUCTION
SJ ELECTRO SYSTEMS INC	13,597.42	EQUIPMENT/PARTS
ZIMCO SUPPLY CO	13,347.50	DODGE OPERATING EXPENDITURES
CARROLL CONSTRUCTION SUPPLY	13,066.20	EQUIPMENT/PARTS
CLARK EQUIPMENT COMPANY	12,700.00	EQUIPMENT/PARTS
HOEFER WYSOCKI ARCHITECTS, LLC	12,199.84	PROFESSIONAL SVCS
KONE INC	11,998.00	REPAIRS
FELSBURG HOLT & ULLEVIG INC	11,929.39	PROFESSIONAL SVCS
EAGLE SERVICES	11,870.85	RENTAL EXPS
BACKYARD TREE EXPERTS	11,190.00	TREE WORK
D&K PRODUCTS	10,340.21	DODGE OPERATING EXPENDITURES
MIDLANDS HUMANE SOCIETY	10,328.17	CONTRACTURAL SVC
ICMA RETIREMENT TRUST	10,094.30	CITY PAYROLL EXPENDITURES
LANDSCAPES MGMT COMPANY	10,082.18	DODGE OPERATING EXPENDITURES
ELECTRIC PUMP	9,815.25	EQUIPMENT/PARTS
GREEN ACRES RECYCLING	9,794.68	SOLID WASTE DISPOSAL
IOWA DEPT OF REVENUE	9,272.00	DODGE OPERATING EXPENDITURES
COLLECTION SERVICES CENTER	9,178.93	GARNISHMENT
ELAVON INC	8,618.26	FEES
RESOURCE RENTAL CENTER INC	8,230.00	RENTAL EXPS
CITY WIDE MAINTENANCE OF OMAHA	8,156.50	JANITORIAL SERVICE
BAKER & TAYLOR INC	8,092.05	BOOKS/PERIODICALS/SUB
BARTON SOLVENTS INC	8,019.50	SUPPLIES
ASPHALT AND CONCRETE MATERIALS CO	7,917.28	STREET MAINTENANCE SUPLS
COUNCIL BLUFFS WINSUPPLY	7,512.01	SUPPLIES
IOWA DEPARTMENT OF NATURAL RESOURCE	7,500.00	CONTRACTURAL SVC
OLSSON ASSOCIATES	7,443.25	CONSULTANT
ADPI EMS BILLING INC	7,006.58	AMBULANCE BILLING FEE
FELD FIRE	6,904.00	EQUIPMENT/PARTS

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
**September, FY19**  
**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
EBSCO INFORMATION SERVICES	6,860.00	SUBSCRIPTION
DAILY NONPAREIL	6,783.04	ADVERTISEMENT
VULCAN INDUSTRIES INCORPORATED	6,592.00	SUPPLIES
VOYA RETIREMENT INSURANCE & ANNUITY COMPANY	6,530.00	EMPLOYEE CONTRIB
MIDWEST TAPE	6,521.64	DVD/AUDIO/CD
UNITED SEEDS INCORPORATED	6,507.60	SUPPLIES
ARROW TOWING	6,480.00	TOWING/STORAGE/AUCTION
DOG & PONY PRODUCTIONS INC	6,470.00	MAC OPERATING EXPENDITURES
TRAFFIC CONTROL CORP	6,300.00	EQUIPMENT/PARTS
STREICHER'S INC	6,196.99	SUPPLIES
VERIZON WIRELESS SERVICES LLC	6,172.74	CELL PHONE
CITY OF COUNCIL BLUFFS	6,161.33	DODGE OPERATING EXPENDITURES
DAVID'S ELECTRIC INC	6,015.00	CONTRACTURAL SVC
O'KEEFE ELEVATOR COMPANY INC	5,989.16	CONTRACTURAL SVC
THE SCOTTS COMPANY	5,908.98	REFUSE COLLECTION
DOLL DISTRIBUTING LLC	5,741.15	DODGE OPERATING EXPENDITURES
WYSS ASSOCIATES, INC	5,737.50	CONTRACTURAL SVC
REHRIG PACIFIC COMPANY	5,537.50	SUPPLIES
FORBES TRUST	5,500.00	PROPERTY ACQUISITION
SYSCO - LINCOLN	5,383.78	DODGE OPERATING EXPENDITURES
ACUSHNET COMPANY	5,344.30	DODGE OPERATING EXPENDITURES
MARCO TECHNOLOGIES LLC	5,178.84	COPY/PRINTER MAINTANCE
IOWA PRISON INDUSTRIES	4,747.00	SUPPLIES
POTTAWATTAMIE COUNTY AUDITOR	4,529.67	LAW ENFORCEMENT COMPLEX
DRIVER PLUMBING	4,479.00	REPAIRS
ULTRAMAX AMMUNITION	4,368.00	SUPPLIES
ELECTRONIC TECHNOLOGY INC	4,300.00	EQUIPMENT/PARTS
FIRST NATIONAL BANK PCARDS ACH	4,254.84	DODGE OPERATING EXPENDITURES
IOWA DEPARTMENT OF REVENUE	4,207.00	MAC OPERATING EXPENDITURES
HEARTLAND TIRES & TREADS INC	4,130.16	TIRE REPLACEMENT/REPAIR
OMAHA DOOR & WINDOW CO INC	3,990.13	REPAIRS
R NICKESON ENTERPRISES	3,952.69	SUPPLIES
LSNB AS TRUSTEE FOR POST EMPLOY HLTH PLAN	3,920.00	EMPLOYEE CONTRIB
FLEET US LLC	3,888.00	SUPPLIES
VERTIV SERVICES INC	3,820.80	CONTRACTURAL SVC
DONS PIONEER UNIFORMS	3,755.94	UNIFORMS
MALLOY ELECTRIC	3,753.26	EQUIPMENT/PARTS
LOCKTON CO, LLC	3,679.00	DODGE OPERATING EXPENDITURES
BARKER LEMAR AND ASSOCIATES INC	3,600.00	ENGINEERING
NAPA AUTO PARTS	3,582.88	EQUIPMENT/PARTS
TREASURER STATE OF IOWA/SALES TAX	3,582.00	SALES TAX
ZEROFRICTION LLC	3,581.98	DODGE OPERATING EXPENDITURES
LSNB AS TRUSTEE FOR POST EMPLOY HLTH PLAN	3,480.00	EMPLOYEE CONTRIB
FAST BREAK SPORTS	3,451.80	REFUND



**CITY OF COUNCIL BLUFFS****EXPENDITURES****September, FY19****(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
ZOLL MEDICAL CORP	3,375.92	MEDICAL SUPPLIES
U S AUTO FORCE/U S LUBRICANTS	3,366.08	SUPPLIES
ADVANCED ELECTRIC	3,325.47	CONTRACTURAL SVC
FACTORY MOTOR PARTS	3,265.29	SUPPLIES
ROBERT D ADKINS-SONS	3,262.25	REIMBURSEMENT
TONY BILEK	3,245.00	MAC OPERATING EXPENDITURES
CFI TIRE SERVICE	3,173.50	TIRE REPLACEMENT/REPAIR
THE OFFICE CLEANERS	3,102.05	JANITORIAL SERVICE
FRATERNAL ORDER OF POLICE	3,045.00	CITY PAYROLL EXPENDITURES
ECHO ELECTRIC SUPPLY	2,823.24	MAC OPERATING EXPENDITURES
THE RETROFIT COMPANIES INC	2,816.75	CONTRACTURAL SVC
DODGE CREDIT CARD AND BANK FEES	2,728.18	DODGE OPERATING EXPENDITURES
AMERICAN BOTTLING COMPANY	2,702.88	SUPPLIES
ARNOLD MOTOR SUPPLY, LLP	2,536.91	EQUIPMENT/PARTS
WINDSTREAM CORPORATION	2,507.16	TELEPHONE
GREAT PLAINS UNIFORMS	2,453.50	UNIFORMS
BLACK HILLS IOWA GAS UTILITY CO LLC	2,438.54	NATURAL GAS
CUSTOM AUTO REBUILDERS	2,371.69	VEHICLE REPAIR
MITCHELL AND ASSOCIATES INC	2,350.00	CONTRACTURAL SVC
LANDSCAPES UNLIMITED	2,347.68	DODGE OPERATING EXPENDITURES
UNDERWRITERS LABORATORIES INC	2,315.75	CONTRACTURAL SVC
MILLS COUNTY SHERIFF'S DEPARTMENT	2,313.75	GRANT REIMBURSEMENT
KRONOS INCORPORATED	2,257.34	HARDWARE/SOFTWARE
MIDWEST TURF & IRRIGATION	2,250.06	EQUIPMENT/PARTS
VERMEER SALES & SERVICE INC	2,205.62	EQUIPMENT/PARTS
MICHAEL A FEIERFEIL	2,150.00	CONTRACTURAL SVC
I-80 LIQUOR & TOBACCO	2,062.88	DODGE OPERATING EXPENDITURES
CONSTELLATION NEWENERGY-GAS DIVISION, LLC	2,007.66	NATURAL GAS
PREMIER AERIALS LLC	2,000.00	DODGE OPERATING EXPENDITURES
PREMIER MIDWEST BEVERAGE CO	1,970.35	DODGE OPERATING EXPENDITURES
PEPSI BEVERAGES CO	1,958.77	DODGE OPERATING EXPENDITURES
BOUND TO STAY BOUND BOOKS INC	1,939.31	BOOKS/PERIODICALS/SUB
BLUFFS TAXI & COURIER	1,869.40	TRANSIT SERVICES
WOHLERSCAPE INC	1,850.00	CONSTRUCTION
MICHAEL O'BRADOVICH	1,800.00	CONSULTANT
ROAD BUILDERS MACH & SUPPLY CO INC	1,790.39	EQUIPMENT/PARTS
CHAMPLIN TIRE RECYCLING INC	1,770.00	TIRE DISPOSAL
BIBLIOTHECA LLC	1,731.08	CONTRACTURAL SVC
BOBCAT OF OMAHA	1,666.72	EQUIPMENT/PARTS
PAPILLION SANITATION	1,654.80	SOLID WASTE DISPOSAL
CORNHUSKER INTERNATIONAL TRUCKS	1,623.35	EQUIPMENT/PARTS
MOBOTREX INC	1,623.20	SUPPLIES
PACIFIC SPRINGS GOLF CLUB	1,615.15	DODGE OPERATING EXPENDITURES
CANON SOLUTIONS AMERICA INC	1,599.87	COPY/PRINTER MAINTANCE
COMPUTER CABLE CONNECTION	1,560.00	HARDWARE/SOFTWARE

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
AFSCME IOWA PUBLIC COUNCIL 61	1,530.12	DUES EMPLOYEE
DEMCO INC	1,517.62	SUPPLIES
CONTROL SERVICES INC	1,507.25	REPAIRS
KAYS CUSTOMS LLC	1,457.00	CONTRACTURAL SVC
OMAHA WORLD HERALD	1,456.00	ADVERTISEMENT
NEBRASKA AIR FILTER INC	1,446.60	SUPPLIES
COMMERCIAL AIR MANAGEMENT INC	1,407.00	EQUIPMENT/PARTS
SWAGIT PRODUCTIONS LLC	1,375.00	CONTRACTURAL SVC
MIDSTATES CONSTRUCTION PRODUCTS INC	1,350.00	EQUIPMENT/PARTS
LAWSON PRODUCTS INCORPORATED	1,348.01	SUPPLIES
LIKES MEYERSON HATCH LLC	1,332.00	CONSULTANT
DODGE RIVERSIDE GOLF CLUB	1,287.20	RENTAL EXPS
SHERBONDY'S GARDEN CENTER	1,267.50	CONTRACTURAL SVC
SNAP-ON INCORPORATED	1,249.01	SUPPLIES
OCLC INC	1,209.50	SUBSCRIPTION
CITY OF BELLEVUE	1,200.00	TRAINING
J & R LIQUOR	1,194.11	MAC OPERATING EXPENDITURES
WINTER EQUIPMENT COMPANY INC	1,179.47	EQUIPMENT/PARTS
BLUFFS ELECTRIC INC	1,146.50	ELECTRICAL REPAIR
RECORDED BOOKS LLC	1,125.46	DVD/AUDIO/CD
TERRACON CONSULTANTS OF NEB INC	1,061.25	PROFESSIONAL SVCS
STATE INDUSTRIAL PRODUCTS	1,041.76	SUPPLIES
NEBRASKA FURNITURE MART INC	1,030.00	EQUIPMENT/PARTS
GOVDEALS INC	1,023.25	ONLINE PAYMENT FEES
SCHILDBERG CONSTRUCTION COMPANY INC	1,004.04	STREET MAINTENANCE SUPLS
LSNB AS TRUSTEE FOR POST EMPLY HLTH PLAN	1,000.00	EMPLOYEE CONTRIB
GRAINGER	999.75	EQUIPMENT/PARTS
TURFWERKS	990.00	EQUIPMENT/PARTS
MURPHY TRACTOR & EQUIPMENT CO CORP	967.14	SUPPLIES
DOLL DISTRIBUTING INC	959.75	MAC OPERATING EXPENDITURES
SHERRY L HOLMES	948.95	LEGAL CLAIM
RELIANT FIRE APPARATUS INC	934.90	EQUIPMENT/PARTS
POTTAWATTAMIE COUNTY RECORDER	925.00	FEES
KUSSMAUL ELECTRONICS COMPANY INC	923.79	SUPPLIES
CENTURYLINK	922.05	TELEPHONE
HACH COMPANY	914.01	EQUIPMENT/PARTS
MULHALLS NURSERY	909.98	LANDSCAPING SUPPLIES
AGRIVISION EQUIPMENT GROUP	894.63	EQUIPMENT/PARTS
THERMAL SERVICES	892.25	REPAIRS
ALLIED ELECTRONICS INCORPORATED	891.33	SUPPLIES
BMI JANITORIAL GROUP	884.00	MAC OPERATING EXPENDITURES
SECURITY EQUIPMENT INCORPORATED	881.50	CONTRACTURAL SVC
UMR	862.64	DODGE OPERATING EXPENDITURES
WOODHOUSE AUTO FAMILY	854.50	EQUIPMENT/PARTS
ABLE LOCKSMITHS	825.00	CONTRACTURAL SVC

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
YMCA OF GREATER OMAHA	810.00	CONTRACTURAL SVC
KEARNEY COUNTRY CLUB	800.00	DODGE OPERATING EXPENDITURES
IOWA ONE CALL	791.20	CONTRACTURAL SVC
MAX I WALKER UNIFORM & APPAREL	774.59	UNIFORMS
WELDON INDUSTRIES INCORPORATED	770.72	EQUIPMENT/PARTS
MENARDS	752.46	SUPPLIES
MATT COX	750.00	CONTRACTURAL SVC
MARK ARCHIBALD	740.10	REIMBURSEMENT
TURF CARS LTD	720.00	DODGE OPERATING EXPENDITURES
LARSEN SUPPLY COMPANY INC	714.32	SUPPLIES
DIAMOND MOWERS INC	695.07	REPAIRS
ENTERPRISE RENT A CAR MIDWEST	689.74	RENTAL EXPS
MCKINNIS INC	683.77	REPAIRS
THOMSON REUTERS	675.21	SUBSCRIPTION
3M COMPANY	650.16	SUPPLIES
PRESTIGE FLAG	639.62	DODGE OPERATING EXPENDITURES
ODEYS INC	624.95	EQUIPMENT/PARTS
MEREDITH COMMUNICATIONS	615.00	MAC OPERATING EXPENDITURES
THE DAILY NONPAREIL	608.25	MAC OPERATING EXPENDITURES
TRANS-IOWA EQUIPMENT INC	600.80	EQUIPMENT/PARTS
LICENSE MY SOFTWARE LLC	600.00	HARDWARE/SOFTWARE
NEBRASKA DISTRIBUTING	595.60	MAC OPERATING EXPENDITURES
PARAMOUNT LINEN & UNIFORMS	570.93	DODGE OPERATING EXPENDITURES
PLC	558.00	MOWING/GROUNDS MAINT
C & J INDUSTRIAL SUPPLY	543.55	JANITORIAL SERVICE
ABM	529.75	JANITORIAL SERVICE
GOLDEN RULE CREATIONS	516.50	UNIFORMS
CHILD SUPPORT SERVICES DIVISION	514.32	GARNISHMENT
BACKSTAGE LIBRARY WORKS	500.00	SUBSCRIPTION
JAMES E PELOWSKI	500.00	CONTRACTURAL SVC
LPL FINANCIAL LLC	499.32	DODGE TRUST REIMBURSEMENT
NEBRASKA CHILD SUPPORT PAYMENT CTR	496.62	GARNISHMENT
MID-AMERICA CLEANING SYSTEMS INC	484.19	EQUIPMENT/PARTS
MUNICIPAL CODE CORPORATION	475.00	SUBSCRIPTION
THE CMI GROUP	466.96	COLLECTION FEE
ROTO ROOTER	460.00	REPAIRS
MIDWEST TURF & IRRIGATION	406.96	DODGE OPERATING EXPENDITURES
DELUXE BUSINESS PRODUCTS	406.29	MAC OPERATING EXPENDITURES
YANT EQUIPMENT	404.63	REPAIRS
RESPOND FIRST AID SYSTEMS	404.55	MEDICAL SUPPLIES
CENGAGE LEARNING INC	403.06	BOOKS/PERIODICALS/SUB
HAPPY FACES ENTERTAINMENT LLC	400.00	CONSULTANT
TECHMASTERS	392.81	DODGE OPERATING EXPENDITURES
HEARTLAND CO-OP	391.00	FUEL
EMSPACE INC	390.00	CONSULTANT

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
TRIPLE PLAY TURF	390.00	DODGE OPERATING EXPENDITURES
RED RIVER WASTE SOLUTIONS LP	380.17	DODGE OPERATING EXPENDITURES
RADIATOR DEPOT	371.00	EQUIPMENT/PARTS
ROSE EQUIPMENT INC	330.66	EQUIPMENT/PARTS
LINDA M CONNER	330.00	CONSULTANT
EDWARDS CHEVROLET-CADILLAC INC	324.14	EQUIPMENT/PARTS
DATA POWER TECHNOLOGY LLC	319.50	REPAIRS
RONALD D NIXON	300.00	REIMBURSEMENT
B & G VENDING AND FOOD SERVICE	288.00	CONTRACTURAL SVC
BUCK'S INC.	287.96	VEHICLE WASH
TOYNE INC	282.22	EQUIPMENT/PARTS
O'REILLY AUTOMOTIVE INC	280.94	SUPPLIES
LSNB AS TRUSTEE FOR POST EMPLOY HLTH PLAN	280.00	EMPLOYEE CONTRIB
ONE SOURCE THE BACKGROUND CHECK COMPANY	280.00	CONSULTANT
MCMULLEN FORD INC	275.32	EQUIPMENT/PARTS
BOMGAARS SUPPLY INC	272.78	SUPPLIES
NATIONAL FIRE PROTECTION ASSN	270.00	BOOKS/PERIODICALS/SUB
AGRILAND F S INC	261.25	SUPPLIES
RDG GEOSCIENCE & ENGINEERING INC	257.25	PROFESSIONAL SVCS
WATER ENGINEERING INC	254.57	CONTRACTURAL SVC
ALVINE AND ASSOCIATES INC	250.00	REFUND
JENNIFER HARRAL	250.00	REFUND
KATHLEEN MELDRUM	250.00	REFUND
SUPPLYWORKS	247.44	SAFETY EQUIPMENT
JONES AUTOMOTIVE INCORPORATED	245.00	EQUIPMENT/PARTS
EAGLE SERVICES	244.00	DODGE OPERATING EXPENDITURES
J&M GOLF	243.80	DODGE OPERATING EXPENDITURES
NATIONAL APPRAISAL GUIDES INC	238.00	SUBSCRIPTION
MACQUEEN EQUIPMENT, INC.	233.23	EQUIPMENT/PARTS
READING EQUIPMENT & DISTRIBUTION, LLC	230.00	EQUIPMENT/PARTS
VOICE & DATA SYSTEMS INC	228.00	TELEPHONE
DUKE AERIAL EQUIPMENT INC	225.00	RENTAL EXPS
HARRIS GOLF CARS	214.80	DODGE OPERATING EXPENDITURES
RAILROAD MANAGEMENT COMPANY III LLC	214.01	LEASE
IOWA ALCOHOL BEV DIV	211.25	MAC OPERATING EXPENDITURES
BENNETT REFRIGERATION INC	209.85	REPAIRS
GEOFFREY HUBBARD	209.83	TRAVEL REIMBURSEMENT
FUTURESIMPLE INC	209.42	DODGE OPERATING EXPENDITURES
INTERNATIONAL ASSOC OF FIRE CHIEFS	209.00	DUES/MEMBERSHIP
MATHESON TRI GAS INC.	202.31	WELDING SUPPLIES/SERVICE
NRG MEDIA LLC	200.00	DODGE OPERATING EXPENDITURES
CREDIT INFORMATION SYSTEMS	198.00	CONTRACTURAL SVC
ASPEN EQUIPMENT CO	197.00	EQUIPMENT/PARTS
RAY MABBITT	195.00	CONTRACTURAL SVC
BANK OF AMERICA	187.50	MAC OPERATING EXPENDITURES

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
**September, FY19**  
**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
RASMUSSEN MECHANICAL SERVICE CORP	187.18	REPAIRS
FASTENAL COMPANY	183.00	SUPPLIES
KUSTOM SIGNALS INC	180.00	SUPPLIES
KATHY A RIEGER	176.58	TRAVEL REIMBURSEMENT
MUNICIPAL EMERGENCY SERVICES INC	173.80	EQUIPMENT/PARTS
ATHLETICO EXCEL NEBRASKA LLC	170.00	PROFESSIONAL SVCS
GRUNWALD MECHANICAL CONTRACTORS	160.50	REPAIRS
IOWA WATER ENVIRONMENT ASSOCIATION	160.00	TRAINING
GENIE PEST CONTROL	155.00	PEST CONTROL
RANDALL SCHROEDER	150.00	REIMBURSEMENT
CULVERS	135.00	REFUND
ECHO GROUP	133.02	SUPPLIES
MICHAEL TODD AND COMPANY INC	132.80	EQUIPMENT/PARTS
USABLUBOOK	131.04	SUPPLIES
CASSANDRA M SALTER	129.62	TRAVEL REIMBURSEMENT
FITCH-PREMEAU WINDOW CLEANING	125.00	DODGE OPERATING EXPENDITURES
ADVANCE SERVICES, INC	124.47	CONTRACT LABOR
COX BUSINESS	116.20	DODGE OPERATING EXPENDITURES
WILLIAM E CARPENTER JR	116.09	TRAVEL REIMBURSEMENT
OSAGE INDUSTRIES INC	113.12	EQUIPMENT/PARTS
TRANE U.S. INC	112.20	REPAIRS
OFFICE OF THE PROSECUTING ATTORNEYS	110.00	BOOKS/PERIODICALS/SUB
THE WALMAN OPTICAL COMPANY	109.95	SAFETY EQUIPMENT
MATHESON TRI GAS INC	109.12	MAC OPERATING EXPENDITURES
JOHNSON HARDWARE CO	105.00	MAC OPERATING EXPENDITURES
LARSEN SUPPLY CO	104.84	MAC OPERATING EXPENDITURES
ANDREA CARPER	100.00	REFUND
IOWA HAZARDOUS MATERIALS TASK FORCE	100.00	DUES/MEMBERSHIP
LARRY V ANDERSON	100.00	EASEMENTS
CIVIL PROCESS SERVERS	94.30	PROFESSIONAL SVCS
BILL'S WATER CONDITIONING	93.00	SUPPLIES
AMERICAN NATIONAL BANK	82.97	BANK SERVICES
M & R WELDING	82.50	WELDING SUPPLIES/SERVICE
FIREFIGHTERS UNION #15	79.00	CITY PAYROLL EXPENDITURES
JOSEPH CHAD SELANDER	78.95	TRAVEL REIMBURSEMENT
ANTHONY BUFFUM	75.00	REFUND
MICHAEL RAU	74.05	REFUND
MID STATES BANK	73.15	MAC OPERATING EXPENDITURES
FEDEX	70.67	FREIGHT/POSTAGE
RICOH USA INC	68.16	EQUIPMENT/PARTS
TRAVIS J JARZYNKA	67.06	REIMBURSEMENT
ROSEANN GORDEN	60.00	REFUND
ROBERT MARTIN	59.18	REIMBURSEMENT
SPRINT SOLUTIONS INC	57.48	CELL PHONE
AMERITAS LIFE INS CORP	56.88	DODGE OPERATING EXPENDITURES



**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
**September, FY19**  
**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
ELMAN	56.00	DODGE OPERATING EXPENDITURES
SUPERIOR LIGHTING INC	56.00	REFUND
LAURITZEN GARDENS	55.00	DUES/MEMBERSHIP
CRAIG L DUDNICK	54.00	SUPPLIES
CONSOLIDATED ELECTRICAL DISTR, INC	53.02	SUPPLIES
DEBORAH WHITE	50.00	FEES
PACER SERVICE CENTER	46.00	PROFESSIONAL SVCS
UNITED PARCEL SERVICE	39.25	FREIGHT/POSTAGE
KOPPOLD PLUMBING	38.52	REFUND
LORETTA GOESCHEL	36.52	TRAVEL REIMBURSEMENT
MUTUAL OF OMAHA	32.00	DODGE OPERATING EXPENDITURES
GOOGLE LLC	25.00	DODGE OPERATING EXPENDITURES
RICHARD THRAMER	25.00	REIMBURSEMENT
LINCOLN NATIONAL LIFE INS CO	24.40	DODGE OPERATING EXPENDITURES
PAYPAL INC	19.95	CONTRACTURAL SVC
RACHEL HOLMES	17.00	REFUND
IOWA WESTERN COMMUNITY COLLEGE	15.00	QUARTERLY CONTRACT PAYMENT
TIFFANY J SCHMITT	13.41	TRAVEL REIMBURSEMENT
AMERICAN MESSAGING SERVICES LLC	13.23	TELEPHONE
FRANCES ANNE MIERZWA	12.99	REFUND
LORNA WOODS	11.99	REIMBURSEMENT
THE CENTER	10.00	FEES
OVERDRIVE INC	8.99	BOOKS/PERIODICALS/SUB
FED EX	8.05	DODGE OPERATING EXPENDITURES
UNION BANK & TRUST FSA	3.50	DODGE OPERATING EXPENDITURES
UNION BANK & TRUST	2.00	DODGE OPERATING EXPENDITURES
DISCOVER	0.02	MAC OPERATING EXPENDITURES
VOID CHECK	(41.54)	SUPPLIES
KYLEMA	(77.24)	DODGE OPERATING EXPENDITURES
H. OLAFSSON INTERNATIONAL	(84.46)	MAC OPERATING EXPENDITURES
	<b><u>9,497,669.57</u></b>	

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
**September, FY19**  
**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
3M COMPANY	650.16	SUPPLIES
ABLE LOCKSMITHS	825.00	CONTRACTURAL SVC
ABM	529.75	JANITORIAL SERVICE
ACUSHNET COMPANY	5,344.30	DODGE OPERATING EXPENDITURES
ADPI EMS BILLING INC	7,006.58	AMBULANCE BILLING FEE
ADVANCE SERVICES, INC	124.47	CONTRACT LABOR
ADVANCED ELECTRIC	3,325.47	CONTRACTURAL SVC
AFSCME IOWA PUBLIC COUNCIL 61	1,530.12	DUES EMPLOYEE
AGRILAND F S INC	261.25	SUPPLIES
AGRIVISION EQUIPMENT GROUP	894.63	EQUIPMENT/PARTS
ALLIED ELECTRONICS INCORPORATED	891.33	SUPPLIES
ALVINE AND ASSOCIATES INC	250.00	REFUND
AMERICAN BOTTLING COMPANY	2,702.88	SUPPLIES
AMERICAN MESSAGING SERVICES LLC	13.23	TELEPHONE
AMERICAN NATIONAL BANK	82.97	BANK SERVICES
AMERITAS LIFE INS CORP	56.88	DODGE OPERATING EXPENDITURES
ANDREA CARPER	100.00	REFUND
ANTHONY BUFFUM	75.00	REFUND
ARNOLD MOTOR SUPPLY, LLP	2,536.91	EQUIPMENT/PARTS
ARROW TOWING	6,480.00	TOWING/STORAGE/AUCTION
ASPEN EQUIPMENT CO	197.00	EQUIPMENT/PARTS
ASPHALT AND CONCRETE MATERIALS CO	7,917.28	STREET MAINTENANCE SUPLS
ATHLETICO EXCEL NEBRASKA LLC	170.00	PROFESSIONAL SVCS
B & G VENDING AND FOOD SERVICE	288.00	CONTRACTURAL SVC
BACKSTAGE LIBRARY WORKS	500.00	SUBSCRIPTION
BACKYARD TREE EXPERTS	11,190.00	TREE WORK
BAKER & TAYLOR INC	8,092.05	BOOKS/PERIODICALS/SUB
BANK OF AMERICA	187.50	MAC OPERATING EXPENDITURES
BARKER LEMAR AND ASSOCIATES INC	3,600.00	ENGINEERING
BARTON SOLVENTS INC	8,019.50	SUPPLIES
BENNETT REFRIGERATION INC	209.85	REPAIRS
BERKLEY RISK ADMINISTRATORS CO LLC	20,000.00	WORK COMP FEES
BIBLIOTHECA LLC	1,731.08	CONTRACTURAL SVC
BILL'S WATER CONDITIONING	93.00	SUPPLIES
BLACK HILLS IOWA GAS UTILITY CO LLC	2,438.54	NATURAL GAS
BLUFFS ELECTRIC INC	1,146.50	ELECTRICAL REPAIR
BLUFFS PAVING & UTILITY INC	29,975.00	CONSTRUCTION
BLUFFS TAXI & COURIER	1,869.40	TRANSIT SERVICES
BMI JANITORIAL GROUP	884.00	MAC OPERATING EXPENDITURES
BOBCAT OF OMAHA	1,666.72	EQUIPMENT/PARTS
BOMGAARS SUPPLY INC	272.78	SUPPLIES
BOUND TO STAY BOUND BOOKS INC	1,939.31	BOOKS/PERIODICALS/SUB
BUCK'S INC.	287.96	VEHICLE WASH
C & J INDUSTRIAL SUPPLY	543.55	JANITORIAL SERVICE
CAESARS ENTERTAINMENT	150,000.00	MAC OPERATING EXPENDITURES

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
CANON SOLUTIONS AMERICA INC	1,599.87	COPY/PRINTER MAINTANCE
CARLEY CONSTRUCTION LLC	98,407.27	CONSTRUCTION
CARROLL CONSTRUCTION SUPPLY	13,066.20	EQUIPMENT/PARTS
CASSANDRA M SALTER	129.62	TRAVEL REIMBURSEMENT
CENGAGE LEARNING INC	403.06	BOOKS/PERIODICALS/SUB
CENTURYLINK	922.05	TELEPHONE
CFI TIRE SERVICE	3,173.50	TIRE REPLACEMENT/REPAIR
CHAMPLIN TIRE RECYCLING INC	1,770.00	TIRE DISPOSAL
CHILD SUPPORT SERVICES DIVISION	514.32	GARNISHMENT
CITY OF BELLEVUE	1,200.00	TRAINING
CITY OF COUNCIL BLUFFS	6,161.33	DODGE OPERATING EXPENDITURES
CITY OF OMAHA	14,000.00	INFIL PROGRAM REIMB
CITY WIDE MAINTENANCE OF OMAHA	8,156.50	JANITORIAL SERVICE
CIVIL PROCESS SERVERS	94.30	PROFESSIONAL SVCS
CLARK EQUIPMENT COMPANY	12,700.00	EQUIPMENT/PARTS
CLOSED LOOP LOAN FUND	20,830.00	LOAN PAYMENTS
COLLECTION SERVICES CENTER	9,178.93	GARNISHMENT
COMMERCIAL AIR MANAGEMENT INC	1,407.00	EQUIPMENT/PARTS
COMPASS UTILITY LLC	298,250.25	CONSTRUCTION
COMPUTER CABLE CONNECTION	1,560.00	HARDWARE/SOFTWARE
CONSOLIDATED ELECTRICAL DISTR, INC	53.02	SUPPLIES
CONSTELLATION NEWENERGY-GAS DIVISION, LLC	2,007.66	NATURAL GAS
CONTROL SERVICES INC	1,507.25	REPAIRS
CORNHUSKER INTERNATIONAL TRUCKS	1,623.35	EQUIPMENT/PARTS
COUNCIL BLUFFS AIRPORT AUTHORITY	15,950.48	AIRPORT AUTH TAX
COUNCIL BLUFFS WATER WORKS	16,509.14	WATER
COUNCIL BLUFFS WINSUPPLY	7,512.01	SUPPLIES
COX BUSINESS	18,179.41	PHONE/INTERNET SVC
COX BUSINESS	116.20	DODGE OPERATING EXPENDITURES
COX CONTRACTING	13,684.00	CONSTRUCTION
CRAIG L DUDNICK	54.00	SUPPLIES
CREDIT INFORMATION SYSTEMS	198.00	CONTRACTURAL SVC
CULVERS	135.00	REFUND
CUSTOM AUTO REBUILDERS	2,371.69	VEHICLE REPAIR
D&K PRODUCTS	10,340.21	DODGE OPERATING EXPENDITURES
DAILY NONPAREIL	6,783.04	ADVERTISEMENT
DATA POWER TECHNOLOGY LLC	319.50	REPAIRS
DAVID'S ELECTRIC INC	6,015.00	CONTRACTURAL SVC
DEBORAH WHITE	50.00	FEES
DELL MARKETING L P	103,261.00	HARDWARE/SOFTWARE
DELUXE BUSINESS PRODUCTS	406.29	MAC OPERATING EXPENDITURES
DEMCO INC	1,517.62	SUPPLIES
DIAMOND MOWERS INC	695.07	REPAIRS
DISCOVER	0.02	MAC OPERATING EXPENDITURES
DODGE CREDIT CARD AND BANK FEES	2,728.18	DODGE OPERATING EXPENDITURES

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
**September, FY19**  
**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
DODGE PAYROLL	55,367.12	DODGE OPERATING EXPENDITURES
DODGE RIVERSIDE GOLF CLUB	1,287.20	RENTAL EXPS
DOG & PONY PRODUCTIONS INC	6,470.00	MAC OPERATING EXPENDITURES
DOLL DISTRIBUTING INC	959.75	MAC OPERATING EXPENDITURES
DOLL DISTRIBUTING LLC	5,741.15	DODGE OPERATING EXPENDITURES
DONS PIONEER UNIFORMS	3,755.94	UNIFORMS
DRIVER PLUMBING	4,479.00	REPAIRS
DUKE AERIAL EQUIPMENT INC	225.00	RENTAL EXPS
EAGLE SERVICES	11,870.85	RENTAL EXPS
EAGLE SERVICES	244.00	DODGE OPERATING EXPENDITURES
EBS - FLEX ACOCUNT	14,469.00	CITY PAYROLL EXPENDITURES
EBSCO INFORMATION SERVICES	6,860.00	SUBSCRIPTION
ECHO ELECTRIC SUPPLY	2,823.24	MAC OPERATING EXPENDITURES
ECHO GROUP	133.02	SUPPLIES
EDWARDS CHEVROLET-CADILLAC INC	324.14	EQUIPMENT/PARTS
EFTPS	495,048.58	EMPLOYEE TAXES
EHRHART GRIFFIN & ASSOCIATES INC	20,691.75	PROFESSIONAL SVCS
EIDE BAILLY LLP	24,000.00	AUDIT
ELAVON INC	8,618.26	FEES
ELECTRIC PUMP	9,815.25	EQUIPMENT/PARTS
ELECTRONIC TECHNOLOGY INC	4,300.00	EQUIPMENT/PARTS
ELIZABETH M AND RICHARD W PORTREY	22,067.00	PROPERTY ACQUISITION
ELMAN	56.00	DODGE OPERATING EXPENDITURES
EMSPACE INC	390.00	CONSULTANT
ENTERPRISE RENT A CAR MIDWEST	689.74	RENTAL EXPS
FACTORY MOTOR PARTS	3,265.29	SUPPLIES
FAST BREAK SPORTS	3,451.80	REFUND
FASTENAL COMPANY	183.00	SUPPLIES
FED EX	8.05	DODGE OPERATING EXPENDITURES
FEDEX	70.67	FREIGHT/POSTAGE
FELD FIRE	6,904.00	EQUIPMENT/PARTS
FELSBURG HOLT & ULLEVIG INC	11,929.39	PROFESSIONAL SVCS
FIREFIGHTERS UNION #15	79.00	CITY PAYROLL EXPENDITURES
FIRST NATIONAL BANK PCARDS ACH	4,254.84	DODGE OPERATING EXPENDITURES
FITCH-PREMEAU WINDOW CLEANING	125.00	DODGE OPERATING EXPENDITURES
FLEET US LLC	3,888.00	SUPPLIES
FORBES TRUST	5,500.00	PROPERTY ACQUISITION
FRANCES ANNE MIERZWA	12.99	REFUND
FRATERNAL ORDER OF POLICE	3,045.00	CITY PAYROLL EXPENDITURES
FUTURESIMPLE INC	209.42	DODGE OPERATING EXPENDITURES
GENIE PEST CONTROL	155.00	PEST CONTROL
GEOFFREY HUBBARD	209.83	TRAVEL REIMBURSEMENT
GOLDEN RULE CREATIONS	516.50	UNIFORMS
GOOGLE LLC	25.00	DODGE OPERATING EXPENDITURES
GOVDEALS INC	1,023.25	ONLINE PAYMENT FEES

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
GRAINGER	999.75	EQUIPMENT/PARTS
GREAT PLAINS UNIFORMS	2,453.50	UNIFORMS
GREEN ACRES RECYCLING	9,794.68	SOLID WASTE DISPOSAL
GRUNWALD MECHANICAL CONTRACTORS	160.50	REPAIRS
GUNDERSON LAWN CARE	14,247.72	CONTRACTURAL SVC
H. OLAFSSON INTERNATIONAL	(84.46)	MAC OPERATING EXPENDITURES
HACH COMPANY	914.01	EQUIPMENT/PARTS
HAPPY FACES ENTERTAINMENT LLC	400.00	CONSULTANT
HARRIS GOLF CARS	214.80	DODGE OPERATING EXPENDITURES
HAWKEYE VISION INC	16,143.07	EQUIPMENT/PARTS
HAWKINS CONSTRUCTION COMPANY	843,942.82	CONSTRUCTION
HDR ENGINEERING INC	18,141.29	PROFESSIONAL SVCS
HEARTLAND CO-OP	391.00	FUEL
HEARTLAND TIRES & TREADS INC	4,130.16	TIRE REPLACEMENT/REPAIR
HGM ASSOCIATES INC	382,133.51	PROFESSIONAL SVCS
HOEFER WYSOCKI ARCHITECTS, LLC	12,199.84	PROFESSIONAL SVCS
HOLIDYNAMICS INC	28,476.00	CONTRACTURAL SVC
I-80 LIQUOR & TOBACCO	2,062.88	DODGE OPERATING EXPENDITURES
ICMA RETIREMENT TRUST	10,094.30	CITY PAYROLL EXPENDITURES
INFOR (US) INC	90,402.39	HARDWARE/SOFTWARE
INTERNATIONAL ASSOC OF FIRE CHIEFS	209.00	DUES/MEMBERSHIP
IOWA ALCOHOL BEV DIV	211.25	MAC OPERATING EXPENDITURES
IOWA DEPARTMENT OF NATURAL RESOURCE	7,500.00	CONTRACTURAL SVC
IOWA DEPARTMENT OF REVENUE	4,207.00	MAC OPERATING EXPENDITURES
IOWA DEPT OF REVENUE	124,701.00	EMPLOYEE TAXES
IOWA DEPT OF REVENUE	9,272.00	DODGE OPERATING EXPENDITURES
IOWA HAZARDOUS MATERIALS TASK FORCE	100.00	DUES/MEMBERSHIP
IOWA ONE CALL	791.20	CONTRACTURAL SVC
IOWA PRISON INDUSTRIES	4,747.00	SUPPLIES
IOWA WASTE SYSTEMS	46,180.36	SOLID WASTE DISPOSAL
IOWA WATER ENVIRONMENT ASSOCIATION	160.00	TRAINING
IOWA WESTERN COMMUNITY COLLEGE	15.00	QUARTERLY CONTRACT PAYMENT
IP PATHWAYS LLC	41,446.51	HARDWARE/SOFTWARE
IPERS	187,916.30	RETIREMENT
J & R LIQUOR	1,194.11	MAC OPERATING EXPENDITURES
J&M GOLF	243.80	DODGE OPERATING EXPENDITURES
JAMES E PELOWSKI	500.00	CONTRACTURAL SVC
JENNIFER HARRAL	250.00	REFUND
JEO CONSULTING GROUP INC	30,632.95	CONSULTANT
JOHNSON HARDWARE CO	105.00	MAC OPERATING EXPENDITURES
JONES AUTOMOTIVE INCORPORATED	245.00	EQUIPMENT/PARTS
JOSEPH CHAD SELANDER	78.95	TRAVEL REIMBURSEMENT
KAL CONSTRUCTION INC	17,150.00	CONSTRUCTION
KARL CHEVROLET	181,265.00	VEHICLES
KATHLEEN MELDRUM	250.00	REFUND



**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
KATHY A RIEGER	176.58	TRAVEL REIMBURSEMENT
KAYS CUSTOMS LLC	1,457.00	CONTRACTURAL SVC
KEARNEY COUNTRY CLUB	800.00	DODGE OPERATING EXPENDITURES
KELTEK INCORPORATED	98,305.85	EQUIPMENT/PARTS
KONE INC	11,998.00	REPAIRS
KOPPOLD PLUMBING	38.52	REFUND
KRONOS INCORPORATED	2,257.34	HARDWARE/SOFTWARE
KUSSMAUL ELECTRONICS COMPANY INC	923.79	SUPPLIES
KUSTOM SIGNALS INC	180.00	SUPPLIES
KYLEMA	(77.24)	DODGE OPERATING EXPENDITURES
LAMETTI & SONS INC	155,515.00	CONSTRUCTION
LANDSCAPES MGMT COMPANY	10,082.18	DODGE OPERATING EXPENDITURES
LANDSCAPES UNLIMITED	2,347.68	DODGE OPERATING EXPENDITURES
LARRY V ANDERSON	100.00	EASEMENTS
LARSEN SUPPLY CO	104.84	MAC OPERATING EXPENDITURES
LARSEN SUPPLY COMPANY INC	714.32	SUPPLIES
LAURITZEN GARDENS	55.00	DUES/MEMBERSHIP
LAWSON PRODUCTS INCORPORATED	1,348.01	SUPPLIES
LICENSE MY SOFTWARE LLC	600.00	HARDWARE/SOFTWARE
LIKES MEYERSON HATCH LLC	1,332.00	CONSULTANT
LINCOLN NATIONAL LIFE INS CO	24.40	DODGE OPERATING EXPENDITURES
LINDA M CONNER	330.00	CONSULTANT
LOCKTON CO, LLC	3,679.00	DODGE OPERATING EXPENDITURES
LORETTA GOESCHEL	36.52	TRAVEL REIMBURSEMENT
LORNA WOODS	11.99	REIMBURSEMENT
LPL FINANCIAL LLC	499.32	DODGE TRUST REIMBURSEMENT
LSNB AS TRUSTEE FOR POST EMPLOY HLTH PLAN	3,920.00	EMPLOYEE CONTRIB
LSNB AS TRUSTEE FOR POST EMPLOY HLTH PLAN	280.00	EMPLOYEE CONTRIB
LSNB AS TRUSTEE FOR POST EMPLOY HLTH PLAN	3,480.00	EMPLOYEE CONTRIB
LSNB AS TRUSTEE FOR POST EMPLOY HLTH PLAN	1,000.00	EMPLOYEE CONTRIB
LYNNE ANN KUTCHARA	49,900.00	PROPERTY ACQUISITION
M & R WELDING	82.50	WELDING SUPPLIES/SERVICE
MACQUEEN EQUIPMENT, INC.	233.23	EQUIPMENT/PARTS
MALLOY ELECTRIC	3,753.26	EQUIPMENT/PARTS
MARCO TECHNOLOGIES LLC	5,178.84	COPY/PRINTER MAINTANCE
MARK ARCHIBALD	740.10	REIMBURSEMENT
MATHESON TRI GAS INC	109.12	MAC OPERATING EXPENDITURES
MATHESON TRI GAS INC.	202.31	WELDING SUPPLIES/SERVICE
MATT COX	750.00	CONTRACTURAL SVC
MAX I WALKER UNIFORM & APPAREL	774.59	UNIFORMS
MCKINNIS INC	683.77	REPAIRS
MCMULLEN FORD INC	275.32	EQUIPMENT/PARTS
MENARDS	752.46	SUPPLIES
MEREDITH COMMUNICATIONS	615.00	MAC OPERATING EXPENDITURES
MFPRSI	456,301.39	CITY PAYROLL EXPENDITURES

**CITY OF COUNCIL BLUFFS**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
MICAH HOUSE CORP	35,000.00	CDBG CONTRIBUTION
MICHAEL A FEIERFEIL	2,150.00	CONTRACTURAL SVC
MICHAEL O'BRADOVICH	1,800.00	CONSULTANT
MICHAEL RAU	74.05	REFUND
MICHAEL TODD AND COMPANY INC	132.80	EQUIPMENT/PARTS
MID STATES BANK	73.15	MAC OPERATING EXPENDITURES
MID-AMERICA CLEANING SYSTEMS INC	484.19	EQUIPMENT/PARTS
MIDAMERICAN ENERGY	147,639.17	ELECTRICITY
MIDLANDS HUMANE SOCIETY	10,328.17	CONTRACTURAL SVC
MIDSTATES BANK, NA	100,091.11	WORK COMP CLAIMS
MIDSTATES CONSTRUCTION PRODUCTS INC	1,350.00	EQUIPMENT/PARTS
MIDWEST TAPE	6,521.64	DVD/AUDIO/CD
MIDWEST TURF & IRRIGATION	2,250.06	EQUIPMENT/PARTS
MIDWEST TURF & IRRIGATION	406.96	DODGE OPERATING EXPENDITURES
MILLS COUNTY SHERIFF'S DEPARTMENT	2,313.75	GRANT REIMBURSEMENT
MITCHELL AND ASSOCIATES INC	2,350.00	CONTRACTURAL SVC
MOBOTREX INC	1,623.20	SUPPLIES
MULHALLS NURSERY	909.98	LANDSCAPING SUPPLIES
MUNICIPAL CODE CORPORATION	475.00	SUBSCRIPTION
MUNICIPAL EMERGENCY SERVICES INC	173.80	EQUIPMENT/PARTS
MURPHY TRACTOR & EQUIPMENT CO CORP	967.14	SUPPLIES
MUTUAL OF OMAHA	32.00	DODGE OPERATING EXPENDITURES
NAPA AUTO PARTS	3,582.88	EQUIPMENT/PARTS
NATIONAL APPRAISAL GUIDES INC	238.00	SUBSCRIPTION
NATIONAL FIRE PROTECTION ASSN	270.00	BOOKS/PERIODICALS/SUB
NATIONWIDE RETIREMENT SOLUTIONS INC	62,711.22	EMPLOYEE CONTRIB
NEBRASKA AIR FILTER INC	1,446.60	SUPPLIES
NEBRASKA CHILD SUPPORT PAYMENT CTR	496.62	GARNISHMENT
NEBRASKA DISTRIBUTING	595.60	MAC OPERATING EXPENDITURES
NEBRASKA FURNITURE MART INC	1,030.00	EQUIPMENT/PARTS
NEXT PHASE ENVIRONMENTAL	53,268.00	CONTRACTURAL SVC
NMC EXCHANGE LLC	15,507.49	EQUIPMENT/PARTS
NRG MEDIA LLC	200.00	DODGE OPERATING EXPENDITURES
OCLC INC	1,209.50	SUBSCRIPTION
ODEYS INC	624.95	EQUIPMENT/PARTS
OFFICE OF THE PROSECUTING ATTORNEYS	110.00	BOOKS/PERIODICALS/SUB
O'KEEFE ELEVATOR COMPANY INC	5,989.16	CONTRACTURAL SVC
OLSSON ASSOCIATES	7,443.25	CONSULTANT
OMAHA DOOR & WINDOW CO INC	3,990.13	REPAIRS
OMAHA WORLD HERALD	1,456.00	ADVERTISEMENT
OMNI ENGINEERING	37,582.16	STREET MAINTENANCE SUPLS
ONE SOURCE THE BACKGROUND CHECK COMPANY	280.00	CONSULTANT
OPTIMUM DATA INC	46,675.00	HARDWARE/SOFTWARE
O'REILLY AUTOMOTIVE INC	280.94	SUPPLIES
OSAGE INDUSTRIES INC	113.12	EQUIPMENT/PARTS

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
OVERDRIVE INC	8.99	BOOKS/PERIODICALS/SUB
PACER SERVICE CENTER	46.00	PROFESSIONAL SVCS
PACIFIC SPRINGS GOLF CLUB	1,615.15	DODGE OPERATING EXPENDITURES
PAPILLION SANITATION	1,654.80	SOLID WASTE DISPOSAL
PARAMOUNT LINEN & UNIFORMS	570.93	DODGE OPERATING EXPENDITURES
PAYPAL INC	19.95	CONTRACTURAL SVC
PAYROLL	1,783,881.91	CITY EMPLOYEE PAYROLL
PAYROLL	82,304.27	MAC OPERATING EXPENDITURES
PEPSI BEVERAGES CO	1,958.77	DODGE OPERATING EXPENDITURES
PETROLEUM TRADERS CORPORATION	38,964.63	FUEL
PLC	558.00	MOWING/GROUNDS MAINT
POTTAWATTAMIE COUNTY AUDITOR	4,529.67	LAW ENFORCEMENT COMPLEX
POTTAWATTAMIE COUNTY RECORDER	925.00	FEES
POTTAWATTAMIE COUNTY SHERIFF	39,270.00	INMATE COST
POTTAWATTAMIE COUNTY TREASURER	30,530.20	PROPERTY TAXES
POTTAWATTAMIE COUNTY TREASURER	325,436.30	BASS PRO TAXES
PREMIER AERIALS LLC	2,000.00	DODGE OPERATING EXPENDITURES
PREMIER MIDWEST BEVERAGE CO	1,970.35	DODGE OPERATING EXPENDITURES
PRESTIGE FLAG	639.62	DODGE OPERATING EXPENDITURES
PRIME COMMUNICATIONS INC	16,402.11	HARDWARE/SOFTWARE
R NICKESON ENTERPRISES	3,952.69	SUPPLIES
RACHEL HOLMES	17.00	REFUND
RADIATOR DEPOT	371.00	EQUIPMENT/PARTS
RAILROAD MANAGEMENT COMPANY III LLC	214.01	LEASE
RANDALL SCHROEDER	150.00	REIMBURSEMENT
RASMUSSEN MECHANICAL SERVICE CORP	187.18	REPAIRS
RAY MABBITT	195.00	CONTRACTURAL SVC
RDG GEOSCIENCE & ENGINEERING INC	257.25	PROFESSIONAL SVCS
READING EQUIPMENT & DISTRIBUTION, LLC	230.00	EQUIPMENT/PARTS
READY MIXED CONCRETE	45,638.60	SUPPLIES
RECORDED BOOKS LLC	1,125.46	DVD/AUDIO/CD
RED RIVER WASTE SOLUTIONS LP	293,385.01	REFUSE COLLECTION
RED RIVER WASTE SOLUTIONS LP	380.17	DODGE OPERATING EXPENDITURES
REHRIG PACIFIC COMPANY	5,537.50	SUPPLIES
RELIANT FIRE APPARATUS INC	934.90	EQUIPMENT/PARTS
RESOURCE RENTAL CENTER INC	8,230.00	RENTAL EXPS
RESPOND FIRST AID SYSTEMS	404.55	MEDICAL SUPPLIES
RICHARD THRAMER	25.00	REIMBURSEMENT
RICOH USA INC	68.16	EQUIPMENT/PARTS
ROAD BUILDERS MACH & SUPPLY CO INC	1,790.39	EQUIPMENT/PARTS
ROBERT D ADKINS-SONS	3,262.25	REIMBURSEMENT
ROBERT MARTIN	59.18	REIMBURSEMENT
RONALD D NIXON	300.00	REIMBURSEMENT
ROSE EQUIPMENT INC	330.66	EQUIPMENT/PARTS
ROSEANN GORDEN	60.00	REFUND

**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
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**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
ROTO ROOTER	460.00	REPAIRS
SAMPSON CONSTRUCTION CO INC	879,025.00	CONSTRUCTION
SAPP BROTHERS INC	38,441.53	FUEL
SCHILDBERG CONSTRUCTION COMPANY INC	1,004.04	STREET MAINTENANCE SUPLS
SECURITY EQUIPMENT INCORPORATED	881.50	CONTRACTURAL SVC
SHERBONDY'S GARDEN CENTER	1,267.50	CONTRACTURAL SVC
SHERRY L HOLMES	948.95	LEGAL CLAIM
SJ ELECTRO SYSTEMS INC	13,597.42	EQUIPMENT/PARTS
SNAP-ON INCORPORATED	1,249.01	SUPPLIES
SOUTHWEST IOWA PLANNING COUNCIL	23,013.42	CONTRACTURAL SVC
SPRINT SOLUTIONS INC	57.48	CELL PHONE
STATE INDUSTRIAL PROUCTS	1,041.76	SUPPLIES
STREICHER'S INC	6,196.99	SUPPLIES
SUPERIOR LIGHTING INC	56.00	REFUND
SUPPLYWORKS	247.44	SAFETY EQUIPMENT
SWAGIT PRODUCTIONS LLC	1,375.00	CONTRACTURAL SVC
SYSCO - LINCOLN	5,383.78	DODGE OPERATING EXPENDITURES
TECHMASTERS	392.81	DODGE OPERATING EXPENDITURES
TERRACON CONSULTANTS OF NEB INC	1,061.25	PROFESSIONAL SVCS
THE CENTER	10.00	FEES
THE CMI GROUP	466.96	COLLECTION FEE
THE DAILY NONPAREIL	608.25	MAC OPERATING EXPENDITURES
THE OFFICE CLEANERS	3,102.05	JANITORIAL SERVICE
THE RETROFIT COMPANIES INC	2,816.75	CONTRACTURAL SVC
THE SCOTTS COMPANY	5,908.98	REFUSE COLLECTION
THE WALMAN OPTICAL COMPANY	109.95	SAFETY EQUIPMENT
THERMAL SERVICES	892.25	REPAIRS
THOMSON REUTERS	675.21	SUBSCRIPTION
TIFFANY J SCHMITT	13.41	TRAVEL REIMBURSEMENT
TONY BILEK	3,245.00	MAC OPERATING EXPENDITURES
TOYNE INC	282.22	EQUIPMENT/PARTS
TRAFFIC CONTROL CORP	6,300.00	EQUIPMENT/PARTS
TRANE U.S. INC	112.20	REPAIRS
TRANS-IOWA EQUIPMENT INC	600.80	EQUIPMENT/PARTS
TRANSIT AUTHORITY OF THE CITY OF OMAHA	68,751.00	BUS SERVICE
TRAVIS J JARZYKA	67.06	REIMBURSEMENT
TREASURER STATE OF IOWA/SALES TAX	3,582.00	SALES TAX
TRIPLE PLAY TURF	390.00	DODGE OPERATING EXPENDITURES
TS DEVELOPMENT LLC	15,300.00	DEVLPMNT CONTRACT
TURF CARS LTD	720.00	DODGE OPERATING EXPENDITURES
TURFWERKS	990.00	EQUIPMENT/PARTS
U S AUTO FORCE/U S LUBRICANTS	3,366.08	SUPPLIES
ULTRAMAX AMMUNITION	4,368.00	SUPPLIES
UMR	862.64	DODGE OPERATING EXPENDITURES
UNDERWRITERS LABORATORIES INC	2,315.75	CONTRACTURAL SVC



**CITY OF COUNCIL BLUFFS**  
**EXPENDITURES**  
**September, FY19**  
**(\$'S)**

<b>PAYEE</b>	<b>AMOUNT</b>	<b>BUSINESS PURPOSE</b>
UNION BANK & TRUST	2.00	DODGE OPERATING EXPENDITURES
UNION BANK & TRUST FSA	3.50	DODGE OPERATING EXPENDITURES
UNITED PARCEL SERVICE	39.25	FREIGHT/POSTAGE
UNITED SEEDS INCORPORATED	6,507.60	SUPPLIES
US BANK	80,532.88	CREDIT CARD ACTIVITY
US BANK	206,449.45	BASS PRO LOAN
USABBLUEBOOK	131.04	SUPPLIES
VERIZON WIRELESS SERVICES LLC	6,172.74	CELL PHONE
VERMEER SALES & SERVICE INC	2,205.62	EQUIPMENT/PARTS
VERTIV SERVICES INC	3,820.80	CONTRACTURAL SVC
VOICE & DATA SYSTEMS INC	228.00	TELEPHONE
VOID CHECK	(41.54)	SUPPLIES
VOYA RETIREMENT INSURANCE & ANNUITY COMPANY	6,530.00	EMPLOYEE CONTRIB
VULCAN INDUSTRIES INCORPORATED	6,592.00	SUPPLIES
WALDINGER CORPORATION	17,787.52	REPAIRS
WATER ENGINEERING INC	254.57	CONTRACTURAL SVC
WELDON INDUSTRIES INCORPORATED	770.72	EQUIPMENT/PARTS
WESTERN ENGINEERING COMPANY INC	105,277.34	CONSTRUCTION
WILLIAM E CARPENTER JR	116.09	TRAVEL REIMBURSEMENT
WINDSTREAM CORPORATION	2,507.16	TELEPHONE
WINTER EQUIPMENT COMPANY INC	1,179.47	EQUIPMENT/PARTS
WOHLERSCAPE INC	1,850.00	CONSTRUCTION
WOODHOUSE AUTO FAMILY	854.50	EQUIPMENT/PARTS
WYSS ASSOCIATES, INC	5,737.50	CONTRACTURAL SVC
YANT EQUIPMENT	404.63	REPAIRS
YMCA OF GREATER OMAHA	810.00	CONTRACTURAL SVC
ZEROFRICTION LLC	3,581.98	DODGE OPERATING EXPENDITURES
ZIMCO SUPPLY CO	13,347.50	DODGE OPERATING EXPENDITURES
ZOLL MEDICAL CORP	3,375.92	MEDICAL SUPPLIES
	<b>9,497,669.57</b>	

**City of Council Bluffs**

**Receipts by Fund  
For the Month of September FY19**

General Fund	2,363,815.89
Special Revenue	1,784,526.94
Debt Service	175,635.71
Capital Project	2,206,025.81
Enterprise	840,868.72
<b>Total Receipts</b>	<b><u>7,370,873.07</u></b>

**Expenditures by Fund  
For the Month of September FY19**

General Fund	4,773,837.17
Special Revenue	1,438,290.58
Debt Service	0.00
Capital Project	2,540,269.95
Enterprise	745,271.87
<b>Total Expenditures</b>	<b><u>9,497,669.57</u></b>

**Council Communication**

Department: City Clerk  
Case/Project No.:  
Submitted by:

Notice of Right of Redemption

Council Action: 10/22/2018

<b>Description</b>
--------------------

<b>Background/Discussion</b>
------------------------------

<b>Recommendation</b>
-----------------------

**ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">Notices</a>	Other	10/17/2018

**AFFIDAVIT OF SERVICE OF NOTICE OF EXPIRATION OF RIGHT OF REDEMPTION**

STATE OF NEBRASKA                    )

) ss.

COUNTY OF SARPY                    )

Ryan C. Dorcey, being first duly sworn upon oath deposes and states as follows:

1. I am the attorney for NEREUS LAND HOLDINGS 3 LLC, an Iowa limited liability company, (hereinafter "NEREUS LAND HOLDINGS 3 LLC"), the lawful holder of the Tax Sale Certificate No. 16-0344 under whose direction I have filed this Affidavit and caused service of the Notice of Expiration of Right of Redemption.

2. The property which was sold by the County Treasurer of Pottawattamie, Iowa for the then delinquent and unpaid taxes and/or special assessments is commonly described as 1122 5<sup>th</sup> Avenue, Council Bluffs, Iowa 51501, and legally described as:

Lot 6, Block 1, McMahon, Cooper & Jefferis' Addition, Council Bluffs, Pottawattamie County, Iowa, (the "Property").

3. Pursuant to Iowa Code § 447.9, separate copies of a Notice of Expiration of Right of Redemption (the "Notice"), a copy of such Notice as attached hereto, were served by Ryan C. Dorcey, attorney for the certificate holder NEREUS LAND HOLDINGS 3 LLC, under the direction of NEREUS LAND HOLDINGS 3 LLC, on September 28, 2018. One such copy of the Notice was served on the addressee by mailing the copy in a sealed envelope, bearing the correct postage, by regular United States first class mail, addressed to the addressee. The second such copy was served on the addressee by mailing the copy in a sealed envelope, bearing the correct postage, by certified United States mail, addressed to the addressee. The Notices were mailed to each of the following named parties at the following addresses:

MICHAEL L. KISSEL, PERSON WHOM PARCEL IS TAXED

1122 5<sup>th</sup> Avenue

Council Bluffs, IA 51501

Service by Certified Mail, Return Receipt Requested and regular mail

MICHAEL L. KISSEL, PERSON WHOM PARCEL IS TAXED

1126 5<sup>th</sup> Avenue

Council Bluffs, IA 51501

Service by Certified Mail, Return Receipt Requested and regular mail

PARTIES IN POSSESSION, REAL NAMES UNKNOWN, PERSON IN POSSESSION

1122 5<sup>th</sup> Avenue

Council Bluffs, IA 51501

Service by Certified Mail, Return Receipt Requested and regular mail

CLERK RCV

8 OCT 18

PM 2:15



J. DOE, REAL NAME UNKNOWN, SPOUSE OF MICHAEL L. KISSEL, PERSON IN POSSESSION  
1122 5<sup>th</sup> Avenue  
Council Bluffs, IA 51501  
Service by Certified Mail, Return Receipt Requested and regular mail

CITY CLERK OF COUNCIL BLUFFS, THE CITY WHERE THE PARCEL IS LOCATED  
209 Pearl Street, Suite 102  
Council Bluffs, IA 51503  
Service by Certified Mail, Return Receipt Requested and regular mail

Copies of the Certified Mail return receipts are attached hereto and incorporated herein. The costs for service by regular and certified mail to the above parties is \$35.70.

4. The record search of the Property was performed by an abstractor who is an active participant in the title guaranty program under section 16.91 or by an attorney licensed to practice law in the state of Iowa. The cost for the record search is \$563.25.

5. Upon information and belief, none of the parties upon whom the Notice was served was in or within three months last past engaged in the military, armed forces or naval service of the United States or thereby entitled to the benefits of the Servicemembers Civil Relief Act, or similar acts or acts amendatory thereof or supplemental thereto, at the time of the service of the Notice upon them or at the time of the making of this Affidavit.

6. To the knowledge of the undersigned, all conditions required by Iowa Code effective and in existence at the time of the issuance of the Tax Sale Certificate identified herein have been complied with in order that the Treasurer of Pottawattamie County, Iowa may issue a treasurer's deed in favor of NEREUS LAND HOLDINGS 3 LLC, an Iowa limited liability company.

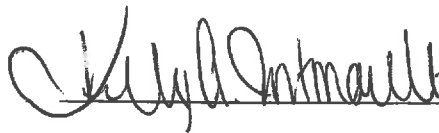
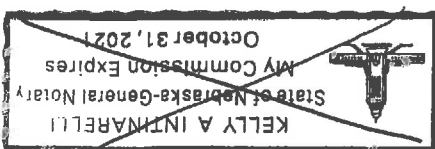
FURTHER AFFIANT SAYETH NOT.

NEREUS LAND HOLDINGS 3 LLC, an Iowa limited liability company

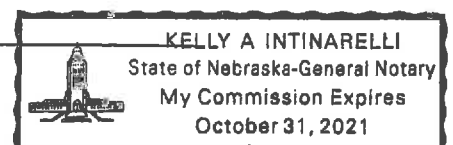


Ryan C. Dorsey, #AT0013616  
1423 Grandview Avenue  
Papillion, NE 68046  
402-505-4124  
Fax: 402-513-6483  
rdorsey@eleventalents.com  
Attorney for Plaintiff

Subscribed in my presence and sworn to before me this 28 day of September, 2018,  
by Ryan C. Dorsey.



Notary Public  
110



## NOTICE OF EXPIRATION OF RIGHT OF REDEMPTION

To:

MICHAEL L. KISSEL, PERSON WHOM PARCEL IS TAXED  
1122 5<sup>th</sup> Avenue  
Council Bluffs, IA 51501  
Service by Certified Mail, Return Receipt Requested and regular mail

MICHAEL L. KISSEL, PERSON WHOM PARCEL IS TAXED  
1126 5<sup>th</sup> Avenue  
Council Bluffs, IA 51501  
Service by Certified Mail, Return Receipt Requested and regular mail

PARTIES IN POSSESSION, REAL NAMES UNKNOWN, PERSON IN POSSESSION  
1122 5<sup>th</sup> Avenue  
Council Bluffs, IA 51501  
Service by Certified Mail, Return Receipt Requested and regular mail

J. DOE, REAL NAME UNKNOWN, SPOUSE OF MICHAEL L. KISSEL, PERSON IN POSSESSION  
1122 5<sup>th</sup> Avenue  
Council Bluffs, IA 51501  
Service by Certified Mail, Return Receipt Requested and regular mail

CITY CLERK OF COUNCIL BLUFFS, THE CITY WHERE THE PARCEL IS LOCATED  
209 Pearl Street, Suite 102  
Council Bluffs, IA 51503  
Service by Certified Mail, Return Receipt Requested and regular mail

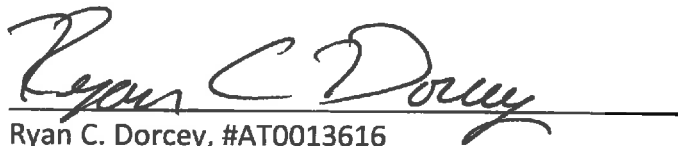
In accordance with Iowa Code § 447.9, you are hereby notified that:

1. Date of Sale: On June 20, 2016, the following described real property was sold by Pottawattamie County, for delinquent and unpaid taxes levied against the real property.
2. Description of the property sold:
  - a. Address: 1122 5<sup>th</sup> Avenue, Council Bluffs, Iowa 51501
  - b. Legal Description: Lot 6, Block 1, McMahon, Cooper & Jefferis' Addition, Council Bluffs, Pottawattamie County, Iowa.
3. Name of the Purchaser: On the day of the sale, a certificate of purchase, No. 16-0344 was issued to NEREUS LAND HOLDINGS 3 LLC, who bought the property at the sale.

4. Your Right of Redemption pursuant to Iowa Code will expire and a Deed for the property described above will be made unless redemption is made within ninety (90) days from the completed service of this Notice.
5. If the Right of Redemption is allowed to expire, a tax deed will be issued by the Treasurer of Pottawattamie County.

Dated this 28 day of September, 2018.

NEREUS LAND HOLDINGS 3 LLC, an Iowa limited liability company

A handwritten signature in black ink, reading "Ryan C Dorsey", is written over a horizontal line.

Ryan C. Dorsey, #AT0013616

1423 Grandview Avenue

Papillion, NE 68046

402-505-4124

Fax: 402-513-6483

[rdorsey@eleventalents.com](mailto:rdorsey@eleventalents.com)

Attorney for Plaintiff

**NOTICE TO REDEEM FROM TAX SALE**

09/26/2015  
09/26/2015  
09/26/2015

TO: Eilene G. Heuermann a/k/a  
Eilene Genevieve Heuermann  
840 Grace Street  
Council Bluffs, IA 51503  
and any unknown heirs, devisees, grantees, assignees, successors in interest, unknown parties in possession, unknown spouses and claimants.

Unknown Spouse of Eilene G. Heuermann a/k/a Eilene Genevieve Heuermann, if any  
840 Grace Street  
Council Bluffs, IA 51503

Parties in Possession of  
840 Grace Street  
Council Bluffs, IA 51501

Eilene G. Heuermann a/k/a Eilene Genevieve Heuermann  
610 Veterans Memorial Hwy  
Council Bluffs, IA 51501

Unknown Spouse of Eilene G. Heuermann a/k/a Eilene Genevieve Heuermann, if any  
610 Veterans Memorial Hwy  
Council Bluffs, IA 51501

State of Iowa  
c/o Iowa Attorney General  
1305 E Walnut Street  
Des Moines, IA 50319  
Re: Death Record #2004017716 for Eilene Genevieve Heuermann, died September 3, 2004, unmarried

State of Iowa  
c/o Council Bluffs County Attorney  
227 S. 6<sup>th</sup> Street  
Council Bluffs IA 51501  
Re: Death Record #2004017716 for Eilene Genevieve Heuermann, died September 3, 2004, unmarried



U.S. Attorney, Southern District of Iowa  
U.S. Courthouse Annex  
110 E. Court Avenue, Ste. 286  
Des Moines, IA 50309-2053  
Re: Death Record #2004017716 for Eilene Genevieve Heuermann, died September 3, 2004, unmarried

United States Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530  
Re: Death Record #2004017716 for Eilene Genevieve Heuermann, died September 3, 2004, unmarried

PAMBO Land Holdings, LLC  
1423 Grandview Avenue Ste. 101  
Papillion, NE 68046  
Re: Tax Sale Certificate #15-0358, sold June 15, 2015.

Council Bluffs City Clerk  
c/o City Hall  
209 Pearl Street  
Council Bluffs, IA 51503

Pottawattamie County Treasurer  
227 South 6th Street  
Council Bluffs, IA 51501

Any and all person(s) in possession of the parcel hereinafter described.

All of the heirs, spouses, assignees, grantees, legatees, devisees, and successors in interest both known and unknown, and all unknown claimants claiming to have any recorded or unrecorded right, title, or interest in and to the parcel hereinafter described.

YOU ARE NOTIFIED that on the 20th day of June, 2018, the following described parcel, situated in Pottawattamie County, Iowa, to-wit:

*SEE ATTACHED LEGAL DESCRIPTION MARKED AS EXHIBIT A AND BY  
THIS REFERENCE MADE A PART HEREOF*

was sold at tax sale by the Treasurer of Pottawattamie County for the then delinquent and unpaid taxes and/or special assessments against the parcel, that a Certificate of Purchase was duly issued by the County Treasurer of Pottawattamie County, Iowa, pursuant to said tax sale, which

Certificate is now lawfully held and owned by ACC86, LLC and that the right of redemption will expire and a deed to the said parcel will be made to ACC86, LLC, by the Treasurer of Pottawattamie County, Iowa, thereby relinquishing all your rights, title and interest in the above-described parcel unless redemption from said tax sale is made within ninety (90) days from the completed service of this Notice.

Dated this 10<sup>th</sup> day of October, 2018.

ACC86, LLC

By: 

Nathan D. Runde-AT009759

Of

Clemens, Walters, Conlon

Runde & Hiatt, L.L.P.

2080 Southpark Court

Dubuque, IA 52003

Tel: (563)582-2926

Fax: (563)582-2998

Email: [nrunde@cwcmllaw.com](mailto:nrunde@cwcmllaw.com)

**NOTE:** Do not contact the purchaser at the tax sale or his attorney in order to arrange for payment of the amounts necessary to redeem this property. The only means by which you may redeem this property is through payment of the amounts due through the Pottawattamie County Treasurer, Pottawattamie County Courthouse, Council Bluffs, Iowa, 712/328-5627.

## EXHIBIT A

Lot 3 in the Auditor's Subdivision of Lot 18 in Auditor's Subdivision of the northeast quarter of the northwest corner of Section 31, Township 75, Range 43, which lot is more particularly described as follows: Part of Outlot "A" in Auditors Subdivision of Lot 18 in the Auditor's Subdivision of the northeast quarter of the northwest quarter of Section 31. Township 75 north, Range 43 west of the 5<sup>th</sup> PM described as follows: Commencing at a point on the south line of said Outlot "A" which is 153.3 feet west of its southeast corner, and running thence north 41 deg. 41 min. east., 153.3 feet to street line, thence along street north 48 deg. 15 min. west 76 feet, thence south 41 deg. 45 min. west, 140.2 feet, thence south 8 deg. 5 min. east 34.8 feet to the place of the beginning.

Also lot A in the Auditor's Subdivision of Lot 18 of Auditor's Subdivision of the Northeast quarter of the Northwest quarter of Section 31, Township 75, Range 43, which is more particularly described as follows: Part of Outlot "A" in Auditor's Subdivision of Lot 18 in the Auditor's Subdivision of the Northeast quarter of the Northwest quarter of Section 31, Township 75 north, Range 43 west of the 5<sup>th</sup> PM described as follows: Commencing at a point on the street line which is north 48 deg.15 min. west, 134.5 feet from the northeast corner of said Outlot "A" and running thence south 41 deg. 45 min. west, 140.2 feet, thence north 8 deg. 5 min west, thence north 41 deg. 45 min east, 103.6 feet to the street line, thence along the street line south 48 deg. 15 min east 44 feet to place of beginning.

Parcel No. 754331128012

Certificate No. 16-0008

**Council Communication**

Department: City Clerk  
Case/Project No.:  
Submitted by:

Offers to Buy

Council Action: 10/22/2018

<b>Description</b>
--------------------

<b>Background/Discussion</b>
------------------------------

<b>Recommendation</b>
-----------------------

**ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">Offers to Buy</a>	Other	10/17/2018



# APPLICATION TO PURCHASE CITY PROPERTY

CLERK ROOM  
900013  
04/1/00

Submit To: Jodi Quakenbush, City Clerk  
City of Council Bluffs  
209 Pearl Street  
Council Bluffs, IA 51503

THE UNDERSIGNED (hereby designated as Buyers) hereby offer to buy the real estate situated in Council Bluffs, Pottawattamie County, Iowa, generally described as follows:  
The South portion of City property referred to as Proposed Lot 2, Arbor Creek Subdivision at the intersection of College Road and Railroad Avenue, Council Bluffs, Iowa.

Buyers are applying to purchase this property for the following purpose(s):  
to maintain green space and future expansion of the building and services offered by Midlands Humane Society, including continuation of the shelter agreement with the city.

Buyers offer a total sum of \$189,000.00

In consideration of the information above, Buyers hereby certify and agree to the following:

- (a) City personnel shall review all applications submitted and make any recommendations deemed appropriate with respects to acceptance, rejection or modification (if any), however, approval of this application shall be in the sole discretion of the Council Bluffs City Council.
- (b) Title shall be taken subject to applicable zoning restrictions, and Buyer understands and attests that their proposed use would conform with all permitted uses in that zoning classification. Any proposed use deemed to be non-conforming shall result in forfeiture of this application.
- (c) Title shall be taken subject to all applicable easements, covenants, servient estates and any other appurtenant restrictions to the land.
- (d) Buyers are not subject to any liens, delinquent taxes, unpaid property violations or other outstanding costs and/or fines associated with property ownership and maintenance.
- (e) Buyers shall finance the purchase of the property by any one of the following means (please circle):
  - a. Cash
  - b. Certified Check
  - c. Third Party Mortgage
  - d. City Financing with Mortgage/Promissory Note
- (f) All subsequent taxes shall be paid by Buyers.
- (g) All subsequent special assessments shall be paid by Buyers.
- (h) Buyers shall pay a one-time fee of \$50 dollars for filing and costs in the event they are awarded title.
- (i) Buyers are purchasing the property AS IS, and may obtain insurance to cover risk of loss at their own cost.
- (j) Buyers are entitled to possession of the described property upon receipt of the City Deed.
- (k) Upon payment of the purchase price as provided in paragraph (e), the City shall convey title by City Deed.

By: Linda Kemp for MHS 10/8/18  
Buyer Date

Buyer's Attorney: \_\_\_\_\_ Date

LINDA KEMP, Its: Board Chair  
Print Name

DEBORAH L. PETERSEN of Petersen Law PLLC  
Print Name 215 S. Main St. Suite 301, Council Bluffs  
IA 51503

Internal Use Only		
<input type="checkbox"/> Buildable Lot	<input type="checkbox"/> Date Received	<input type="checkbox"/> Offer Sufficient For Review
<input type="checkbox"/> Remnant Parcel	<input type="checkbox"/> Case # Assigned	Approved For
<input type="checkbox"/> Previously Vacated ROW	<input type="checkbox"/> Payment W/Offer	Processing : _____
<input type="checkbox"/> Other		



**PETERSEN LAW**  
P L L C

CITY OF COUNCIL BLUFFS  
Date / Time : 10/10/18 16:23  
Payment : \$ 50.00  
Receipt # : 647085  
Check/Credit Card #: 3192  
Clerk : jljames  
Paid By : PETERSEN LAW PLLC

October 8, 2018

Jodi Quakenbush, City Clerk  
City of Council Bluffs  
209 Pearl Street  
Council Bluffs IA 51503

HAND DELIVERED

Re: Midlands Humane Society  
Our File No. 9785.00

Dear Jodi:

Enclosed please find an Application to Purchase City Property. Please process in accordance with City policy.

Thank you for your attention to this matter. If you should have any questions, please give me a call.

Sincerely,

PETERSEN LAW PLLC

DEBORAH L. PETERSEN

DLP:dcp

Enclosure

cc: Midlands Humane Society (w/encl) via email

CITY OF COUNCIL BLUFFS  
Date / Time : 10/10/18 16:26  
Payment : \$ 50.00  
Receipt # : 647085  
Check/Credit Card #: 3192  
Clerk : jljames  
Paid By : PETERSEN LAW PLLC

PETERSENLAWCB.COM

**Council Communication**

Department: City Clerk  
Case/Project No.:  
Submitted by:

Claims

Council Action: 10/22/2018

Description

Background/Discussion

Recommendation

**ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">Claims</a>	Other	10/17/2018

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-PW-1918

### NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: Daniel Hannan #18774-647 DAY PHONE: (501) 952-2965  
ADDRESS: Po Box 5000 Pekin Illinois 61555 DOB: 5-8-75

DATE & TIME OF LOSS/ACCIDENT: Dec 29th 2017

LOCATION OF LOSS/ACCIDENT: 2126 6th Ave

DESCRIPTION OF LOSS/ACCIDENT: House was burned down under suspicious  
circumstances. City tore house down on Jan 5 without  
allowing anyone to salvage any of the items in house  
I have been incarcerated since 2015 and (USE BACK OF FORM, IF NECESSARY) ->

TOTAL DAMAGES CLAIMED: \$3,600 - 50,000 material things in house

WITNESS(ES) (Name(s), Address(es), Phone No(s)): Larry Brantley - Chelsey Mcgruder - Melissa  
Pradmore - Tracey Baker

WAS POLICE REPORT FILED ☒ YES ☐ NO

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

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:

LIST INSURANCE PROVIDER AND COVERAGE: No 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)

July 16 2018  
DATE

Danny Hannan  
CLAIMANT'S SIGNATURE

OCT 02

CLERK RCVD  
2 OCT 18

PM 2:55

my Younger Brother was arrested the day of the fire, there was no reason for anyone else to contact anyone to go into the house which had all of my parents things along with mine as well. I finally found someone to go try to salvage anything and when she went there, the house was being bulldozed and she was told she was not allowed on premises that it was a safety hazard, but there was people in and out taking truckloads of stuff without permission. There was rooms & basement that didn't get touched very bad so there was things that were salvageable, and the fire marshal was the one who arrested my Brother so we knew there wasn't anyone to make contact with them right away. And a week from the fire the house was gone, which was in no way a sufficient amount of time for me to make arrangements. It was 12-29-17 House was being tore down Jan 5 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-PW-1919

### NOTICE OF CLAIM/LOSS

NAME OF CLAIMANT: TERRI BAILEY DAY PHONE: 712-323-7562  
ADDRESS: 2643 - 4th AVE DOB: \_\_\_\_\_

DATE & TIME OF LOSS/ACCIDENT: AUGUST 20, 2018

LOCATION OF LOSS/ACCIDENT: 2643 - 4th AVE

DESCRIPTION OF LOSS/ACCIDENT: \_\_\_\_\_

SEWER FAILURE WITH BACKUP INTO FINISHED  
BASEMENT

(USE BACK OF FORM, IF NECESSARY)

TOTAL DAMAGES CLAIMED: \$ ???

WITNESS(ES) (Name(s), Address(es), Phone No(s)) \_\_\_\_\_

KAREN KARRIS - 2649 4th AVE - (712) 435-5699

WAS POLICE REPORT FILED ☐ YES ☒ NO

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

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: \_\_\_\_\_

PLEASE SEE ATTACHED

LIST INSURANCE PROVIDER AND COVERAGE: SEE ATTACHED

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)

10/2/2018  
DATE

Terri L. Bailey  
CLAIMANT'S SIGNATURE

CLERK RCD  
5 OCT 18

PM3:08

OCT 04

October 2, 2018

City of Council Bluffs, Iowa  
ATTN: City Legal Department  
209 Pearl Street  
Council Bluffs IA 51503

Legal Staff:

I am writing for your consideration of my claim for reimbursement of damages caused by a sewer backup into my finished basement on August 20<sup>th</sup>, 2018. As you all know, there was a substantial amount of rainfall that morning and in our neighborhood, flooding occurred. I was just home from the hospital suffering from a near fatal heart attack and was unable to go up and down the stairs and was alerted to the sewer problem by a neighborhood who also had the seepage into her home. This backup into my home an caused extremely nasty smell and totally unsafe conditions down in the basement. I made a call to my insurance agent who in turn called ServPro to remediate the sewer water and make the area safe once again.

I have enclosed some pictures taken by the insurance agent of the before and some pictures of the aftermath showing the cut-out drywall and carpet removed etc. I also have enclosed the ServPro estimate and insurance information for your review. I have no idea how much I should expect to recover from the city's sewer system failure but hope to at least be compensated in some way for the loss of what once was a very habitable and pleasant place in my home.

I will be happy to answer any and all questions you may have and respectfully request your consideration to this claim.

Thank you very much.

Terri Bailey  
2643 4<sup>th</sup> Avenue  
Council Bluffs, IA 51501  
712-323-7562

**Council Communication**

Department: City Clerk  
Case/Project No.:  
Submitted by:

Extra Mile Day

Council Action: 10/22/2018

<b>Description</b>
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<b>Background/Discussion</b>
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<b>Recommendation</b>
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**ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">Proclamation</a>	Proclamation	10/16/2018

# City of Council Bluffs Iowa

## Office of the Mayor

### Proclamation

- WHEREAS,** Council Bluffs, Iowa is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism, and service; and
- WHEREAS,** Council Bluffs, Iowa is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community; and
- WHEREAS,** Council Bluffs, Iowa is a community which chooses to shine a light on and celebrate individuals and organizations within its community who “go the extra mile” in order to make a difference and lift up fellow members of their community; and
- WHEREAS,** Council Bluffs, Iowa acknowledges the mission of Extra Mile America to create 575 Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2018.

**NOW, THEREFORE, I,**

**Matthew J. Walsh, Mayor  
of the  
City of Council Bluffs, Iowa  
do hereby proclaim**

**November 1, 2018**

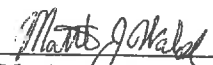
**As**

### **“EXTRA MILE DAY”**

in the City of Council Bluffs, Iowa and urge each individual in the community to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.



**IN WITNESS WHEREOF, I have hereunto  
set my hand and caused the official seal of  
the City of Council Bluffs, Iowa to be  
affixed this 22nd day of October, in the  
year Two Thousand Eighteen.**

  
Matthew J. Walsh, Mayor

## Council Communication

Department: City Clerk  
Case/Project No.: SUB-18-015  
Submitted by: Christopher Gibbons, Planning  
Coordinator

Reconsider Resolution 18-273

Council Action: 10/22/2018

### Description

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 ¼ of Section 29-75-43. Location: Immediately north of the intersection of Railroad Avenue and College Road. SUB-18-015

### Background/Discussion

See attachment.

### Recommendation

### ATTACHMENTS:

Description	Type	Upload Date
<a href="#">SUB-18-015 Arbor Creek Subdivision Final Plat PH Notice (9-24-18) CC</a>	Other	9/14/2018
<a href="#">SUB-18-015 Arbor Creek Final Plat Staff Report</a>	Other	9/17/2018
<a href="#">SUB-18-015 Arbor Creek Final Plat Attach A</a>	Other	9/17/2018
<a href="#">SUB-18-015 Arbor Creek Final Plat Attach B</a>	Other	9/17/2018
<a href="#">Resolution 18-173 (as approved 9-24-18)</a>	Resolution	10/16/2018
<a href="#">Reconsidered Resolution 18-273</a>	Resolution	10/16/2018



## **NOTICE OF PUBLIC HEARING**

### **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 the request of the Community Development Department for final plat approval of a five lot minor subdivision to be known as Arbor Creek, legally described as being part of the NE1/4 of Section 29-75-44, 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 24<sup>th</sup> day of September, 2018 in the City Council Chambers, 2<sup>nd</sup> 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.

## Council Communication

Department: Community Development  CASE #SUB-18-015  Applicant/Owner City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503  Surveyor: Johnathan M. Leisinger, L.S. HGM Associates Inc. 640 5 <sup>th</sup> Avenue Council Bluffs, Iowa 51501	Resolution No. _____	City Council: 9/24/18
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### Subject/Title

Request: Final plat approval of a three-lot minor subdivision to be known as Arbor Creek, legally described as being a part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa.

Location: Immediately north of the intersection of Railroad Avenue and College Road.

### Background/Discussion

The Community Development Department, on behalf of the City of Council Bluffs, is requesting final plat approval of a three-lot minor subdivision to be known as Arbor Creek, legally described as being part of the NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and being more particularly described on Attachment 'A'. The subdivision is comprised of 29.86 acres of city-owned property and is located immediately north of the intersection of Railroad Avenue and College Road. Included in the subdivision are 0.04 acres of additional Railroad Avenue right-of-way and 0.59 acres of additional College Road right-of-way that will be dedicated to the City of Council Bluffs. The purpose of this subdivision is to create three new lots of record from City owned property and to delineate a section of Railroad Avenue right-of-way, which bisects the subdivision. Furthermore, this subdivision will establish post-construction stormwater easements over existing detention basins on proposed Lot 1, Arbor Creek.

#### Land Use/Zoning

All land in the proposed subdivision is zoned A-2/Parks, Estates and Agricultural District. Midlands Human Society operates an animal shelter on proposed Lot 1, Arbor Creek. Proposed Lots 2 and 3, Arbor Creek are undeveloped. Surrounding zoning includes R-4/High Density Multi-Family Residential District w/Planned Residential Overlay to the north; A-2 District to the east and south; and R-1/Single-Family Residential District to the west. Existing land uses in the general vicinity of this request can be categorized as undeveloped land, BNSF railroad, Mosquito Creek, single-family residential dwellings on acreage lots, Iowa Western Community College, and Sherwood Apartments.

### Comments

1. The proposed subdivision is zoned A-2/Parks, Estates and Agricultural District. The minimum lot size in an A-2 District is three acres, as per Section 15.05 of the Municipal Code (Zoning Ordinance). Proposed Lot 1, Arbor Creek contains 17.73 acres, Lot 2, Arbor Creek contains 6.19 acres, and Lot 3, Arbor Creek contains 2.30 acres. Lots 1 and 2, Arbor Creek are located west of Railroad Avenue and

are relatively uniform in shape, which makes them suitable for development. Both lots comply with A-2 District lot area, depth, and width requirements. Lot 3 is located east of Railroad Avenue and has limited development capabilities due to its irregular dimensions, which were caused by the construction of Railroad Avenue and the City's acquisition of abandoned railroad right-of-way. The City has no other land holdings to combined with Lot 3, Arbor Creek so that it can confirm with A-2 District standards due to its location. A subdivision variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) must be granted by City Council. Per Section 14.11.040, *Variance(s)* of the Council Bluffs Municipal Code (Subdivision Ordinance) a variance can be granted 'where it can be shown that due to special conditions, literal enforcement of the ordinance will result in unnecessary hardship', the City shall have the power to vary such regulations so that the substantial justice will be accomplished, provided that such variance would:

- a) Not be contrary to the public interest;
- b) Be in the interest of the City;
- c) Be within the spirit and intent of the ordinance; and
- d) Not be detrimental to future residents in or near the proposed subdivision.

The Community Development recommends City Council grant a variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) based on reasons stated above.

2. On February 13, 2017, the City Council adopted Resolution No. 17-31 which declared the City's intent to execute a Lease Agreement and a Funding and Occupancy Agreement with Midlands Human Society for the lease of City owned property at 1020 Railroad Avenue for a term of 99 years. Included in the agreement was a plat of survey that identified 1020 Railroad Avenue as being separated into Parcels 'C' and 'D'. Parcel 'C' was left undeveloped and Parcel 'D' was leased to the Midlands Humane Society to be developed as an animal shelter. Proposed Lot 1, Arbor Creek is the same land area identified as Parcel 'C' and proposed Lot 2, Arbor Creek is the same land area identified as Parcel 'D'. The dimensions of proposed Lots 1 and 2, Arbor Creek are generally consistent with the dimensions shown for Parcels 'C' and 'D' on the plat of survey included in the lease agreement.

The Community Development Department met with the Midlands Humane Society on two occasions to discuss the Arbor Creek Subdivision and development proposal for Lot 1. As part of these conversations, Midlands Humane Society expressed concern about their ability to expand their animal shelter operation if Lot 1, Arbor Creek were sold to another entity. The Community Development Department researched MHS's concern and provided them with a conceptual layout plan for how their animal shelter could expand the building and double in size on proposed Lot 2, Arbor Creek. The concept included expansions that would avoid the stormwater detention facility, avoid existing dog runs, and included additional parking. The Community Development Department is of the opinion that the proposed Arbor Creek Subdivision will not interfere with Midlands Human Society ability to operate and expand upon their animal shelter at 1020 Railroad Avenue.

3. The Community Development Department has received an application from Zimmerman Properties to rezone proposed Lot 2, Arbor Creek from A-2 District to R-3/Low Density Multi-Family Residential District with a Planned Residential Overlay. The rezoning is scheduled for review by the City Planning Commission on October 9, 2018 and will then be forwarded to City Council for final consideration. The purpose of the rezoning is to allow Zimmerman Properties to develop a new 62-unit apartment building on the subject property. Lot 2, Arbor Creek contains 6.19 acres of land and is adequate in size to allow the applicant, Zimmerman Properties, to develop a 62-unit multi-family apartment building in accordance with R-3 District standards.

4. The proposed subdivision is located within Flood Zones 'AE' and '0.2% X' according to FEMA map number 19155C0418F, effective 4/16/2013. With adequate engineering and construction controls, the land in this subdivision is generally suitable for development.
5. A 33' x 783.66' (0.59 acre) strip of land, located south of Lots 2 and 3, Arbor Creek is being dedicated to the City for additional College Road right-of-way on the final plat. Additionally, 0.04 acres of land abutting the west right-of-way line for Railroad Avenue is being dedicated to the City on the final plat. This land dedication is necessary to ensure that existing trail located adjacent to Lots 1 and 2, Arbor Creek is within Railroad Avenue right-of-way.
6. All lots in this subdivision have direct access to Railroad Avenue and/or College Road. No street extensions and/or improvements are required to be completed for this subdivision.
7. All lots in the subdivision have access to public water, sanitary and storm sewers along Railroad Avenue. No utility extension are required to be completed for this subdivision.
8. 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 developer.
9. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.
10. The Council Bluffs Fire Department stated they have no comments for the proposed subdivision.
11. The standard five and ten-foot wide side, front, and rear utility easements are notated on the final plat. The Public Works commented that the following language must be stated on the final plat relative to easements within this subdivision:
  - i. **ERECTION OF STRUCTURES PROHIBITED:** Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld, provided however grantor shall have the right to place and maintain a surfaced roadway over and within the Easement Area.
  - ii. **CHANGE OF GRADE PROHIBITED:** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld.
  - iii. **RIGHT OF ACCESS:** City shall have the right of access to the Easement Area and have all right of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.
  - iv. **REMOVAL AND REPLACEMENT:** With the exception of existing structures, the cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by the exercise of the rights under this easement, shall be borne by the Grantor or their successors or assigns.
  - v. **SURFACE RESTORATION:** City's liability to restore the surface within the Easement Area shall be limited only to grading and seeding.
  - vi. **DUTY TO REPAIR:** City agrees that any drain tile, drive or access way, fence, or yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access shall be repaired at no expense to Grantor and to Grantor's satisfaction.
  - vii. **EASEMENT RUNS WITH LAND:** This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

12. No private restrictions or covenants will be recorded by the City with this plat. A note indicating such shall be stated on the plat prior to being executed.

#### **Recommendation**

The Community Development Department recommends final plat approval of a three lot minor subdivision to be known as Arbor Creek, legally described as being part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and as shown on Attachment 'A', subject to all comments stated above and following conditions:

- a. All technical corrections shall be incorporated into the final plat document prior to being executed; and
- b. 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
- c. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements;
- d. Granting a variance to allow proposed Lot 3, Arbor Creek to not meet the minimum A-2 District lot size and lot width requirements, based on reasons stated above;
- 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. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.

#### **Attachments**

Attachment A: Arbor Creek final plat

Attachment B: Copy of Resolution No. 17-31, dated February 13, 2017

Surveyor: Johnathan M. Leisinger, L.S., HGM Associates Inc., 640 5<sup>th</sup> Avenue, Council Bluffs, Iowa 51501

Prepared by: Christopher N. Gibbons, AICP, Planning Coordinator





# ARBOR CREEK

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

## POST CONSTRUCTION STORMWATER MANAGEMENT PLAN MAINTENANCE AGREEMENT AND EASEMENT

WHEREAS, THE PROPERTY OWNER RECOGNIZES THAT STORMWATER MANAGEMENT FACILITIES (HEREINAFTER REFERRED TO AS "THE FACILITY" OR "FACILITIES") MUST BE MAINTAINED FOR THE DEVELOPMENT CALLED MIDLANDS HUMANE SOCIETY; LOCATED IN THE JURISDICTION OF THE CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA: AND,

WHEREAS, THE PROPERTY OWNER (WHETHER ONE OR MORE) IS THE OWNER OF REAL PROPERTY DEPICTED ON SHEET 3 OF 4 (HEREINAFTER REFERRED TO AS "THE PROPERTY"), AND,

WHEREAS, THE CITY OF COUNCIL BLUFFS (HEREINAFTER REFERRED TO AS "THE CITY") REQUIRES AND THE PROPERTY OWNER, AND ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS, AGREE THAT THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE CITY REQUIRE THAT THE FACILITIES BE CONSTRUCTED AND MAINTAINED ON THE PROPERTY, AND,

WHEREAS, THE POST CONSTRUCTION STORMWATER MANAGEMENT PLAN, PCSMP 1301789, (HEREINAFTER REFERRED TO AS "PCSMP"), SHOULD BE CONSTRUCTED AND MAINTAINED BY THE PROPERTY OWNER, ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS.

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING PREMISES, THE COVENANTS CONTAINED HEREIN, AND THE FOLLOWING TERMS AND CONDITIONS, THE PROPERTY OWNER AGREES AS FOLLOWS:

1. THE FACILITY OR FACILITIES SHALL BE CONSTRUCTED BY THE PROPERTY OWNER IN ACCORDANCE WITH THE PCSMP, WHICH HAS BEEN REVIEWED AND ACCEPTED BY THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE.
2. THE PROPERTY OWNER MUST DEVELOP AND PROVIDE THE "BMP MAINTENANCE REQUIREMENTS", ATTACHED HERE TO AS EXHIBIT "B", WHICH HAVE BEEN REVIEWED AND ACCEPTED BY THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE. THE BMP MAINTENANCE REQUIREMENTS SHALL DESCRIBE THE SPECIFIC MAINTENANCE PRACTICES TO BE PERFORMED FOR THE FACILITIES AND INCLUDE A SCHEDULE FOR IMPLEMENTATION OF THESE PRACTICES. THE PLAN SHALL INDICATED THAT THE FACILITY OR FACILITIES SHALL BE INSPECTED BY A PROFESSIONAL QUALIFIED IN STORMWATER BMP FUNCTION AND MAINTENANCE AT LEAST ANNUALLY TO ENSURE THAT IT IS OPERATING PROPERLY. A WRITTEN RECORD OF INSPECTION RESULTS AND ANY MAINTENANCE WORK SHALL BE MAINTAINED AND AVAILABLE FOR REVIEW BY THE CITY.
3. THE PROPERTY OWNER, ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS, SHALL CONSTRUCT AND PERPETUALLY OPERATE AND MAINTAIN, AT ITS SOLE EXPENSE, THE FACILITIES IN STRICT ACCORDANCE WITH THE ATTACHED BMP MAINTENANCE REQUIREMENTS ACCEPTED BY THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE.
4. THE PROPERTY OWNER, ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS HEREBY GRANTS PERMISSION TO THE CITY, ITS AUTHORIZED AGENTS AND EMPLOYEES, TO ENTER UPON THE PROPERTY AND TO INSPECT THE FACILITIES AT A REASONABLE TIME IF THE CITY HAS CAUSE TO BELIEVE THAT THERE EXISTS, OR POTENTIALLY EXISTS, IN OR UPON THE PROPERTY, ANY CONDITION WHICH CONSTITUTES A VIOLATION OF THE BMP MAINTENANCE REQUIREMENTS. THE CITY SHALL PROVIDE THE OWNER COPIES OF THE INSPECTION FINDINGS AND A DIRECTIVE TO COMMENCE WITH THE REPAIRS IF NECESSARY. THE CITY WILL REQUIRE THE PROPERTY OWNER TO PROVIDE, WITHIN 7 CALENDAR DAYS, A WRITTEN RESPONSE ADDRESSING WHAT ACTIONS WILL BE TAKEN TO CORRECT ANY DEFICIENCIES AND PROVIDE A SCHEDULE OF REPAIRS WITHIN A REASONABLE TIME FRAME. UNLESS THE CITY HAS REASON TO BELIEVE THAT THERE IS AN IMMINENT THREAT TO PUBLIC HEALTH OR SAFETY, THE CITY SHALL PROVIDE PROPERTY OWNER 24-HOUR NOTICE PRIOR TO ENTRY AND 5 WORKING DAYS NOTICE TO ARRANGE FOR ACCESS FOR AREAS BEHIND THE SECURITY FENCE. THE CITY SHALL INDEMNIFY AND HOLD THE PROPERTY OWNER HARMLESS FROM ANY DAMAGE BY REASON OF THE CITY'S NEGLIGENT OR INTENTIONAL ACTS DURING SUCH ENTRY UPON THE PROPERTY.
5. THE PROPERTY OWNER ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS, AGREES THAT SHOULD IT FAIL TO CORRECT ANY DEFECTS IN THE FACILITY OR FACILITIES WITHIN REASONABLE TIME FRAME AGREED TO IN THE RESPONSE BY THE PROPERTY OWNER FOR CORRECTIVE ACTIONS, OR SHALL FAIL TO MAINTAIN THE STRUCTURE IN ACCORDANCE WITH THE ATTACHED BMP MAINTENANCE REQUIREMENTS AND WITH THE LAW AND APPLICABLE EXECUTIVE REGULATORS, THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE IS AUTHORIZED TO ENTER THE PROPERTY AFTER PROVIDING 24-HOUR NOTICE TO PROPERTY OWNER, TO MAKE ALL REPAIRS, AND TO PERFORM ALL MAINTENANCE, CONSTRUCTION AND RECONSTRUCTION AS THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE DEEMS NECESSARY. THE CITY SHALL INDEMNIFY AND HOLD THE PROPERTY OWNER HARMLESS FROM ANY DAMAGE BY REASON OF THE CITY'S NEGLIGENT OR INTENTIONAL ACTS DURING SUCH ENTRY UPON THE PROPERTY.

THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE SHALL HAVE THE RIGHT TO RECOVER FROM THE PROPERTY OWNER ANY AND ALL REASONABLE COSTS THE CITY OF COUNCIL BLUFFS EXPENDS TO MAINTAIN OR REPAIR THE FACILITY OR FACILITIES OR TO CORRECT ANY OPERATIONAL DEFICIENCIES SUBJECT TO THE PROVISIONS OF THE IMMEDIATELY PRECEDING SENTENCE RELATION TO NEGLIGENCE OR INTENTIONAL ACTS OF THE CITY. FAILURE TO PAY THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE ALL OF ITS EXPENDED COSTS, AFTER FORTY-FIVE DAYS WRITTEN NOTICE, SHALL CONSTITUTE A BREACH OF THE AGREEMENT. THE CITY OF COUNCIL BLUFFS OR ITS DESIGNEE SHALL THEREAFTER BE ENTITLED TO BRING AN ACTION AGAINST THE PROPERTY OWNER TO PAY, OR FORECLOSE UPON THE LIEN HEREBY AUTHORIZED BY THIS AGREEMENT AGAINST THE PROPERTY, OR BOTH. INTEREST, COLLECTION COSTS, AND REASONABLE ATTORNEY FEES SHALL BE ADDED TO THE RECOVERY TO THE SUCCESSFUL PARTY.

6. THE PROPERTY OWNER SHALL NOT OBLIGATE THE CITY OF COUNCIL BLUFFS TO MAINTAIN OR REPAIR THE FACILITY OR FACILITIES, AND, EXCEPT AS PROVIDED HEREIN, THE CITY OF COUNCIL BLUFFS SHALL NOT BE LIABLE TO ANY PERSON FOR THE CONDITION OR OPERATION OF THE FACILITY OR FACILITIES.

7. THE PROPERTY OWNER, ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS, HEREBY INDEMNIFIES AND HOLDS HARMLESS THE CITY AND ITS AUTHORIZED AGENTS AND EMPLOYEES FOR ANY AND ALL DAMAGE, ACCIDENTS, CASUALTIES, OCCURRENCES OR CLAIMS ("CLAIMS") THAT MAY ARISE OR TO BE ASSERTED BY ANY THIRD PARTY AGAINST THE CITY FROM THE CONSTRUCTION, PRESENCE, EXISTENCE OR MAINTENANCE OF THE FACILITY OR FACILITIES BY THE PROPERTY OWNER. IN THE EVENT A CLAIM IS ASSERTED AGAINST THE CITY, ITS AUTHORIZED AGENTS OR EMPLOYEES, THE CITY SHALL PROMPTLY NOTIFY THE PROPERTY OWNER. PROPERTY OWNER SHALL DEFEND AT ITS OWN EXPENSE ANY SUIT BASED ON SUCH CLAIM TO THE EXTENT SUCH CLAIM DID NOT ARISE FROM THE INTENTIONAL ACTS OR NEGLIGENCE OF THE CITY IN WHICH EVEN THE CITY SHALL BE REQUIRED TO DEFEND ANY SUCH SUIT AT ITS OWN EXPENSE. NOTWITHSTANDING THE FOREGOING, IF ANY CLAIMS ARE MADE AGAINST BOTH THE CITY OF COUNCIL BLUFFS AND THE PROPERTY OWNER, EACH WILL BE REQUIRED TO DEFEND ANY SUCH SUIT OR CLAIM AGAINST IT AT ITS OWN EXPENSE. EACH SHALL BE RESPONSIBLE FOR PAYMENT OF ANY RECOVERY TO THE EXTENT DETERMINED IN SUCH SUIT. IF ANY JUDGMENT OR CLAIM AGAINST THE CITY, ITS AUTHORIZED AGENTS OR EMPLOYEES SHALL BE ALLOWED, THE PROPERTY OWNER SHALL BE FOR ALL COSTS AND EXPENSES IN CONNECTION HEREWITH EXCEPT TO THE EXTENT OF THE NEGLIGENCE OR INTENTIONAL ACT OF THE CITY.

8. THE PROPERTY OWNER SHALL NOT IN ANY WAY DIMINISH, LIMIT OR RESTRICT THE RIGHT OF THE CITY OF COUNCIL BLUFFS TO ENFORCE ANY OF ITS ORDINANCES AS AUTHORIZED BY LAW.

9. THIS AGREEMENT SHALL CONSTITUTE A COVENANT RUNNING WITH THE LAND AND SHALL BE BINDING ON THE PROPERTY OWNER, ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS, INCLUDING ANY HOMEOWNERS OR BUSINESS ASSOCIATION AND ANY OTHER SUCCESSORS IN INTEREST.

### EXHIBIT B

#### BMP MAINTENANCE REQUIREMENTS

ALL FACILITIES SHALL BE INSPECTED BY A PROFESSIONAL QUALIFIED IN STORMWATER BMP FUNCTION AND MAINTENANCE AT LEAST ANNUALLY TO ENSURE THAT IT IS OPERATING PROPERLY. A WRITTEN RECORD OF INSPECTION RESULTS AND ANY MAINTENANCE WORK SHALL BE MAINTAINED.

BIORETENTION BASIN:

GENERAL MAINTENANCE SHALL BE CONDUCTED AS NEEDED. THIS WOULD INCLUDE PRUNING AND WEEDING TO MAINTAIN APPEARANCE, MULCH REPLACEMENT WHEN EROSION IS EVIDENT AND REMOVAL OF TRASH AND DEBRIS.

TWICE A YEAR THE INFLOW AND OUTLET POINTS SHALL BE INSPECTED FOR CLOGGING AND ANY SEDIMENT SHALL BE REMOVED. INSPECT GRASS AREA FOR EROSION AND GULLYING. RE-SEED OR SOD AS NECESSARY. VEGETATION SHOULD BE INSPECTED TO EVALUATE THEIR HEALTH AND REMOVE ANY DEAD OR SEVERELY DISEASED VEGETATION. THE SEMI-ANNUAL INSPECTIONS SHALL OCCUR ONCE BEFORE NEW GROWTH EMERGES IN THE SPRING AND ONCE AT DISPERSAL IN THE FALL. REMOVE ALL VISIBLE ACCUMULATIONS OF SEDIMENT ON TOP OF THE MULCH LAYER BY HAND.

THE FACILITIES SHALL BE INSPECTED AFTER SEVERE STORM EVENTS AND ALL ERODED AREAS SHOULD BE STABILIZED WITH GEOTEXTILE FABRIC AND REPLANTED AS REQUIRED.

ANNUALLY THE PLANTING SOILS SHALL BE TESTED FOR PH TO ESTABLISH ACIDIC LEVELS. IF THE PH IS BELOW 5.2, LIME SHALL BE APPLIED. IF THE SOIL PH IS ABOVE 7.5, THEN GYPSUM CAN BE APPLIED TO REDUCE THE PH.

EVERY TWO TO THREE YEARS THE MULCH SHALL BE REPLACED OVER THE ENTIRE AREA OF THE BIORETENTION FACILITY.

#### DETENTION BASIN:

GENERAL MAINTENANCE SHALL BE CONDUCTED AS NEEDED. THIS WOULD INCLUDE PRUNING AND WEEDING TO MAINTAIN APPEARANCE.

TWICE A YEAR THE INFLOW AND OUTLET POINTS SHALL BE INSPECTED FOR CLOGGING AND ANY SEDIMENT SHALL BE REMOVED. INSPECT GRASS AREA FOR EROSION AND GULLYING. RE-SEED OR SOD AS NECESSARY. VEGETATION SHOULD BE INSPECTED TO EVALUATE THEIR HEALTH AND REMOVE ANY

DEAD OR SEVERELY DISEASED VEGETATION. THE SEMI-ANNUAL INSPECTIONS SHALL OCCUR ONCE BEFORE NEW GROWTH EMERGES IN THE SPRING AND ONCE AT DISPERSAL IN THE FALL.

THE FACILITIES SHALL BE INSPECTED AFTER SEVERE STORM EVENTS AND ALL ERODED AREAS SHOULD BE STABILIZED WITH GEOTEXTILE FABRIC AND REPLANTED AS REQUIRED.

#### CURB CUTS AND SCOUR STOP MAT:

GENERAL MAINTENANCE SHALL BE CONDUCTED AS NEEDED. THIS WOULD INCLUDE REMOVING TRASH AND DEBRIS FROM CURB CUTS AND SCOUR STOP MAT.

TWICE A YEAR THE INFLOW AND OUTLET POINTS SHALL BE INSPECTED FOR CLOGGING AND ANY SEDIMENT SHALL BE REMOVED. INSPECT GRASS AREA FOR EROSION AND GULLYING. RE-SEED OR SOD AS NECESSARY IN AREAS AROUND THE SCOUR STOP MAT. THE SEMI-ANNUAL INSPECTIONS SHALL OCCUR ONCE BEFORE NEW GROWTH EMERGES IN THE SPRING AND ONCE AT DISPERSAL IN THE FALL.

#### TEMPORARY SEEDING:

AREAS WHICH FAIL TO ESTABLISH VEGETATIVE COVER ADEQUATE TO PREVENT RILL EROSION WILL BE RE- SEEDED AS SOON AS SUCH AREAS ARE IDENTIFIED. CONTROL WEEDS BY MOWING.

#### PERMANENT SEEDING:

THE MAINTENANCE MEASURES ARE AS FOLLOWS: (1) IN GENERAL, A STAND OF VEGETATION CANNOT BE DETERMINED TO BE FULLY ESTABLISHED UNTIL IT HAS BEEN MAINTAINED FOR ONE FULL YEAR AFTER PLANNING; (2) NEW SEEDLINGS SHALL BE SUPPLIED WITH ADEQUATE MOISTURE, SUPPLY WATER AS NEEDED, ESPECIALLY LATE IN THE SEASON, IN ABNORMALLY HOT OR DRY CONDITIONS, OR ON ADVERSE SITES, WATER APPLICATIONS SHALL BE CONTROLLED TO PREVENT EXCESSIVE RUNOFF; (3) INSPECT ALL SEEDED AREAS FOR FAILURES AND MAKE NECESSARY REPAIRS, REPLACEMENTS, AND RESEEDINGS WITHIN THE PLANTING SEASON, IF POSSIBLE; [3A] IF STAND IS INADEQUATE FOR EROSION CONTROL, OVER SEED AND FERTILIZE USING HALF OF THE RATES ORIGINALLY SPECIFIED; [3B] IF STAND IS 60% DAMAGED, RE-ESTABLISH FOLLOWING SEEDBED AND SEEDING RECOMMENDATIONS; [3C] IF STAND HAS LESS THAN 40% COVER, RE-EVALUATE CHOICE OF PLANT MATERIALS AND QUANTITIES OF LIME AND FERTILIZER, THE SOIL MUST BE TESTED TO DETERMINE IF ACIDITY OR NUTRIENT IMBALANCES ARE RESPONSIBLE, RE-ESTABLISH THE STAND FOLLOWING SEEDBED AND SEEDING RECOMMENDATIONS.

#### MULCHING:

ALL MULCHES AND SOIL COVERINGS SHOULD BE INSPECTED PERIODICALLY (PARTICULARLY AFTER RAINSTORMS) TO CHECK FOR EROSION. WHERE EROSION IS OBSERVED IN MULCHED AREAS, ADDITIONAL MULCH SHOULD BE APPLIED. NETS AND MATS SHOULD BE INSPECTED AFTER RAINSTORMS FOR DISLOCATION OR FAILURE. IF WASHOUTS OR BREAKAGE OCCUR, REINSTALL NETTING OR MATTING AS NECESSARY AFTER REPAIRING DAMAGE TO THE SLOPE OR DITCH. INSPECTIONS SHOULD TAKE PLACE UNTIL GRASSES ARE FIRMLY ESTABLISHED. WHERE MULCH IS USED IN CONJUNCTION WITH ORNAMENTAL PLANTINGS, INSPECT PERIODICALLY THROUGHOUT THE YEAR TO DETERMINE IF MULCH IS MAINTAINING COVERAGE OF THE SOIL SURFACE; REPAIR AS NEEDED.

#### TEMPORARY DIVERSION DIKE:

THE MEASURE SHALL BE INSPECTED AFTER EVERY STORM AND REPAIRS MADE TO THE DIKE, FLOW CHANNEL, OUTLET OR SEDIMENT TRAPPING FACILITY, AS NECESSARY. ONCE EVERY TWO WEEKS, WHETHER A STORM EVENT HAS OCCURRED OR NOT, THE MEASURE SHALL BE INSPECTED AND REPAIRS MADE IF NEEDED. DAMAGES CAUSED BY CONSTRUCTION TRAFFIC OR OTHER ACTIVITY MUST BE REPAIRED BEFORE THE END OF EACH WORKING DAY.

This drawing is being made  
in accordance with the  
requirements of the  
Iowa Department of Transportation  
for use on this project. It is  
not to be used for any other  
purpose without the written  
consent of the Iowa Department  
of Transportation.

**hgm**

A S S O C I A T E S I N C .

ENGINEERING ARCHITECTURE SURVEYING

council bluffs omaha

DATE  
MAY 18 2018  
APPROVED  
JML  
DESIGNED  
DEF  
DRAWN  
NSE

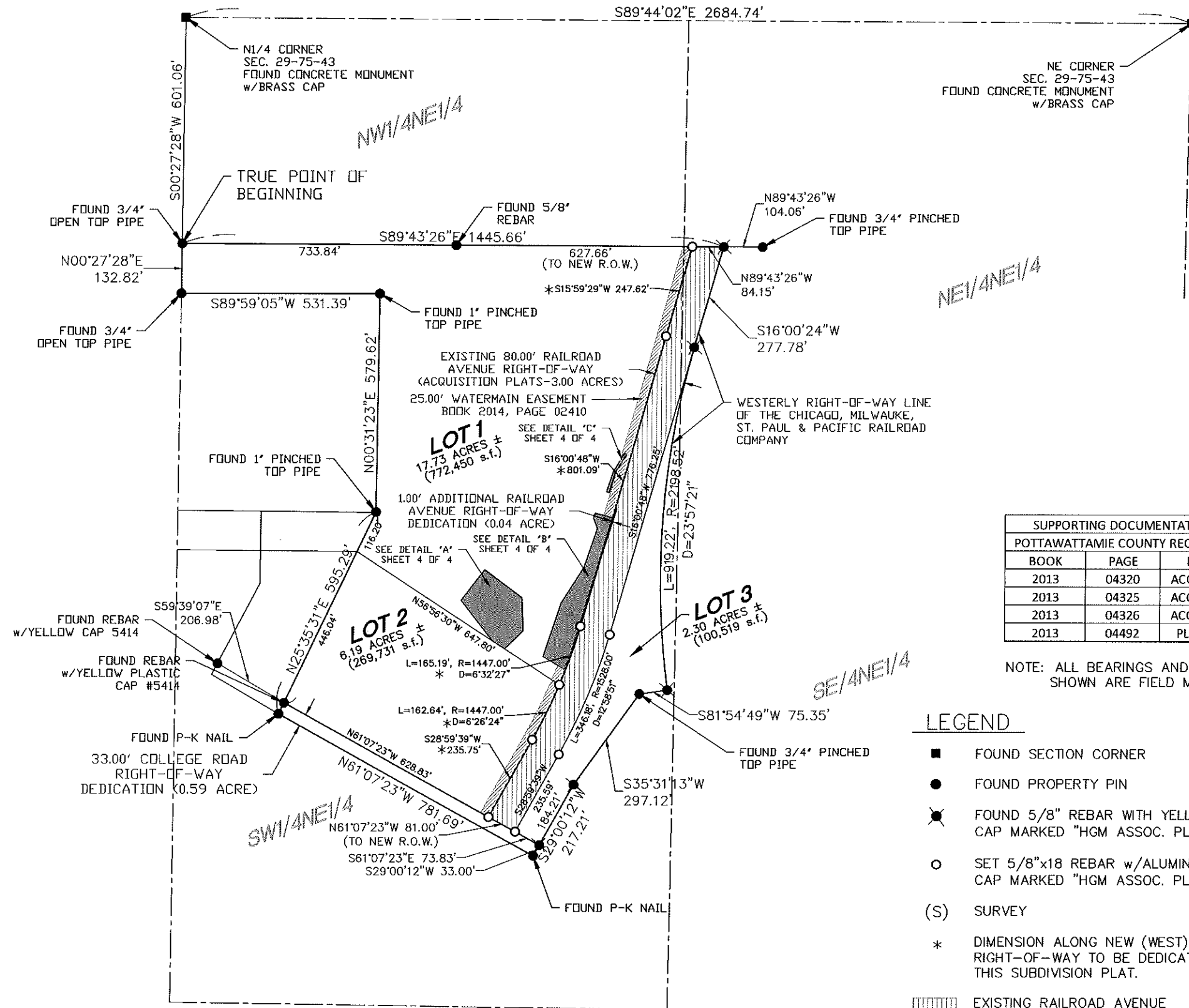
ARBOR CREEK  
NORTHEAST QUARTER SECTION 29-75-43  
COUNCIL BLUFFS COMMUNITY DEVELOPMENT DEPT.  
209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503  
FINAL PLAT

project no.  
150018

sheet  
2 OF 4

# ARBOR CREEK

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

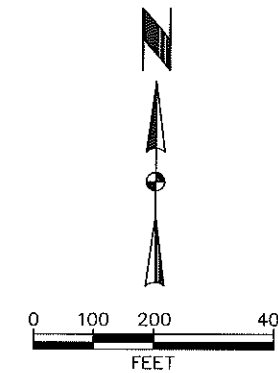


SUPPORTING DOCUMENTATION		
POTTAWATTAMIE COUNTY RECORDER		
BOOK	PAGE	DESCRIPTION
2013	04320	ACQUISITION PLAT
2013	04325	ACQUISITION PLAT
2013	04326	ACQUISITION PLAT
2013	04492	PLAT OF SURVEY

NOTE: ALL BEARINGS AND DISTANCES SHOWN ARE FIELD MEASUREMENTS.

## LEGEND

- FOUND SECTION CORNER
- FOUND PROPERTY PIN
- ✱ FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP MARKED "HGM ASSOC. PLS 10569"
- SET 5/8"x18 REBAR w/ALUMINUM CAP MARKED "HGM ASSOC. PLS 14415"
- (S) SURVEY
- \* DIMENSION ALONG NEW (WEST) RIGHT-OF-WAY TO BE DEDICATED WITH THIS SUBDIVISION PLAT.
- ▨ EXISTING RAILROAD AVENUE RIGHT-OF-WAY
- ▨ EXISTING WATER MAIN EASEMENT
- ▨ POST CONSTRUCTION STORMWATER MANAGEMENT EASEMENT



This drawing is being made available for your review only. It is not to be used for any other purpose without the written consent of HGM Associates, Inc. The drawing or any part thereof shall not be used for any other purpose without the written consent of HGM Associates, Inc.

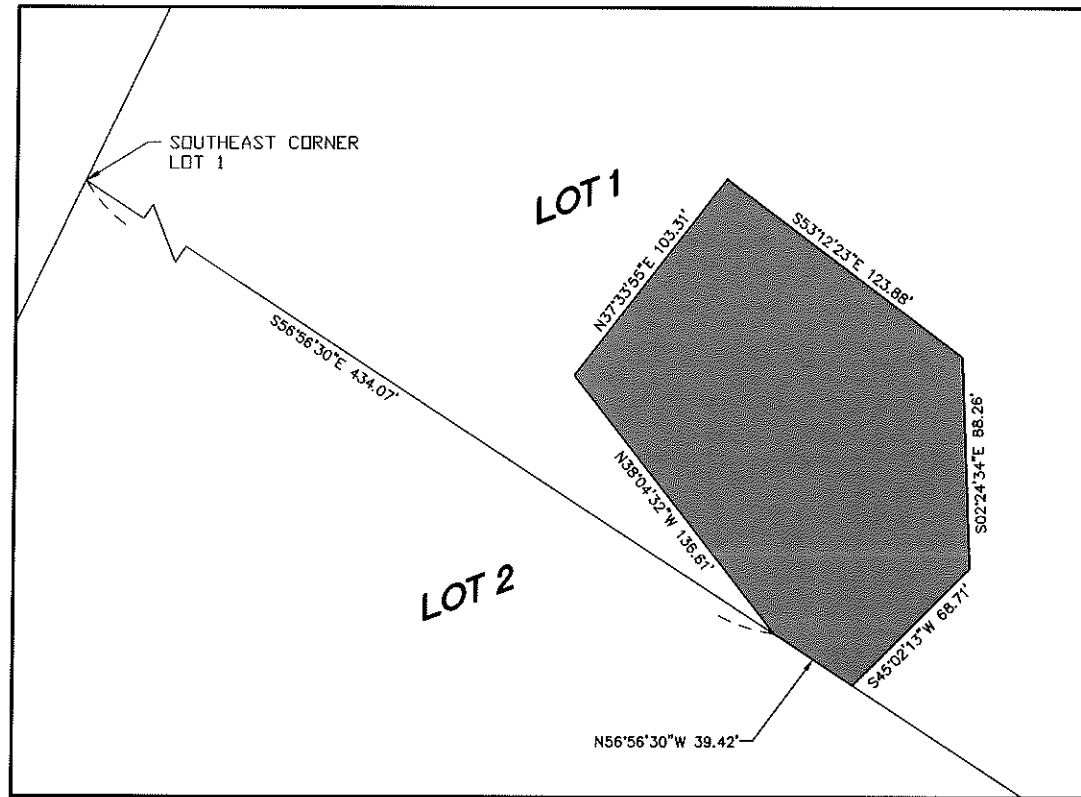
**hgm**  
ASSOCIATES, INC.  
ENGINEERING ARCHITECTURE SURVEYING  
council bluffs omaha

DATE	REVISION
10/18/13	1
10/18/13	2
10/18/13	3
10/18/13	4
10/18/13	5
10/18/13	6
10/18/13	7
10/18/13	8
10/18/13	9
10/18/13	10

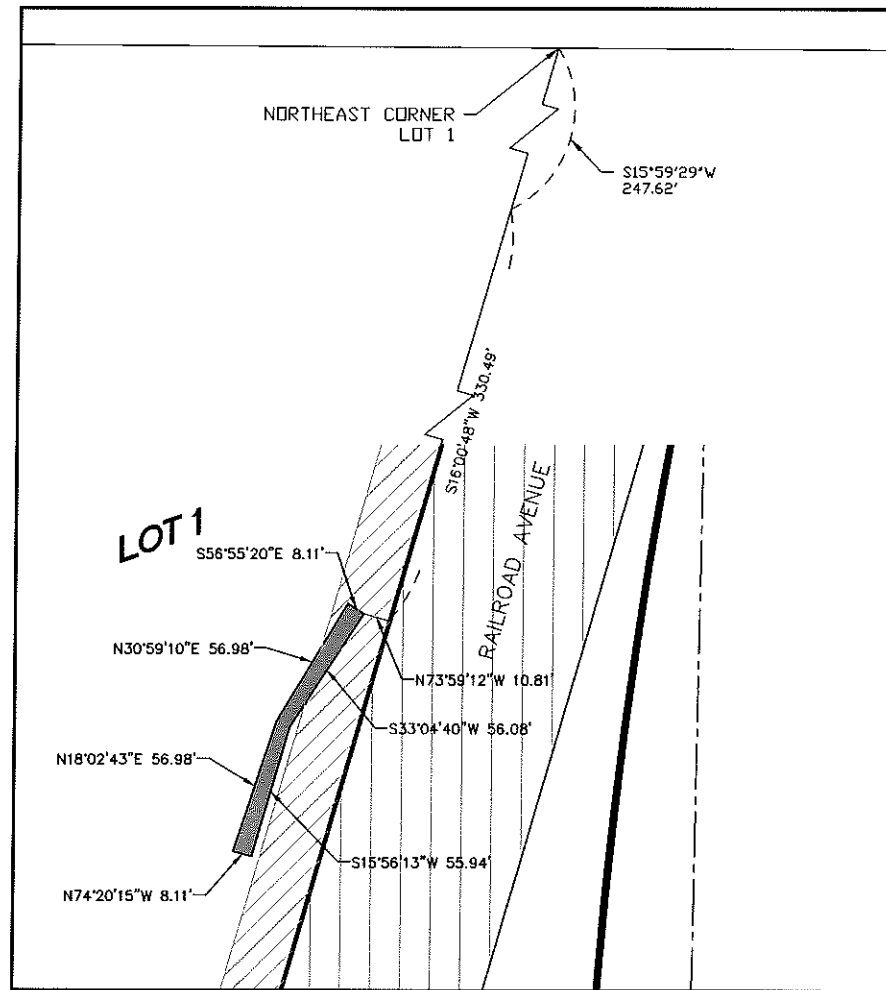
ARBOR CREEK  
NORTHEAST QUARTER SECTION 29-75-43  
209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503  
149 WEST BROADWAY, COUNCIL BLUFFS, IOWA 51502

project no.  
150018  
sheet  
3 OF 4

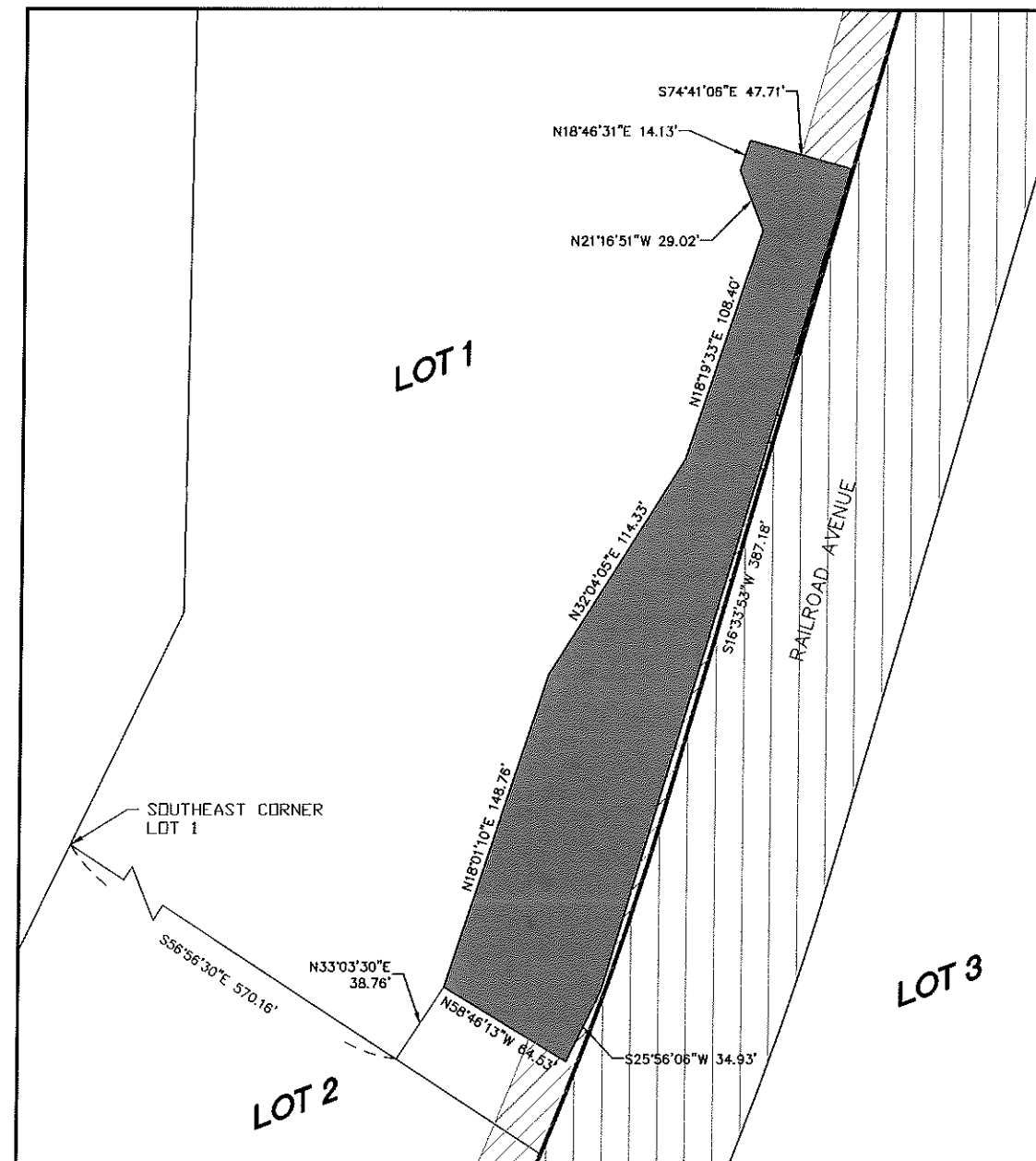
hgm 150018 S:\Survey\Drawings\150018\_08\_Development\150018\_08\_Development\_Rev\_150018.dwg



DETAIL "A"



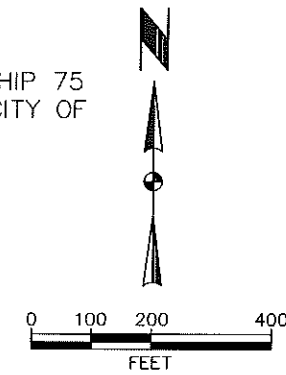
DETAIL "C"



DETAIL "B"

# ARBOR CREEK

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.



NSE	date
drawn	
DEF	
designed	
JML	
approved	
MAY 18	
date	

project ARBOR CREEK  
NORTHEAST QUARTER SECTION 29-75-43  
client 209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503  
sheet 149 WEST BROADWAY, COUNCIL BLUFFS, IOWA 51502

project no.  
150018  
sheet  
4 OF 4

hgm  
ASSOCIATES INC.  
ENGINEERING ARCHITECTURE SURVEYING  
council bluffs omaha

This drawing is being made for use on the project in accordance with the conditions of the contract. It is not to be used for any other purpose without the written consent of the engineer. The engineer assumes no liability for any use of this drawing or any part thereof in connection with the project or for any other purpose.

**RESOLUTION NO. 17-31**

**A RESOLUTION OF THE INTENT TO ENTER INTO A REAL ESTATE LEASE AND  
A FUNDING AND OCCUPANCY AGREEMENT AND LEASE WITH THE MIDLANDS  
HUMANE SOCIETY.**


- WHEREAS,** The City of Council Bluffs owns property located at 1020 Railroad Avenue; and
- WHEREAS,** The Midlands Humane Society desires to cooperate with the City in the management and operation of the Animal Shelter; and
- WHEREAS,** A Lease Agreement and a Funding and Occupancy Agreement have been prepared and proposed to the City of Council Bluffs for the operation and maintenance of the property; and
- WHEREAS,** The City Council of the City of Council Bluffs has been advised and does believe that it would be in the best interests of the City of Council Bluffs to consider said proposal for the lease of the property.

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


That this City Council does hereby declare its intent and proposal to execute a Lease Agreement and a Funding and Occupancy Agreement with Midlands Humane Society for the lease of City owned property located at 1020 Railroad Avenue for a term of 99 years.

ADOPTED  
AND  
APPROVED

February 13, 2017

  
MATTHEW J. WALSH Mayor

Attest:

  
JODI QUAKENBUSH City Clerk



## Council Communication

Department: Public Health	Resolution No. 17-31	To Set PH: 1-23-17 Public Hearing: 2-13-17
<b>Council consideration of a resolution of intent to enter into a real estate lease and a funding and occupancy agreement and lease with the Midlands Humane Society.</b>		
<div style="text-align: center;"><b>Background/Discussion</b></div> <ul style="list-style-type: none"><li>• In 2010, an agreement was approved by City Council to provide for the collaboration of a local government entity and a local non-profit group to consolidate animal shelter operations at a common location to better serve the community. (An updated Exhibit F has been added.)</li><li>• The City made available to Midlands Humane Society, parts of two parcels of real property, located at 1020 Railroad Avenue, upon which a new animal shelter was built.</li><li>• Under the terms of that agreement, the City shall lease the donated property to Midlands Humane Society for a period of not less than 99 years.</li><li>• A Lease Agreement and a Funding and Occupancy Agreement has been prepared and proposed to the City of Council Bluffs for the operation and maintenance of the property.</li></ul>		
<div style="text-align: center;"><b>Recommendation</b></div> <p>Recommend approval of this resolution.</p>		

\_\_\_\_\_  
Donn Dierks, Director of Public Health

\_\_\_\_\_  
Matthew J. Walsh – Mayor

**MIDLANDS HUMANE SOCIETY  
ANIMAL SHELTER AGREEMENT**

This Agreement between the Midlands Humane Society, a 501(c)(3) nonprofit corporation registered to do business in Iowa, hereinafter referred to as "MHS," and the City of Council Bluffs, Iowa, hereinafter referred to as the "City," is being entered this 22<sup>nd</sup> day of April, 2010 (the "effective date"), for the purpose of defining the rights, duties, and obligations of the parties for the construction and operation of an animal shelter. This Agreement supercedes all previous agreements, written or oral, by any parties.

**WITNESSETH:**

WHEREAS, this Agreement is made to provide for the collaboration of a local government entity and a local non-profit group to consolidate their operations at a common location and enable them to better serve the community by providing animal control, animal care and adoption services, and humane educational programming using tax and charitable dollars most efficiently; and

WHEREAS, the City will make available to MHS a certain parcel of real property situated in Council Bluffs, Iowa, described and identified at Exhibit B attached hereto and incorporated herein by this reference, along with all easement rights appurtenant thereto, upon which a new animal shelter (hereinafter "the Shelter") will be built. Said real property together with all buildings, structures and other improvements now or hereafter located thereon shall hereinafter be referred to as the "Project";

WHEREAS, the Project will be used, in accordance with the provisions of this Agreement, by MHS for purposes of operating the Shelter, and from time to time, MHS will lease portions of the Project for use by the City and/or Pottawattamie County, Iowa (if applicable);

WHEREAS the City will contribute funds, in accordance with the provisions set forth herein and in an amount as calculated below, to be used by MHS for the construction and operation of the Shelter;

WHEREAS, MHS, in reliance on the promises and conditions set forth herein, has and will continue to raise funds for the construction and operation of the Shelter;

WHEREAS, this Agreement is to govern the parties' respective rights, duties, and obligations with respect to the design and construction of the Shelter (the "Design and Construction Phase") and the operation of the Shelter (the "Operations Phase");

The parties hereby agree as follows:

**TERM**

The Design and Construction Phase of this Agreement shall begin at such time as

sufficient capital funds have been solicited to meet the estimated construction costs of the Project. The rights, duties, and obligations of the parties as to the Design and Construction Phase shall cease upon the completion of the Project, which is identified in Exhibit D (preliminary building plan) attached hereto (the "Project"), and upon the grant of a Certificate of Occupancy.

Upon the grant of the Certificate of Occupancy, the initial term of the Operations Phase of this Agreement shall commence. The initial term of the Operations Phase shall run for a period of five years. Subsequent terms of five years shall be automatically renewed unless one of the parties gives notice to the other in writing at least six months prior to the expiration date of the term stating its intent to terminate or modify the Agreement. Termination by either party for material breach of this Agreement shall be effected as set forth herein.

During the initial term of the Agreement an annual operational review of the Agreement shall occur in every October of the term. During these reviews, possible modifications to this Agreement may be discussed between the parties at a date and location agreed upon. No modifications shall occur in the initial term of the Agreement unless both parties agree to them in writing. Any such modifications shall be reduced to writing and identified as addenda to the original Agreement.

## **DESIGN AND CONSTRUCTION PHASE**

### **A. DUTIES OF THE PARTIES**

#### **THE CITY:**

1. The City shall grant to MHS the sum of \$1,500,000 for the construction of the Project as identified in Exhibit A. This payment shall be made to MHS in three installments. The first installment of \$250,000 shall be due within 30 days of MHS giving the City written notice that it has obtained pledges for the Project that equal 90% of the funds necessary to construct the Project. The City contribution shall be included in making this determination. The second installment of \$625,000 shall be due on the first anniversary of the initial payment, and the third and final installment of \$625,000 shall be due upon the second anniversary of the initial payment.
2. Payments to MHS:
  - a. The parties agree that the payments made by the City to MHS as described in paragraph 1, above, are critical and indispensable to the successful construction of the Project and the operation of the Shelter.
  - b. Payments by the City shall be deemed in default if not paid within 30 days from the date due. The City's failure to make payments by the date they are due shall result in interest accruing on said payment at the rate of 18% per annum.
  - c. Furthermore, the City shall be liable for any damages incurred by MHS as a consequence of the late payments, including, but not limited to, construction delay

costs, interest and finance charges, late fees, and any costs incurred in collecting delinquent amounts, including attorneys' fees and expenses.

3. The City shall make personnel available for consultation throughout the Design and Construction Phase of the Project, and will make reasonable efforts to assist MHS with its fundraising activities. At MHS's request, the City shall provide personnel to assist MHS in the letting of contracts for the construction of the Project and to assist in the oversight of the work being performed pursuant to said contracts.
4. The City shall lease the property described and identified in Exhibit B (*plat and legal description*) to MHS to be utilized as the site for the Shelter. The terms of this lease shall be as set forth in the document attached hereto as Exhibit C.
5. The City shall take all reasonable steps to assist MHS in applying for and obtaining approval of any permits, licenses, authorizations, waivers, or variances necessary for the construction of the Project. Where the City is the final arbiter of a permit, license, authorization, waiver, or variance, the City's approval for such matters shall not be unreasonably withheld. The City agrees to join in the execution of any instruments which may reasonably be required in order for MHS to procure the issuance of any licenses, permits, building permits or other government approvals required by MHS in its design, construction, operation or use of the Project.

**MHS:**

1. Separate from the payments to be made to MHS by the City as set forth herein, MHS shall be responsible for raising the additional funds necessary for the completion of the Project.
2. MHS shall be responsible for obtaining all permits required by regulatory agencies for the completion of the Project.
3. MHS shall be responsible for the letting of all contracts necessary for the completion of the Project.
4. MHS shall be deemed the sole owner of the Project subject to the rights of the City set out herein.
5. MHS shall make reasonable effort to acquire software for the Shelter that is suitable for the needs of all parties. Final selection of software shall be at the sole discretion of MHS.
6. MHS shall have sole discretion and authority over all aspects of the Design and Construction Phase of this Agreement, including, but not limited to, the hiring and firing of contractors, design, cosmetic and aesthetic issues; and any and all other issues related to construction.

## OPERATIONS PHASE

### **THE CITY:**

1. The City shall enter a lease agreement with MHS to occupy the portion of the Project identified in Exhibit D (*prelim building plan with City area highlighted*), attached hereto. The term of the lease shall be consistent with the term of this Agreement and it shall include the terms and conditions set out in Exhibit E (*standard lease agreement containing lessee/lessor obligations and rights*), attached hereto.
2. Annual Contribution by the City:
  - a. The City shall make an annual contribution ("annual contribution") to MHS to assist with animal care expenses in the amount of \$1.25 per capita city population. The census results published by the Metropolitan Area Planning Agency ("MAPA") immediately prior to the issuance of a Certificate of Occupancy for the Project shall be utilized in determining City population for purposes of this Agreement for each renewal period, the census published by MAPA immediately prior to the date of renewal will be used to determine the current population of the City of Council Bluffs.
  - b. The amount of \$1.25 per capita shall apply to the first full fiscal year the Shelter is in operation and any partial fiscal year that precedes it. The fiscal year runs from July 1 to June 30. For each subsequent fiscal year the annual contribution shall be adjusted upward by the percentage of change in the Consumer Price Index "All Urban Consumers (CPI-U) - U.S. Average - All Items" during the annual period ending on December 31 immediately preceding July 1 of the current fiscal year, as published by the Bureau of Labor Statistics of the United States Department of Labor, or any revised or successor index hereafter published by the Bureau of Labor Statistics or other agency of the United States Government succeeding to its function.
  - c. The City will finalize the calculation of the total annual contribution and will provide a written summary of the calculation to MHS at least 15 business days prior to the start of each fiscal year. The City payments for the annual contribution shall be made in monthly installments which shall be due on the 15<sup>th</sup> day of each month of the calendar year.
  - d. MHS and the City agree to review the annual contribution fee structure for possible adjustment every two years, beginning 24 months after the initiation of operations of the Shelter.
  - e. The parties agree that the annual contribution made to MHS as described in paragraph 2 (a) above is critical and indispensable to the successful operation of the Shelter.
  - f. The City's annual contribution shall be deemed in default if not paid within 10



days from date due. The City's failure to pay the annual contribution by the date it is due shall result in interest accruing on said payment at the rate of 18% per annum.

- g. Furthermore, the City shall be liable for any damages incurred by MHS as a result of the late payments, including, but not limited to, obtaining of alternate financing, interest and finance charges, late fees, and costs incurred in collecting delinquent amounts including reasonable attorney fees.

3. The City shall maintain commercial general liability insurance to insure the activities of the City and its employees at the Shelter and/or the Project in amounts of no less than those identified in Exhibit G (*insurance obligations*), attached hereto. Within 10 business days after the date of occupation of the Shelter, the City shall provide MHS with a copy of certificates of insurance evidencing this coverage on an annual basis; said certificates shall identify MHS as an additional insured.

4. The City indemnifies MHS and holds MHS harmless from any and all liability, and any and all costs associated with such liability, arising from the activities of City employees or representatives that are carried out under the terms of this Agreement, except in such case where MHS has been determined to bear a greater percentage of fault than the City and/or its employees by the trier of fact. Such circumstances include, without limitation, the following:

- a. The City is solely responsible for providing its employees and representatives with adequate health and safety training regarding the handling, transport, and treatment of animals, and the City indemnifies MHS from any and all liabilities and associated costs arising from any failure on the part of the City, its employees, or representatives to comply with statutory or regulatory procedures or requirements governing the handling, transport, and treatment of animals.
- b. The City is solely responsible for supplying its employees and representatives with personal protective equipment to be used in the handling, transport, and treatment of animals, and the City indemnifies MHS from any and all liabilities and associated costs arising from any failure on the part of the City's employees or representatives to use such personal protective equipment, including any and all property damage or personal injury sustained by a City employee or representative, an employee of MHS or representative, or third-party as a consequence thereof.
- c. The City is solely responsible for the conduct of its employees and representatives in carrying out the City's duties and obligations under this Agreement, and the City indemnifies MHS from any and all liabilities and associated costs arising from any negligence, including gross negligence, by a City employee or representative, including property damage or personal injury sustained by a City employee or representative, MHS employee or representative, or third-party.
- d. The City is solely responsible for the hiring and firing of City employees who are carrying out the City's duties and obligations under the Agreement and for managing and monitoring the activities and conduct of its employees and representatives and ensuring that the conduct of its employees and representatives in carrying out the City's duties and

obligations under this Agreement complies with all applicable federal, state, and local laws, and the City indemnifies MHS from any and all liabilities and associated costs arising from the failure of the City, its employees or representatives to comply with applicable federal, state, and local laws including, without limitation, the Fair Labor Standards Act, the Family Medical Leave Act, the Occupational Health and Safety Act, Title VII, and state wage payment laws.

- e. The City is solely responsible for maintaining workers' compensation insurance for employees who are carrying out the City's duties and obligations under the Agreement and the City agrees to indemnify MHS from any and all liabilities and associated costs arising from any personal injury sustained by a City employee in the course of carrying out the City's duties and obligations under the Agreement.
- f. The City is solely responsible for any damage to City property that occurs as a result of activities carried out under the terms this Agreement. The City is responsible for any damage to MHS property that occurs as a result of City activities or the negligence, including gross negligence, of City employees.

**MHS:**

- 1. MHS shall be responsible for the day-to-day operations involving the care of animals and the maintenance of the Shelter unless otherwise specifically stated herein. The minimum standards for these activities shall be as set forth in Exhibit F (*operating portion of the business plan*).
- 2. MHS shall maintain insurance on the Project and the improvements thereto in amounts sufficient to replace them if destroyed. MHS shall also maintain general liability insurance covering the Project in amounts of no less than those identified in Exhibit G (*insurance obligations*), attached hereto. Within 10 business days after the date of occupation of the Shelter, MHS shall provide to City certificates of insurance evidencing this coverage on an annual basis; said certificates shall identify the City as an additional insured.
- 3. MHS indemnifies the City and holds the City harmless from any and all liability, and any and all costs associated with such liability, arising from the activities of MHS employees, volunteers, or representatives that are carried out under the terms of this Agreement, except in such case where the City has been determined to bear a greater percentage of fault than MHS, and/or its employees by the trier of fact. Such circumstances include, without limitation, the following:
  - a. MHS is solely responsible for supplying its employees, volunteers, and representatives with personal protective equipment to be used in the handling, transport, and treatment of animals, and MHS indemnifies the City from any and all liabilities and associated costs arising from any failure on the part of MHS's employees, volunteers, or representatives to use such personal protective equipment, including any and all property damage or personal injury sustained by a MHS employee, volunteer, or representative, an employee of the City or representative, or

third-party as a consequence thereof.

b. MHS is solely responsible for the conduct of its employees, volunteers, and representatives in carrying out MHS's duties and obligations under this Agreement, and MHS indemnifies the City from any and all liabilities and associated costs arising from any negligence, including gross negligence, by a MHS employee, volunteer, or representative, including property damage or personal injury sustained by a MHS employee, volunteer, or representative, City employee or representative, or third party.

c. MHS is solely responsible for the hiring and firing of MHS employees who are carrying out MHS's duties and obligations under the Agreement and for managing and monitoring the activities and conduct of its employees, volunteers, and representatives and ensuring that the conduct of its employees, volunteers, and representatives in carrying out MHS's duties and obligations under this Agreement complies with all applicable federal, state, and local laws, and MHS indemnifies the City from any and all liabilities and associated costs arising from the failure of MHS, its employees, volunteers, or representatives to comply with applicable federal, state, and local laws including, without limitation, the Fair Labor Standards Act the Family Medical leave Act, the Occupational Health and Safety Act, Title VII, and state wage payment laws.

d. MHS is solely responsible for maintaining workers' compensation insurance for employees who are carrying out MHS's duties and obligations under the Agreement and MHS agrees to indemnify the City from any and all liabilities and associated costs arising from any personal injury sustained by an MHS employee in the course of carrying out the MHS's duties and obligations under the Agreement; MHS is solely responsible for any damage to MHS property that occurs as a result of activities carried out under the terms of the Agreement.

e. MHS is responsible for any damage to City property that occurs as a result of MHS activities or the negligence, including gross negligence, of MHS employees, volunteers, or representatives.

#### **COOPERATION AMONG GOVERNMENT ENTITIES; BREACH**

MHS will make a good faith effort to negotiate a substantially similar Agreement with Pottawattamie County, Iowa. All parties agree to cooperate, in furtherance of the goals of this Agreement, with MHS and the other government agency. Breach, by any party, of one of these agreements will not constitute a breach of the other agreement.

### NOTICES

Any notices of consent or other communications given pursuant to this Agreement will be in writing and will be effective either (a) when delivered personally to the party for whom it is intended, (b) on the next business day following mailing by an overnight courier service that is generally recognized as reliable, (c) on the third day following mailing by certified or registered mail, return receipt requested, postage prepaid or (d) on the date transmitted by telecopy as shown on the telecopy confirmation therefore as long as such telecopy transmission is followed by the mailing of such notice by certified or registered mail, return receipt requested, postage prepaid, in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith.

#### **TO THE CITY:**

Mayor  
City Hall  
209 Pearl Street  
Council Bluffs, IA 51503

#### **With a copy to:**

City Attorney  
City Hall  
209 Pearl Street  
Council Bluffs, IA 51503

#### **TO MHS:**

President of the Board  
Midlands Humane Society  
Council Bluffs, IA 51503

#### **With a copy to:**

Director  
Midlands Humane Society  
Council Bluffs, IA 51503

### AMENDMENTS

Before any amendments to this Agreement shall be deemed effective, they shall be reduced to writing and approved by formal action by the governing body of each party, in the case of the City it will be the Mayor, and in the case of MHS it shall be the Board of Directors.

### TERMINATION

Either party to this Agreement may terminate this Agreement upon the default of the other party. A party shall be in default hereunder if (i) such party fails to pay any sum payable herein within 30 days after same is due and payable, or (ii) such party fails in any material respect to perform or comply with any of the other terms, covenants, agreements, or conditions hereof and such

failure continues for more than 90 days after written notice thereof from the other party. In the event that a default (other than a default in the payment of money) is not reasonably susceptible to being cured within the 90-day period, the defaulting party shall not be considered in default if it shall within such 90-day period have commenced with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default.

#### **BREACH AND REMEDIES**

In case of a breach or default, the nondefaulting or nonbreaching parties shall have all remedies permitted under law and equity that are available under the laws of the State of Iowa and those specific remedies as set forth herein.

#### **RELATIONSHIP**

This Agreement shall not be construed as creating a joint venture, partnership or any other cooperative or joint arrangement between the City and MHS, and it shall be construed strictly in accordance with its terms and conditions. Nothing contained herein is intended to confer a benefit upon any third parties.

#### **INTEGRATION CLAUSE - NO ORAL MODIFICATION**

This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement may not be changed, modified or rescinded, except as provided for herein. Any attempt at oral modification of this Agreement shall be void and of no effect.

#### **ASSIGNMENT**

Neither of the parties to this Agreement shall assign their interest in this Agreement without the expressed written consent of the other party. If one party becomes unable to fulfill its obligation and the other party refuses to consent in writing to the assignment of interest, then the Agreement shall be considered null and void on the date six months after the non-consenting party has provided written notice to the assigning party. In such event, both parties agree that operation of the Shelter shall continue during the final six-month term under a management structure that has been accepted in writing by both parties. Both parties agree that such agreement shall not be reasonably withheld.

#### **COUNTERPARTS**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original of this Agreement and all of which, when taken together, shall be deemed to constitute



one and the same Agreement.

#### **SEVERABILITY**

The invalidity or unenforceability of any particular provision, or part of any provision, of this Agreement shall not affect the other provisions or parts hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or parts were omitted.

#### **PARTIES BOUND**

This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto, their personal representatives, their respective successors in office and permitted assigns of the parties hereto for the entire term of this Agreement, including any renewals of the term of this Agreement.

#### **TIME IS OF THE ESSENCE**

Time is of the essence in this Agreement.

#### **NON-WAIVER**

A failure by any party to take any action with respect to any default or violation by the other of any of the terms, covenants, or conditions of this Agreement shall not in any respect limit, prejudice, diminish, or constitute a waiver of any rights of such party to act with respect to any prior contemporaneous, or subsequent violation or default or with respect to any continuation or repetition of the original violation or default.

#### **GOVERNING LAW AND CHOICE OF FORUM**

This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Iowa without giving effect to the principles of conflicts of laws. Any action brought to interpret, enforce or construe any provisions of this Agreement shall be commenced and maintained in the District Court of Pottawattamie County, Iowa (or, as may be appropriate, in the United States District Court for the Southern District of Iowa if the Pottawattamie County District Court lacks or declines jurisdiction over such action.)

In witness whereof, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

CITY OF COUNCIL BLUFFS

By: 

Mayor Thomas P. Hanahan

MIDLANDS HUMANE SOCIETY

By: Leslie A. Southard  
President, Board of Directors

## **LIST OF EXHIBITS**

**Exhibit A – Preliminary construction documents**

**Exhibit B – Plat and legal description of donated property**

**Exhibit C – Lease from City to MHS**

**Exhibit D – Preliminary building plan with City area highlighted**

**Exhibit E – MHS-City lease**

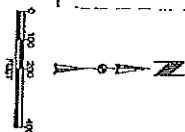
**Exhibit F – Operating Plan**

**Exhibit G – Insurance obligations**

**Exhibit B**

**Plat and legal description of donated property**

**To be supplied by the City.**



# PLAT OF SURVEY

PART 1 OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

- FOUND SECTION CORNER
- FOUND PROPERTY PIN
- SET 2 1/2" x 1 1/2" RESIN w/YELLOW PLASTIC CAP MARKED "HOM ASSOC. PLUS 10508"
- (S) SURVEY
- (D) DEED BOOK 1306, PAGE 101
- (ST) SURVEY OF HOM ASSOCIATES (DON HENDERSON) AUGUST 1974

DATE OF SURVEY: DECEMBER 15, 2014



DECEMBER 17, 2014  
DATE  
MELVIN C. STAMPEL  
LUGGAGE NUMBER 10948  
AT URBAN NATIONAL BANK OF BIRMINGHAM  
PAGE 2 OF 2 PAGES COVERED BY THIS SOLAT

DATE DECEMBER 17, 2014

Project PLAT OF SURVEY  
NORTHEAST QUARTER SECTION 22-73-13

Client CITY OF COUNCIL BLUFFS  
200 PEARL STREET, COUNCIL BLUFFS, IOWA 51501

201

NO  
4/2/71

NCS  
4/2/71

NCS  
4/2/71

DEC '71  
4/2/71

**hgm**  
ASSOCIATES INC.  
640 FIFTH AVENUE, SUITE 1000, NEW YORK, NY 10017  
PHONE: (212) 321-0550

[illegible]



## LEGAL DESCRIPTION -- PARCEL D

THENCE NORTHWEST 1/4 OF SECTION 34, TOWNSHIP 10N, RANGE 1E, COUNTY OF LAC DOUBLOUX, STATE OF IOWA, TO THE SOUTHWEST CORNER OF SAID SECTION 34, BEING A

SAID PARCEL CONTAINS AN AREA OF 6.121 ACRES MORE OR LESS.

# hgm

ASSOCIATES INC  
10 FIFTH AVENUE CORNELL BLVD, KOLA  
PHONE: (212) 312-2551

Project no.  
15013  
Sheet  
2 of 2

**Exhibit C**

**Lease from City to MHS**

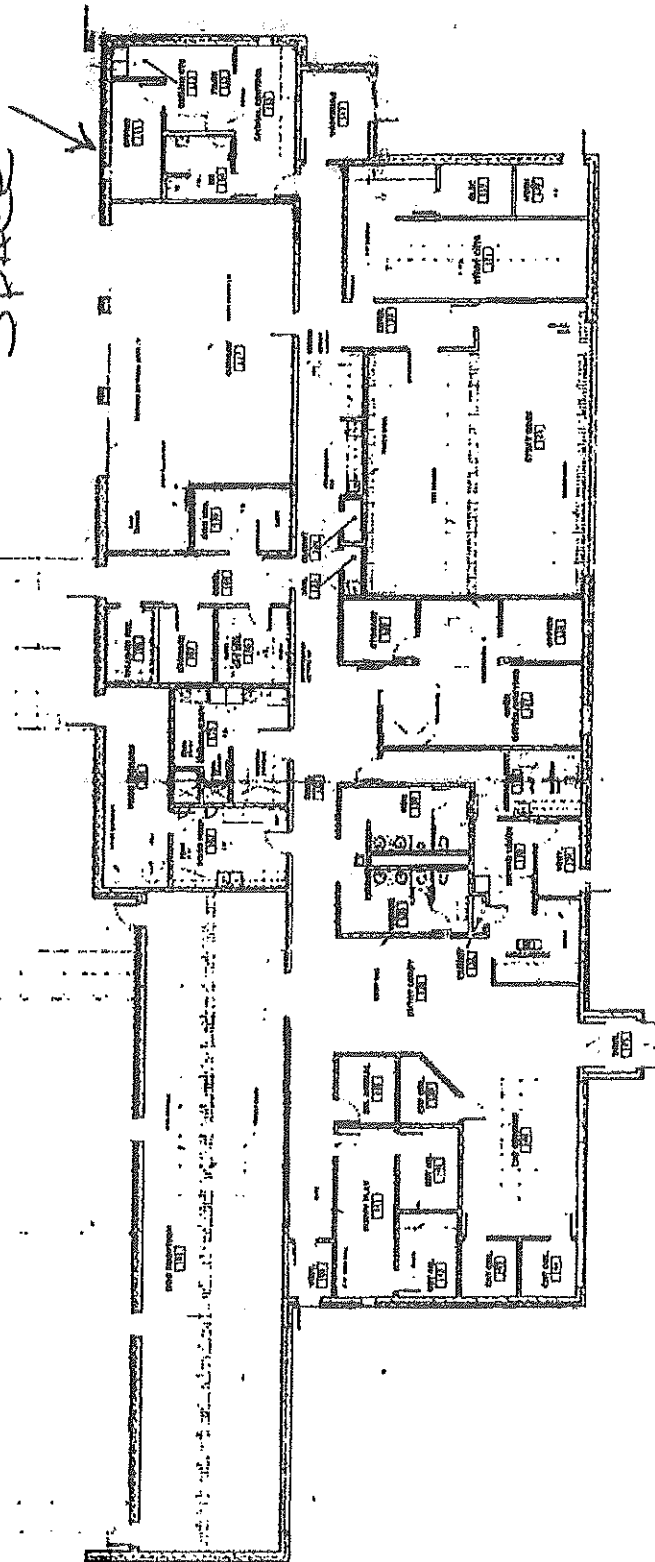
**The City shall lease the donated property to MHS for a period of not less than 99 years. The additional terms of the City-MHS lease of the donated property will be agreed upon by the parties on or before June 1, 2010.**

**Exhibit D**

**Preliminary building plan with City area highlighted**

**To be supplied by MHS.**

Animal Control  
Space



FLOOR PLAN — ①

Exhibit E  
MHS-City lease

To be supplied by MHS.



## Exhibit F

### Operating Plan

During a facilitated meeting process, MHS, County and the City of Council Bluffs identified its organization's core services and discussed how to work in collaboration to create a seamless process for all agency services.

The City and County identified maintaining control of the animal population and protecting citizens as the core services of their animal control officers. Currently, the City and County's staff spend approximately half of their day cleaning, maintaining and caring for animals at their respective shelters. This leaves only fifty percent of their time to address public safety concerns. Public safety issues include: responding to reports of biting, animal abuse, vicious and dangerous animals, injured or trapped animals, strays and animals creating a noise disturbance, animal code enforcement, pet licensing and proper pet vaccination.

Consensus was reached that MHS services would include the following:

- Building an animal shelter in the community that is appropriate in size, location and facilities for housing a full-service humane society and that will meet the five-year needs of the community.
- Building a facility that includes lease space for the City and County's animal control offices
- Providing quality shelter management and animal care through efficiencies gained by locating MHS and City and County animal control department under one roof
- Upgrading the image of animal control by providing traditional humane programs that include community education, animal spay-neuter services and high profile adoption strategies
- Creating an educational framework that would include all three entities where appropriate and would meet the needs of multiple audiences throughout the community. Educational strategies would include:
  - Appropriate care of companion animals
  - Obedience classes
  - Behavior modification training
  - Information regarding licensing, spay-neuter services and vaccination requirements
  - Animal safety
  - Animal abuse prevention
  - Public outreach
- Creating and implementing public awareness campaigns to successfully return animals to their owners
- Implement adoption strategies when pet return options have been exhausted that include:
  - Owner surveys to ensure successful adoptions
  - Direct links to educational offerings for new pet owners

- Developing and implementing effective public relations and marketing plans that will create interest and involvement in issues relating to the agency.
- Creating and maintaining an extensive volunteer base that would support MHS in terms of basic animal care and programmatic endeavors
- Developing revenue-generating projects and services within the scope of MHS to assist with maintaining and growing the annual operating budget
- Offering an MHS-administered telephone helpline for community residents that would assist pet owners with animal care needs
- Offering a meeting site that could be utilized to meet a number of community needs including:
  - MHS-sponsored education and training activities
  - Training space for City and County animal control officers
  - Public meeting space for area community groups
- Cremation and grieving services
- Developing an animal park adjacent to the MHS facility that meets the needs of the community and satisfies the City's obligation to create a park on the property.

MHS staff and volunteers would manage the facility's front desk and reception area. They would be responsible for managing customer relations and for all traffic flow duties including:

- Call intake. All three entities would share one published telephone number that MHS would manage
- Working with the City and County to develop collaborative forms that are customer friendly. Internal accounting protocols would allow one stop customer payments to be itemized across agencies as needed
- Greeting customers and assisting them with form completion and fee collection

MHS, the City and County are exploring one comprehensive computer software program that would allow maximum efficiency between all three entities by:

- Tracking animal intake. Each entity would have partial responsibility for record keeping and maintenance.
- Creating a mandatory process to track animals as they are transferred from the City or County to MHS's control
- Allowing access for all entities to retrieve necessary information with regards to the progression of an animal through the animal control/shelter/placement process

As MHS evolves, it may consider implementing intake policies with bordering counties who do not have a humane society presence. Any relationships with other entities will be determined by space and staff availability and will be considered additional revenue opportunities to support the core services offered by MHS.

MHS will take the lead position in working with animal rescue organizations. The City and County will maintain the lead responsibility in disaster preparedness coordination and will retain a portion of their existing kennels as part of this responsibility.

MHS plans to use a portion of its proposed site for a dog park. This will be the first such amenity for both Council Bluffs and Pottawattamie County. The dog park will be a wonderful complement to the shelter facility and a key marketing location to promote educational programming offered by MHS. MHS is also identifying the dog park as a potential revenue

~~source to support the agency's programming. The dog park also allows the City to meet its obligation to the donor of the property to create a park on the land.~~

### Exhibit G

### Insurance Obligations

The City will maintain the following types of insurance coverage:

1. Commercial general liability insurance covering the activities of the City and/or its employees at the Shelter and/or the Project
2. Worker's Compensation Insurance

MHS will maintain the following types of insurance coverage:

1. Commercial general liability insurance
2. Worker's Compensation Insurance
3. Insurance covering the construction activities undertaken in connection with the Design and Construction Phase
4. Property insurance covering the Project

The amounts of insurance coverage identified above will be agreed upon by the parties.

## **EXHIBIT F**

### **OPERATING PLAN**

January 2017

The City has identified maintaining control of the animal population and protecting citizens as the core services of their animal control officers. Previously, the City's staff spent approximately half their day cleaning, maintaining and caring for animals at the shelter. This left only fifty percent of their time to address public safety concerns. Public safety issues include: responding to reports of biting, animal abuse, vicious and dangerous animals, injured or trapped animals, strays and animals creating a noise disturbance, animal code enforcement, pet licensing and proper pet vaccination.

Consensus was reached that MHS services should include the following:

- \* Maintain an animal shelter in the community that is appropriate in size, location and facilities for housing a full service Humane Society and that will meet the needs of the community. This will include providing quality shelter management and animal care through the efficiencies of locating in a common facility.

- \* Maintain a facility that includes lease space available for the city's animal control offices

- \* Upgrade the image of animal control by providing traditional humane programs that include community education and high-profile adoption strategies.

- \* Create an educational framework that will meet the needs of multiple audiences throughout the community. Educational strategies would include:

- \* appropriate care of companion animals
  - \* behavior modification training for care of animals in-house
  - \* information regarding licensing, spay-neuter services and vaccination requirements
  - \* animal safety
  - \* animal abuse prevention
  - \* public outreach

- \* Create and implement public awareness campaigns to successfully return animals to their owners, as allowed by time and resources available.

- \* Implement adoption strategies when pet return options have been exhausted that include:

- \* owner surveys to ensure successful adoptions
  - \* direct links to educational offerings for new pet owners

- \* Developing and implementing effective public relations and marketing plans that will create interest and involvement in issues relating to the agency.

- \* Creating and maintaining an extensive volunteer base that would support MHS in terms of basic animal care and programmatic endeavors.

- \* Developing revenue-generating projects and services within the scope of MHS to assist with

**maintaining and growing the annual operating budget**

**\*Cremation and euthanasia services and referrals to grieving services**

**\*Developing and maintaining an animal park adjacent to the MHS facility that will meet the needs of the community and satisfy the City's obligation to create a park on the property. The dog park will be treated as an amenity for the City of Council Bluffs, will complement the shelter facility and be a key marketing location for MHS to provide educational programming. MHS may also use the dog park as a potential revenue generator to support its core operations.**

**MHS staff and volunteers will manage the facility's front desk and reception area. This will include being responsible for managing customer relations and traffic flow at the facility, including greeting customers and assisting them with form completion and fee collection.**

**MHS and the City shall explore and implement one comprehensive computer software program that will allow a maximum efficiency by:**

**\*tracking animal intake, with each entity having partial responsibility for record-keeping and maintenance**

**\*allowing access for each entity to retrieve information necessary with regard to the progression of an animal through the animal control/shelter/placement process.**

**As MHS grows and evolves, it may consider implementing intake policies with bordering counties who do not have a Humane Society present. Any relationships with other entities will be determined by space and staff availability and will be considered additional revenue opportunities to support the core services offered by MHS.**

**MHS will take the lead position in working with all animal rescue organizations. The City and MHS will coordinate and work together to take the lead responsibility in disaster preparedness coordination and the City will retain a portion of existing channels as part of the City's responsibility.**

## RESOLUTION NO. 18-273

### **A 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 ¼ OF SECTION 29-75-43, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.**

**WHEREAS,** The Community Development Department, on behalf of the City of Council Bluffs, is requesting final plat approval of a three-lot minor subdivision to be known as Arbor Creek, legally described as being part of the NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and being more particularly described on Attachment 'A'; and

**WHEREAS,** The subdivision is comprised of 29.86 acres of city-owned property and is located immediately north of the intersection of Railroad Avenue and College Road.; and

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

1. The proposed subdivision is zoned A-2/Parks, Estates and Agricultural District. The minimum lot size in an A-2 District is three acres, as per Section 15.05 of the Municipal Code (Zoning Ordinance). Proposed Lot 1, Arbor Creek contains 17.73 acres, Lot 2, Arbor Creek contains 6.19 acres, and Lot 3, Arbor Creek contains 2.30 acres. Lots 1 and 2, Arbor Creek are located west of Railroad Avenue and are relatively uniform in shape, which makes them suitable for development. Both lots comply with A-2 District lot area, depth, and width requirements. Lot 3 is located east of Railroad Avenue and has limited development capabilities due to its irregular dimensions, which were caused by the construction of Railroad Avenue and the City's acquisition of abandoned railroad right-of-way. The City has no other land holdings to combined with Lot 3, Arbor Creek so that it can conform with A-2 District standards due to its location. A subdivision variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) must be granted by City Council. Per Section 14.11.040, *Variance(s)* of the Council Bluffs Municipal Code (Subdivision Ordinance) a variance can be granted 'where it can be shown that due to special conditions, literal enforcement of the ordinance will result in unnecessary hardship', the City shall have the power to vary such regulations so that the substantial justice will be accomplished, provided that such variance would:
  - a) Not be contrary to the public interest;
  - b) Be in the interest of the City;
  - c) Be within the spirit and intent of the ordinance; and
  - d) Not be detrimental to future residents in or near the proposed subdivision.

The Community Development recommends City Council grant a variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) based on reasons stated above.



2. On February 13, 2017, the City Council adopted Resolution No. 17-31 which declared the City's intent to execute a Lease Agreement and a Funding and Occupancy Agreement with Midlands Human Society for the lease of City owned property at 1020 Railroad Avenue for a term of 99 years. Included in the agreement was a plat of survey that identified 1020 Railroad Avenue as being separated into Parcels 'C' and 'D'. Parcel 'C' was left undeveloped and Parcel 'D' was leased to the Midlands Humane Society to be developed as an animal shelter. Proposed Lot 1, Arbor Creek is the same land area identified as Parcel 'C' and proposed Lot 2, Arbor Creek is the same land area identified as Parcel 'D'. The dimensions of proposed Lots 1 and 2, Arbor Creek are generally consistent with the dimensions shown for Parcels 'C' and 'D' on the plat of survey included in the lease agreement.

The Community Development Department met with the Midlands Humane Society on two occasions to discuss the Arbor Creek Subdivision and development proposal for Lot 1. As part of these conversations, Midlands Humane Society expressed concern about their ability to expand their animal shelter operation if Lot 1, Arbor Creek were sold to another entity. The Community Development Department researched MHS's concern and provided them with a conceptual layout plan for how their animal shelter could expand the building and double in size on proposed Lot 2, Arbor Creek. The concept included expansions that would avoid the stormwater detention facility, avoid existing dog runs, and included additional parking. The Community Development Department is of the opinion that the proposed Arbor Creek Subdivision will not interfere with the Midlands Human Society ability to operate and expand upon their animal shelter at 1020 Railroad Avenue.

3. The Community Development Department has received an application from Zimmerman Properties to rezone proposed Lot 2, Arbor Creek from A-2 District to R-3/Low Density Multi-Family Residential District with a Planned Residential Overlay. The rezoning is scheduled for review by the City Planning Commission on October 9, 2018 and will then be forwarded to City Council for final consideration. The purpose of the rezoning is to allow Zimmerman Properties to develop a new 62-unit apartment building on the subject property. Lot 2, Arbor Creek contains 6.19 acres of land and is adequate in size to allow the applicant, Zimmerman Properties, to develop a 62-unit multi-family apartment building in accordance with R-3 District standards.
4. The proposed subdivision is located within Flood Zones 'AE' and '0.2% X' according to FEMA map number 19155C0418F, effective 4/16/2013. With adequate engineering and construction controls, the land in this subdivision is generally suitable for development.

5. A 33' x 783.66' (0.59 acre) strip of land, located south of Lots 2 and 3, Arbor Creek is being dedicated to the City for additional College Road right-of-way on the final plat. Additionally, 0.04 acres of land abutting the west right-of-way line for Railroad Avenue is being dedicated to the City on the final plat. This land dedication is necessary to ensure that existing trail located adjacent to Lots 1 and 2, Arbor Creek is within Railroad Avenue right-of-way.
6. All lots in this subdivision have direct access to Railroad Avenue and/or College Road. No street extensions and/or improvements are required to be completed for this subdivision.
7. All lots in the subdivision have access to public water, sanitary and storm sewers along Railroad Avenue. No utility extension are required to be completed for this subdivision.
8. 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 developer.
9. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.
10. The Council Bluffs Fire Department stated they have no comments for the proposed subdivision.
11. The standard five and ten-foot wide side, front, and rear utility easements are notated on the final plat. The Public Works commented that the following language must be stated on the final plat relative to easements within this subdivision:
  - a) **ERECTION OF STRUCTURES PROHIBITED:** Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld, provided however grantor shall have the right to place and maintain a surfaced roadway over and within the Easement Area.
  - b) **CHANGE OF GRADE PROHIBITED:** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld.
  - c) **RIGHT OF ACCESS:** City shall have the right of access to the Easement Area and have all right of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.
  - d) **REMOVAL AND REPLACEMENT:** With the exception of existing structures, the cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by

- the exercise of the rights under this easement, shall be borne by the Grantor or their successors or assigns.
- e) SURFACE RESTORATION: City's liability to restore the surface within the Easement Area shall be limited only to grading and seeding.
  - f) DUTY TO REPAIR: City agrees that any drain tile, drive or access way, fence, or yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access shall be repaired at no expense to Grantor and to Grantor's satisfaction.
  - g) EASEMENT RUNS WITH LAND: This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.
12. No private restrictions or covenants will be recorded by the City with this plat. A note indicating such shall be stated on the plat prior to being executed; and

**WHEREAS,** The Community Development Department recommends final plat approval of a three lot minor subdivision to be known as Arbor Creek, legally described as being part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and as shown on Attachment 'A', subject to all comments stated above and following conditions:

- a. All technical corrections shall be incorporated into the final plat document prior to being executed; and
- b. 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
- c. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements;
- d. Granting a variance to allow proposed Lot 3, Arbor Creek to not meet the minimum A-2 District lot size and lot width requirements, based on reasons stated above;
- 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. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.

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

That the final plat approval for a three lot minor subdivision to be known as Arbor Creek, legally described as being part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and as shown on Attachment 'A', 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

September 24, 2018.



MATTHEW J. WALSH

Mayor

Attest:



JODI QUAKENBUSH

City Clerk

## Council Communication

Department: Community Development  
Case/Project No.: SUB-18-015  
Submitted by: Christopher Gibbons, Planning  
Coordinator

Resolution 18-273

Council Action: 9/24/2018

### Description

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 ¼ of Section 29-75-43. Location: Immediately north of the intersection of Railroad Avenue and College Road. SUB-18-015

### Background/Discussion

See attachment.

### Recommendation

### ATTACHMENTS:

Description	Type	Upload Date
SUB-18-015 Arbor Creek Subdivision Final Plat PH Notice (9-24-18) CC	Other	9/14/2018
SUB-18-015 Arbor Creek Final Plat Staff Report	Other	9/17/2018
SUB-18-015 Arbor Creek Final Plat Attach A	Other	9/17/2018
SUB-18-015 Arbor Creek Final Plat Attach B	Other	9/17/2018
Resolution 18-273	Resolution	9/18/2018

## Council Communication

<p>Department: Community Development</p> <p>CASE #SUB-18-015</p> <p>Applicant/Owner City of Council Bluffs 209 Pearl Street Council Bluffs, IA 51503</p> <p>Surveyor: Johnathan M. Leisinger, L.S. HGM Associates Inc. 640 5<sup>th</sup> Avenue Council Bluffs, Iowa 51501</p>	<p>Resolution No. _____</p>	<p>City Council: 9/24/18</p>
<b>Subject/Title</b>		
<p>Request: Final plat approval of a three-lot minor subdivision to be known as Arbor Creek, legally described as being a part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa.</p> <p>Location: Immediately north of the intersection of Railroad Avenue and College Road.</p>		
<b>Background/Discussion</b>		
<p>The Community Development Department, on behalf of the City of Council Bluffs, is requesting final plat approval of a three-lot minor subdivision to be known as Arbor Creek, legally described as being part of the NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and being more particularly described on Attachment 'A'. The subdivision is comprised of 29.86 acres of city-owned property and is located immediately north of the intersection of Railroad Avenue and College Road. Included in the subdivision are 0.04 acres of additional Railroad Avenue right-of-way and 0.59 acres of additional College Road right-of-way that will be dedicated to the City of Council Bluffs. The purpose of this subdivision is to create three new lots of record from City owned property and to delineate a section of Railroad Avenue right-of-way, which bisects the subdivision. Furthermore, this subdivision will establish post-construction stormwater easements over existing detention basins on proposed Lot 1, Arbor Creek.</p>		
<p><b><u>Land Use/Zoning</u></b></p> <p>All land in the proposed subdivision is zoned A-2/Parks, Estates and Agricultural District. Midlands Human Society operates an animal shelter on proposed Lot 1, Arbor Creek. Proposed Lots 2 and 3, Arbor Creek are undeveloped. Surrounding zoning includes R-4/High Density Multi-Family Residential District w/Planned Residential Overlay to the north; A-2 District to the east and south; and R-1/Single-Family Residential District to the west. Existing land uses in the general vicinity of this request can be categorized as undeveloped land, BNSF railroad, Mosquito Creek, single-family residential dwellings on acreage lots, Iowa Western Community College, and Sherwood Apartments.</p>		
<b><u>Comments</u></b>		
<p>1. The proposed subdivision is zoned A-2/Parks, Estates and Agricultural District. The minimum lot size in an A-2 District is three acres, as per Section 15.05 of the Municipal Code (Zoning Ordinance). Proposed Lot 1, Arbor Creek contains 17.73 acres, Lot 2, Arbor Creek contains 6.19 acres, and Lot 3, Arbor Creek contains 2.30 acres. Lots 1 and 2, Arbor Creek are located west of Railroad Avenue and</p>		



are relatively uniform in shape, which makes them suitable for development. Both lots comply with A-2 District lot area, depth, and width requirements. Lot 3 is located east of Railroad Avenue and has limited development capabilities due to its irregular dimensions, which were caused by the construction of Railroad Avenue and the City's acquisition of abandoned railroad right-of-way. The City has no other land holdings to combined with Lot 3, Arbor Creek so that it can conform with A-2 District standards due to its location. A subdivision variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) must be granted by City Council. Per Section 14.11.040, *Variance(s)* of the Council Bluffs Municipal Code (Subdivision Ordinance) a variance can be granted 'where it can be shown that due to special conditions, literal enforcement of the ordinance will result in unnecessary hardship', the City shall have the power to vary such regulations so that the substantial justice will be accomplished, provided that such variance would:

- a) Not be contrary to the public interest;
- b) Be in the interest of the City;
- c) Be within the spirit and intent of the ordinance; and
- d) Not be detrimental to future residents in or near the proposed subdivision.

The Community Development recommends City Council grant a variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) based on reasons stated above.

2. On February 13, 2017, the City Council adopted Resolution No. 17-31 which declared the City's intent to execute a Lease Agreement and a Funding and Occupancy Agreement with Midlands Human Society for the lease of City owned property at 1020 Railroad Avenue for a term of 99 years. Included in the agreement was a plat of survey that identified 1020 Railroad Avenue as being separated into Parcels 'C' and 'D'. Parcel 'C' was left undeveloped and Parcel 'D' was leased to the Midlands Humane Society to be developed as an animal shelter. Proposed Lot 1, Arbor Creek is the same land area identified as Parcel 'C' and proposed Lot 2, Arbor Creek is the same land area identified as Parcel 'D'. The dimensions of proposed Lots 1 and 2, Arbor Creek are generally consistent with the dimensions shown for Parcels 'C' and 'D' on the plat of survey included in the lease agreement.

The Community Development Department met with the Midlands Humane Society on two occasions to discuss the Arbor Creek Subdivision and development proposal for Lot 1. As part of these conversations, Midlands Humane Society expressed concern about their ability to expand their animal shelter operation if Lot 1, Arbor Creek were sold to another entity. The Community Development Department researched MHS's concern and provided them with a conceptual layout plan for how their animal shelter could expand the building and double in size on proposed Lot 2, Arbor Creek. The concept included expansions that would avoid the stormwater detention facility, avoid existing dog runs, and included additional parking. The Community Development Department is of the opinion that the proposed Arbor Creek Subdivision will not interfere with Midlands Human Society ability to operate and expand upon their animal shelter at 1020 Railroad Avenue.

3. The Community Development Department has received an application from Zimmerman Properties to rezone proposed Lot 2, Arbor Creek from A-2 District to R-3/Low Density Multi-Family Residential District with a Planned Residential Overlay. The rezoning is scheduled for review by the City Planning Commission on October 9, 2018 and will then be forwarded to City Council for final consideration. The purpose of the rezoning is to allow Zimmerman Properties to develop a new 62-unit apartment building on the subject property. Lot 2, Arbor Creek contains 6.19 acres of land and is adequate in size to allow the applicant, Zimmerman Properties, to develop a 62-unit multi-family apartment building in accordance with R-3 District standards.

4. The proposed subdivision is located within Flood Zones 'AE' and '0.2% X' according to FEMA map number 19155C0418F, effective 4/16/2013. With adequate engineering and construction controls, the land in this subdivision is generally suitable for development.
5. A 33' x 783.66' (0.59 acre) strip of land, located south of Lots 2 and 3, Arbor Creek is being dedicated to the City for additional College Road right-of-way on the final plat. Additionally, 0.04 acres of land abutting the west right-of-way line for Railroad Avenue is being dedicated to the City on the final plat. This land dedication is necessary to ensure that existing trail located adjacent to Lots 1 and 2, Arbor Creek is within Railroad Avenue right-of-way.
6. All lots in this subdivision have direct access to Railroad Avenue and/or College Road. No street extensions and/or improvements are required to be completed for this subdivision.
7. All lots in the subdivision have access to public water, sanitary and storm sewers along Railroad Avenue. No utility extension are required to be completed for this subdivision.
8. 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 developer.
9. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.
10. The Council Bluffs Fire Department stated they have no comments for the proposed subdivision.
11. The standard five and ten-foot wide side, front, and rear utility easements are notated on the final plat. The Public Works commented that the following language must be stated on the final plat relative to easements within this subdivision:
  - i. **ERECTION OF STRUCTURES PROHIBITED:** Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld, provided however grantor shall have the right to place and maintain a surfaced roadway over and within the Easement Area.
  - ii. **CHANGE OF GRADE PROHIBITED:** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld.
  - iii. **RIGHT OF ACCESS:** City shall have the right of access to the Easement Area and have all right of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.
  - iv. **REMOVAL AND REPLACEMENT:** With the exception of existing structures, the cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by the exercise of the rights under this easement, shall be borne by the Grantor or their successors or assigns.
  - v. **SURFACE RESTORATION:** City's liability to restore the surface within the Easement Area shall be limited only to grading and seeding.
  - vi. **DUTY TO REPAIR:** City agrees that any drain tile, drive or access way, fence, or yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access shall be repaired at no expense to Grantor and to Grantor's satisfaction.
  - vii. **EASEMENT RUNS WITH LAND:** This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

12. No private restrictions or covenants will be recorded by the City with this plat. A note indicating such shall be stated on the plat prior to being executed.

#### **Recommendation**

The Community Development Department recommends final plat approval of a three lot minor subdivision to be known as Arbor Creek, legally described as being part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and as shown on Attachment 'A', subject to all comments stated above and following conditions:

- a. All technical corrections shall be incorporated into the final plat document prior to being executed; and
- b. 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
- c. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements;
- d. Granting a variance to allow proposed Lot 3, Arbor Creek to not meet the minimum A-2 District lot size and lot width requirements, based on reasons stated above;
- 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. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.

#### **Attachments**

Attachment A: Arbor Creek final plat

Attachment B: Copy of Resolution No. 17-31, dated February 13, 2017

Surveyor: Johnathan M. Leisinger, L.S., HGM Associates Inc., 640 5<sup>th</sup> Avenue, Council Bluffs, Iowa 51501

Prepared by: Christopher N. Gibbons, AICP, Planning Coordinator

RECORDING INDEX		
BOOK		
PAGE		
SECTION	29	TOWNSHIP 75 N / RANGE 43 W
SUBJECT	CITY OF COUNCIL BLUFFS	
COUNTY	POTTAWATTAMIE	
RECORDED BY	CITY OF COUNCIL BLUFFS	
DATE OF FIELD SURVEY	AUGUST 30, 2018	

PREPARED BY: JONATHAN M. LESINGER, D.L.S., "CS ASSOCIATES INC., P.O. BOX 919, COUNCIL BLUFFS, IOWA 51503 (712) 292-1530

#### LEGAL DESCRIPTION — (DEED RECORDED IN BOOK 1306, PAGE 101)

A PARCEL OF LAND BEING A PORTION OF LOT 1 OF THE AUDITOR'S SUBDIVISION OF THE SOUTHWEST QUARTER NORTHEAST QUARTER (SW1/4NE1/4) OF SECTION 29, THE SOUTH 2 ACRES OF LOT 2 AUDITOR'S SUBDIVISION OF THE NORTHEAST QUARTER NORTHEAST QUARTER (NE1/4NE1/4) OF SECTION 29, AND THAT PART OF THE NORTHWEST QUARTER NORTHEAST QUARTER (NW1/4NE1/4) OF SECTION 29, EXCEPT THE NORTH 601 FEET THEREOF, ALL IN TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SAID SECTION 29;

THENCE ALONG THE WEST LINE OF SAID NORTHEAST QUARTER (NE1/4), SOUTH 00 DEGREES 27 MINUTES 28 SECONDS WEST 601.06 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 89 DEGREES 43 MINUTES 26 SECONDS EAST, 1445.65 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF THE CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD;

THENCE ALONG SAID WESTERLY THE FOLLOWING TWO (2) COURSES:

- 1) SOUTH 16 DEGREES 00 MINUTES 24 SECONDS WEST, 277.78 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 2108.52 FEET;
- 2) SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 23 DEGREES 57 MINUTES 21 SECONDS, 919.22 FEET;

THENCE SOUTH 81 DEGREES 54 MINUTES 49 SECONDS WEST, 75.35 FEET;

THENCE SOUTH 35 DEGREES 31 MINUTES 13 SECONDS WEST, 297.12 FEET;

THENCE SOUTH 29 DEGREES 00 MINUTES 12 SECONDS WEST, 217.21 FEET TO A POINT ON THE CENTERLINE OF COLLEGE ROAD;

THENCE ALONG SAID CENTERLINE, NORTH 61 DEGREES 07 MINUTES 23 SECONDS WEST, 781.69 FEET;

THENCE NORTH 25 DEGREES 35 MINUTES 31 SECONDS EAST, 995.29 FEET;

THENCE NORTH 00 DEGREES 31 MINUTES 23 SECONDS EAST, 579.62 FEET;

THENCE SOUTH 89 DEGREES 59 MINUTES 05 SECONDS WEST, 531.39 FEET TO A POINT ON THE WEST LINE OF SAID NORTHWEST QUARTER (NW1/4);

THENCE ALONG SAID WEST LINE, NORTH 00 DEGREES 27 MINUTES 28 SECONDS EAST, 132.82 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA IS 28.86 ACRES, MORE OR LESS INCLUDING 3.63 ACRES MORE OR LESS OF COLLEGE ROAD AND RAILROAD AVENUE RIGHT-OF-WAYS.

THE DESCRIBED PARCEL ABOVE CONTAINS THE SAME PROPERTY THAT IS DESCRIBED IN BOOK 1306, PAGE 101 IN THE POTTAWATTAMIE COUNTY RECORDER'S OFFICE.

#### NOTE:

A 5.00 FOOT WIDE PERMANENT EASEMENT ON EACH SIDE OF ALL SIDE LOT LINES, A 10.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL FRONT LOT LINES, AND A 5.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL REAR LOT LINES, ARE RESERVED FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES.

#### CITY COUNCIL

APPROVED BY MAYOR: THE HONORABLE MATTHEW J. WALSH DATE  
ATTESTED TO BY:

CITY CLERK: JODI QUAKENBUSH DATE

COMMUNITY DEVELOPMENT DIRECTOR: BRANDON GARRETT DATE

#### CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA

I, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN MIDLANDS SUBDIVISION, IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

TREASURER OF POTTAWATTAMIE COUNTY, IOWA: LEA A. VOSS DATE

## ARBOR CREEK

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

OWNER/DEVELOPER:  
CITY OF COUNCIL BLUFFS  
209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503

#### DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS THAT CITY OF COUNCIL BLUFFS, BEING THE SOLE OWNER OF THE PROPERTY DESCRIBED WITHIN THE LEGAL DESCRIPTION AND EMBRACED WITHIN THIS PLAT, HAS CAUSED SAID PROPERTY TO BE SUBDIVIDED AS LOTS 1 THROUGH 3, INCLUSIVE, AND PUBLIC STREET RIGHT-OF-WAY FOR RAILROAD AVENUE AND COLLEGE ROAD. SAID PROPERTY TO BE KNOWN AS ARBOR CREEK.

AS PART OF THE PLATTING, THE CITY OF COUNCIL BLUFFS DOES HEREBY DEDICATE TO THE CITY OF COUNCIL BLUFFS, IOWA, THE ADDITIONAL RIGHT-OF-WAY FOR RAILROAD AVENUE (0.04 ACRE, MORE OR LESS).

AS PART OF THE PLATTING, THE CITY OF COUNCIL BLUFFS DOES HEREBY DEDICATE TO THE CITY OF COUNCIL BLUFFS, IOWA, THE RIGHT-OF-WAY FOR COLLEGE ROAD (0.59 ACRE, MORE OR LESS).

WE HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MARKETING OBJECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES. WE HEREBY CERTIFY THAT THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE POTTAWATTAMIE COUNTY RECORDER CONTEMPORANEOUSLY WITH THE FILING OF THE FINAL PLAT.

- A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBJECT DEVELOPMENT.
- B. CERTIFIED RESOLUTION OF EACH GOVERNING BODY APPROVING THE SUBDIVISION OR WAIVING THE RIGHT TO REVIEW.

IN WITNESS WHEREOF, I DO HEREBY RATIFY AND APPROVE OF THE DISPOSITION OF THE CITY OF COUNCIL BLUFFS PROPERTY AS CONTAINED HEREIN ON THIS

DAY OF , 2018.

BY: THE HONORABLE MATTHEW J. WALSH, MAYOR

STATE OF IOWA )  
 ) SS.  
COUNTY OF POTTAWATTAMIE )

ON THIS DAY OF , 2018, BEFORE ME A NOTARY PUBLIC IN AND FOR THE STATE OF IOWA, PERSONALLY APPEARED MATTHEW J. WALSH, TO ME PERSONALLY KNOWN, WHO BEING BY ME DULY SWORN, DID SAY HE IS THE MAYOR OF THE CITY OF COUNCIL BLUFFS, THAT NO SEAL HAS BEEN PROCURED BY THE SAID CITY OF COUNCIL BLUFFS, AND THAT SAID INSTRUMENT WAS SIGNED ON BEHALF OF THE SAID CITY OF COUNCIL BLUFFS BY AUTHORITY OF THE CITY COUNCIL AND SAID MATTHEW J. WALSH ACKNOWLEDGED THE EXECUTION OF THE INSTRUMENT TO BE THE VOLUNTARY ACT AND DEED OF SAID CITY OF COUNCIL BLUFFS BY IT VOLUNTARILY EXECUTED.

NOTARY PUBLIC IN AND FOR SAID STATE

MY COMMISSION EXPIRES



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.

JONATHAN M. LESINGER  
LICENSE NUMBER 16415  
DATE AUGUST 30, 2019  
MY LICENSE RENEWAL DATE IS DECEMBER 31, 2018  
PAGES OR SHEETS COVERED BY THIS SEAL:  
SHEET 1 OF 4 SHEET 2 OF 4 SHEET 3 OF 4 SHEET 4 OF 4

THIS SEAL IS VALID FOR THE STATE OF IOWA ONLY. IT IS NOT VALID FOR ANY OTHER STATE. IT IS NOT VALID FOR ANY OTHER PURPOSE. IT IS NOT VALID FOR ANY OTHER REASON.

**hgm**  
ASSOCIATES INC.  
ARCHITECTURE SURVEYING  
council bluffs

USE  
DATE  
BY  
TITLE  
PROJECT

ARBOR CREEK  
NORTHEAST QUARTER SECTION 29-75-43  
COUNCIL BLUFFS, IOWA 51503  
COMMUNITY DEVELOPMENT DEPT.  
209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503  
FINAL PLAT

project no.  
150018  
sheet  
1 OF 4

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

EXHIBIT #

**SHIP MAINTENANCE REQUIREMENTS**

ALL FACILITIES SHALL BE INSPECTED BY A PROFESSIONAL QUALIFIED IN STORMWATER BMP FUNCTION AND MAINTENANCE AT LEAST ANNUALLY TO ENSURE THAT IT IS OPERATING PROPERLY. A WRITTEN RECORD OF INSPECTION RESULTS AND ANY MAINTENANCE WORK SHALL BE MAINTAINED.

GENERAL MAINTENANCE SHALL BE CONDUCTED AS NEEDED. THIS WOULD INCLUDE PRUNING AND WEEDING TO MAINTAIN APPEARANCE, MULCH REPLACEMENT WHEN EROSION IS EVIDENT AND REMOVAL OF TRASH AND DEBRIS.

[illegible]

ANNUALLY THE PLANTING SOILS SHALL BE TESTED FOR PH TO ESTABLISH ACID LEVELS. IF THE PH IS BELOW 5.2, LIME SHALL BE APPLIED, IF THE SOIL PH IS ABOVE 7.5, THEN GYPSEUM CAN BE APPLIED TO REDUCE THE PH.

EVERY TWO TO THREE YEARS THE MULCH SHALL BE REPLACED OVER THE ENTIRE AREA OF THE BIORETENTION FACILITY.

## DETENTION BASIN:

GENERAL MAINTENANCE SHALL BE CONDUCTED AS NEEDED. THIS WOULD INCLUDE PRUNING AND WEEDING TO MAINTAIN APPEARANCE.

THENCE A FEAR THE INLOW AND OUTLET POINTS SHALL BE INSPECTED FOR CLOGGING AND ANY SEDIMENT SHALL BE REMOVED, IMPROVE GRASS VEGETATION FOR EROSION AND GULLING, RE-SEED OR SOO AS NECESSARY, VEGETATION SHOULD BE IMPOSED TO EVALUATE THEIR HEALTH AND REMOVE ANY

THE FACILITIES SHALL BE INSPECTED AFTER SEVERE STORM EVENTS AND ALL ERODED AREAS SHOULD BE STABILIZED WITH GEOTEXTILE FABRIC AND REPLANTED AS REQUIRED.

### PLATE BOLTS BRIDGES OVER SLIDE EARTH

GENERAL MAINTENANCE SHALL BE CONDUCTED AS NEEDED. THIS WOULD INCLUDE REMOVING TRASH AND DEBRIS FROM CURB CUTS AND  
SLOPE STOP MAT.

Twice a year the inflow and outlet points shall be inspected for clogging and any sediment shall be removed. Inspect the 100' x 100' area for erosion and gully/no re-seed or sod as necessary in areas around the scour stop mat. The semi-annual inspections shall occur once before new growth emerges in the spring and once at disposal in the fall.

TELEPHONE: 800-451-5555

AREAS WHICH FAIL TO ESTABLISH VEGETATIVE COVER ADEQUATE TO PREVENT RILL EROSION WILL BE RE-SEEDED AS SOON AS SUCH AREAS ARE IDENTIFIED. CONTROL MEASURES BY MOWING.

## CONCLUSIONS

THE MAINTENANCE REQUIREMENTS ARE AS FOLLOWS. (1) IN GENERAL, STAMPS OF RECEIVING CANNOT BE RETURNED TO BE FULLY REBUILT UNTIL THEY HAVE BEEN MAINTAINED FOR ONE FULL YEAR AFTER PLANTING. (2) NEW SEEDINGS SHALL BE SUPPLIED WITH AN ADEQUATE WATERING SUPPLY UNTIL THE SEASON, IN AN ORDINARY YEAR, IS GENERALLY WELL ADVANCED. (3) ON AVERAGE SITES, WATER APPLICATIONS SHALL BE CONTROLLED TO PREVENT EXCESSIVE RUNOFF. (4) HEREON ALL SOILED AREAS FOR PLANTING SHALL BE RESEEDED WITH SEEDS OF THE SAME SPECIES AND VARIETY AS THE PREVIOUS SEEDING. (5) HEREON ALL AREAS WHERE THE SEEDING HAS NOT GROWN TO A SUFFICIENTLY ADVANCED STAGE TO BE RESEEDING SHALL BE RESEEDING WITH SEEDS OF THE SAME SPECIES AND VARIETY AS THE PREVIOUS SEEDING. (6) IF STAMPS ARE DAMAGED, RE-ESTABLISH FOLLOWING SEEDING AND SEEDING REQUIREMENTS. [5-2] STAMPS HAS LESS THAN 50% COVER. RE-EVALUATE CHOICE OF PLANT MATERIALS AND QUANTITIES OF LIME AND FERTILIZER. THE SOIL MUST BE TESTED TO DETERMINE IF NUTRIENT REQUIREMENTS ARE RESPONSIBLE. RE-EVALUATE STAMPS FOLLOWING SEEDING AND SEEDING REQUIREMENTS.

[illegible]

TEMPORARY DIVERSION DUE:

THE MEASURE SHALL BE INSPECTED AFTER EVERY STORM AND REPAIRS MADE TO THE OKE, FLOW CHANNEL, OUTLET OR SEDIMENT TRAPPING FACILITY, AS NECESSARY. ONCE EVERY TWO WEEKS, WHETHER A STORM EVENT HAS OCCURRED OR NOT, THE MEASURE SHALL BE INSPECTED AND REPAIRS MADE IF NEEDED. DAMAGES CAUSED BY CONSTRUCTION TRAFFIC OR OTHER ACTIVITY MUST BE REPAIRED BEFORE THE END OF EACH WORKING DAY.

## POST® CONSTRUCTION STORMWATER MANAGEMENT PLAN MAINTENANCE AGREEMENT AND EASMENT

WHEREAS, THE PROPERTY OWNER RECOGNIZES THAT STORMWATER MANAGEMENT FACILITIES (HEREINAFTER REFERRED TO AS "THE FACILITY") OR FACILITIES MUST BE MAINTAINED FOR THE PROTECTION OF CALLETT MOUNDLAND HUMANE SOCIETY; LOCATED IN THE JURISDICTION OF THE CITY OF PORTLAND, CLATSOP COUNTY, OREGON, AND,

WHEREAS, THE CITY OF COUNCIL BLUFFS (HEREINAFTER REFERRED TO AS "THE CITY") REQUIRES AND THE PROPERTY OWNER, AND ITS ADMINISTRATORS, EXECUTIVES, SUCCESSORS, OR ASSIGNS, ACKS THAT THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF THE CITY REQUIRE THAT THE FACILITY BE CONSTRUCTED AND MAINTAINED ON THE PROPERTY, AND,

ONE, HERETOFORE, IN CONSIDERATION OF THE FOREGOING PREMISES, THE COVENANTS CONTAINED HEREIN, AND THE FOLLOWING TERMS AND CONDITIONS, THE PROPERTY OWNER AGREES AS FOLLOWS:

1. THE FACILITY OR FACILITIES SHALL BE CONSTRUCTED BY THE PROPERTY OWNER IN ACCORDANCE WITH THE PCOMA, WHICH HAS BEEN REVIEWED AND ACCEPTED BY THE CITY OF COUNCIL BLUFFS ON ITS BEHALF.

2. THE PROPERTY OWNER MUST DEVELOP AND PROVIDE THE "BMP MAINTENANCE REQUIREMENTS," ATTACHED HERE TO AS EXHIBIT "B," WHICH HAVE BEEN REVIEWED AND ACCEPTED BY THE CITY OF CONNOR BLUFFS OF ITS DESIGNEE. THE BMP MAINTENANCE REQUIREMENTS SHALL BECOME THE SPECIFIC MAINTENANCE PRACTICES TO BE PERFORMED FOR THE FACILITIES AND INCLUDE A SCHEDULE FOR IMPLEMENTATION OF EACH MAINTENANCE PRACTICE. THE PROPERTY OWNER SHALL REVIEW THE MAINTENANCE REQUIREMENTS ANNUALLY TO DETERMINE IF ANY CHANGES ARE NEEDED TO THE MAINTENANCE REQUIREMENTS. THE MAINTENANCE REQUIREMENTS SHALL BE REVIEWED AND APPROVED BY THE CITY OF CONNOR BLUFFS. THE PROPERTY OWNER SHALL SUBMIT A WRITTEN REPORT OF INSPECTION RESULTS AND ANY MAINTENANCE WORK SHALL BE MAINTAINED AND AVAILABLE FOR REVIEW BY THE CITY.

3. THE PROPERTY OWNER, ITS ADMINISTRATORS, EXECUTIVES, SUCCESSIONS, HEIRS, OR ASSIGNS, SHALL CONSTRUCT AND PERPETUALLY OPERATE AND MAINTAIN, AT ITS SOLE EXPENSE, THE FACILITIES IN STRICT ACCORDANCE WITH THE ATTACHED SUMP MAINTENANCE REQUIREMENTS ACCEPTED BY THE CITY OF COUNCIL BLUFFS ON ITS DESIGNE.

[illegible]

5. THE PROPERTY OWNER OR ITS ADMINISTRATORS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS, AGREES THAT SHOULD IT FAIL TO CORRECT ANY OF THE DAMAGE TO THE CITY'S RECORDS ON WHICH IT IS BASED DURING ANY OF THE PERIODS OF THE CITY'S REVIEW, IT SHALL BE RESPONSIBLE FOR THE COSTS OF THE CITY'S RECORDS ON WHICH IT IS BASED DURING ANY OF THE PERIODS OF THE CITY'S REVIEW, AND SHALL BE RESPONSIBLE FOR THE COSTS OF THE CITY'S RECORDS ON WHICH IT IS BASED DURING ANY OF THE PERIODS OF THE CITY'S REVIEW, AND SHALL BE RESPONSIBLE FOR THE COSTS OF THE CITY'S RECORDS ON WHICH IT IS BASED DURING ANY OF THE PERIODS OF THE CITY'S REVIEW.

THE CITY OF COUNCIL BLUFFS OR ITS DECREEE SHALL HAVE THE RIGHT TO RECOVER FROM THE PROPERTY OWNER ANY AND ALL REASONABLE COSTS THE CITY OF COUNCIL BLUFFS EXPENDS TO MAINTAIN OR REPAIR THE FACILITY ON FACILITIES OR TO CORRECT ANY OPERATIONAL DEFECTS SUBJECT TO THE PROVISIONS OF THE MAINTENANCE REPAIRING SENTENCE RELATION TO NEGLIGENCE OR INTENTIONAL ACTS OF THE CITY. FAILURE TO PAY THE CITY OF COUNCIL BLUFFS OR ITS DECREEE ALL OF ITS EXPENDED COSTS, AFTER FORTY-FIVE DAYS WRITTEN NOTICE, SHALL CONSTITUTE A BREACH OF THE AGREEMENT. THE CITY OF COUNCIL BLUFFS OR ITS DECREEE SHALL THEREAFTER BE ENTITLED TO BRING SUIT TO ENFORCE THE OBLIGATION OF THE CONTRACT OR TO RECOVER FROM THE PROPERTY OWNER THE COSTS INCURRED BY THE CITY OF COUNCIL BLUFFS OR ITS DECREEE TO MAINTAIN OR REPAIR THE FACILITY. THE FIRST PRIORITY OF BRINK, PETERSON, COLLECTION GROUP AND REASONABLE ATTORNEY'S FEES SHALL BE ADDED TO THE RECOVERY TO THE SUCCESSFUL PARTY.

6. THE PROPERTY OWNER SHALL NOT OBLIGATE THE CITY OF COUNCIL BLUFFS TO MAINTAIN OR REPAIR THE FACILITY OR FACILITIES, AND, EXCEPT AS PROVIDED HEREIN, THE CITY OF COUNCIL BLUFFS SHALL NOT BE LIABLE TO ANY PERSON FOR THE CONDITION OR OPERATION OF THE FACILITY OR FACILITIES.

7.2. THE PROPERTY OWNER, ITS ADMINISTRATORS, EXECUTIVES, SUCCESSORS, HEIRS, OR ASSIGNS, HERETOBY INDICATES AND HELDS HARMLESS THE CITY AND ITS AUTHORIZED AGENTS AND EMPLOYEES FOR ANY AND ALL DAMAGE, ACCIDENTS, CASUALTIES, OCCURRENCES OR CLAIMS ("CLAIMS") INCURRED BY THE CITY OR ITS AUTHORIZED AGENTS OR EMPLOYEES IN CONNECTION WITH THE CITY'S INVESTIGATION OF ANY SUCH CLAIM. THE CITY'S MAINTENANCE OF THE FACILITY OR FACILITIES BY THE PROPERTY OWNER, IN THE EVENT A CLAIM IS ASSERTED AGAINST THE CITY, IS NOT AN AUTHORIZED AGENT OR EMPLOYEE. THE CITY SHALL PROMPTLY NOTIFY THE PROPERTY OWNER, PROPERTY OWNER SHALL DEFEND AT ITS OWN EXPENSE ANY SUCH CLAIM BASED ON SUCH CLAIM TO THE EXTENT SUCH CLAIM DID NOT ARISE FROM THE INTENTIONAL ACTS OR NEGLIGENCE OF THE PROPERTY OWNER OR EMPLOYEES. THE CITY SHALL NOT BE RESPONSIBLE FOR THE DEFENSE OF ANY SUCH CLAIM BASED ON ANY SUCH CLAIM MADE AGAINST BOTH THE CITY OF COUNCIL BLUFFS AND THE PROPERTY OWNER, SUCH WILL BE REQUIRED TO DEFEND ANY SUCH SUIT OR CLAIM AGAINST IT AT ITS OWN EXPENSE. EACH SHALL BE RESPONSIBLE FOR PAYMENT OF ANY SUCH CLAIM TO THE EXTENT DETERMINED IN SUCH SUIT. IF ANY JUDICIAL OR CLAIM AGAINST THE CITY, ITS AUTHORIZED AGENTS OR EMPLOYEES SHALL BE ALLOWED, THE PROPERTY OWNER SHALL DEFEND AND DEFENDERS IN CONNECTION HEREWITH ACCEPT TO THE EXTENT OF THE INSURANCE OR RETENTION OF THE CITY.

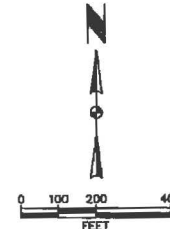
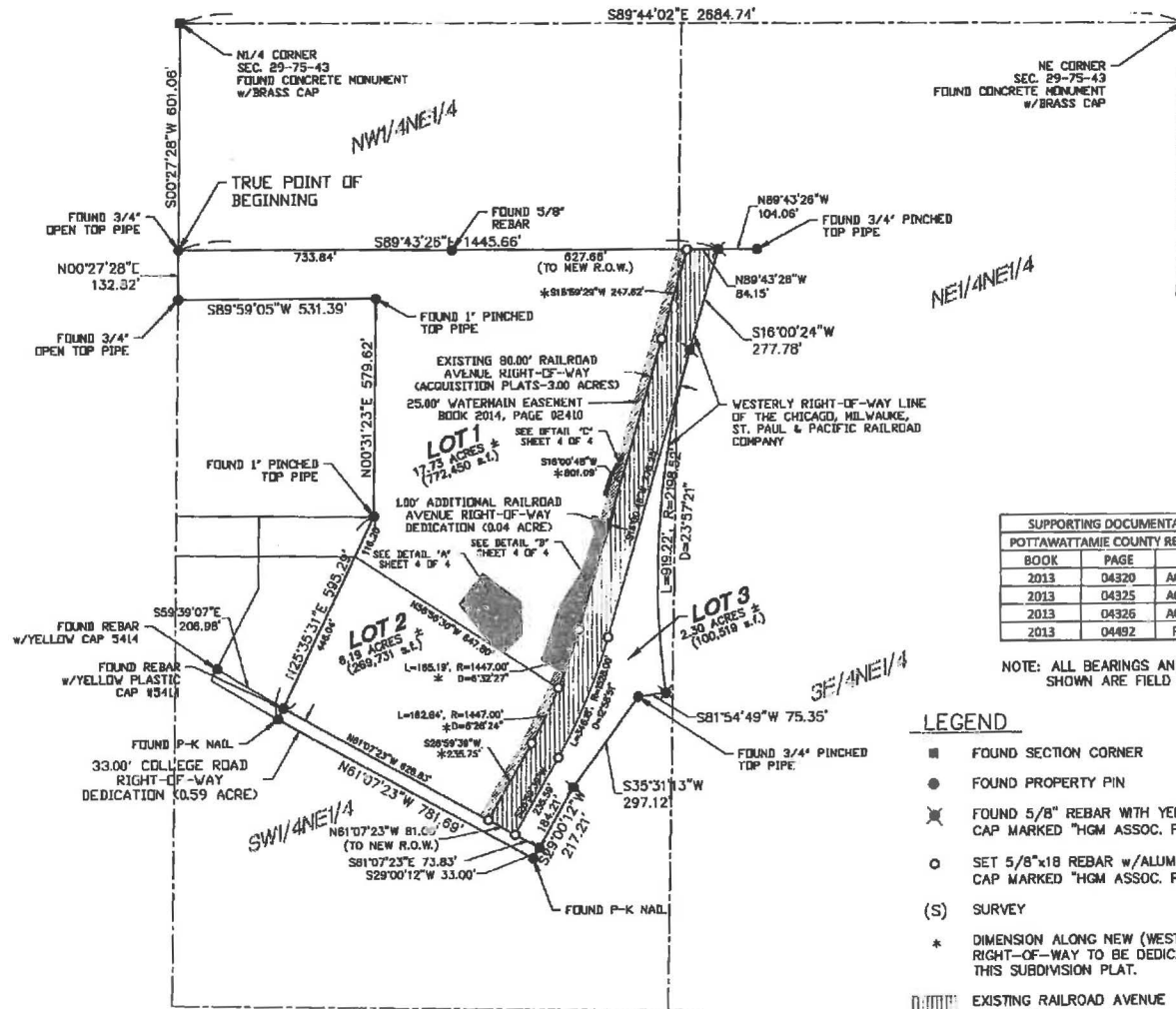
AND THE PROPERTY OWNER SHALL NOT IN ANY WAY DIMINISH, LIMIT OR RESTRICT THE RIGHT OF THE CITY OF COUNCIL BLUFFS TO ENFORCE ANY OF ITS ORDINANCES AS AUTHORIZED BY LAW.

8. THIS AGREEMENT SHALL CONSTITUTE A COVENANT RUNNING WITH THE LAND AND SHALL BE BINDING ON THE PROPERTY OWNER, ITS ADMINISTRATIONS, EXECUTORS, SUCCESSORS, HEIRS, OR ASSIGNS, INCLUDING ANY HOMEOWNERS OR BUSINESS ASSOCIATION AND ANY OTHER SUCCESSORS IN INTEREST.



# ARBOR CREEK

PART OF THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 75  
NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF  
COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.



SUPPORTING DOCUMENTATION		
POTTAWATTAMIE COUNTY RECORDER		
BOOK	PAGE	DESCRIPTION
2013	04320	ACQUISITION PLAT
2013	04325	ACQUISITION PLAT
2013	04326	ACQUISITION PLAT
2013	04492	PLAT OF SURVEY

NOTE: ALL BEARINGS AND DISTANCES  
SHOWN ARE FIELD MEASUREMENTS.

## LEGEND

- FOUND SECTION CORNER
- FOUND PROPERTY PIN
- ✕ FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP MARKED "HGM ASSOC. PLS 10569"
- SET 5/8"x18 REBAR w/ALUMINUM CAP MARKED "HGM ASSOC. PLS 14415"
- (S) SURVEY
- \* DIMENSION ALONG NEW (WEST) RIGHT-OF-WAY TO BE DEDICATED WITH THIS SUBDIVISION PLAT.
- EXISTING RAILROAD AVENUE RIGHT-OF-WAY
- EXISTING WATER MAIN EASEMENT
- POST CONSTRUCTION STORMWATER MANAGEMENT EASEMENT

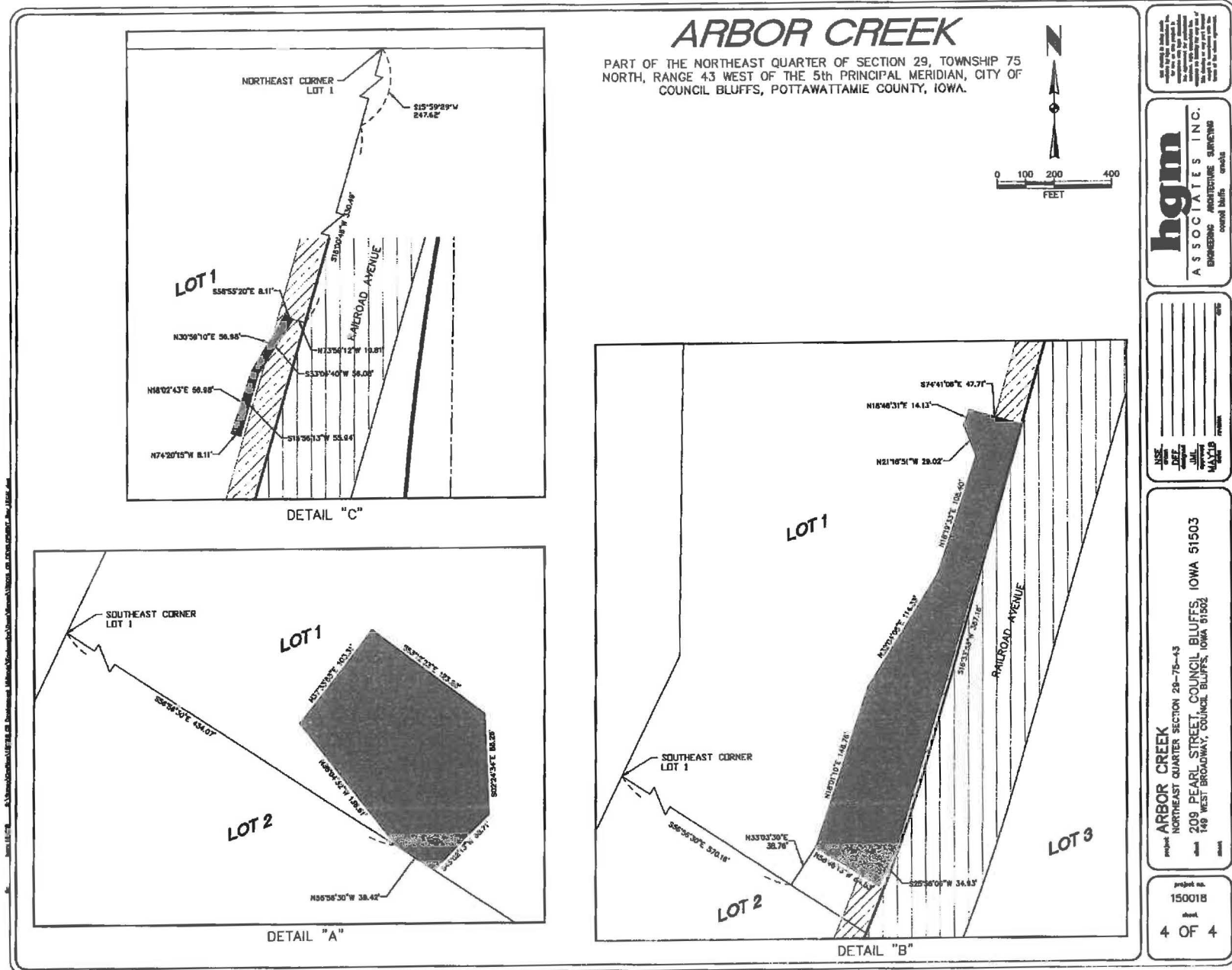
**hgm**  
ASSOCIATES INC.  
ENGINEERING ARCHITECTURE SURVEYING  
COUNCIL BLUFFS, IOWA

DATE: MAY 19, 2013  
BY: [Signature]  
CHECKED: [Signature]  
APPROVED: [Signature]

ARBOR CREEK  
NORTHEAST QUARTER SECTION 29-75-43  
209 PEARL STREET, COUNCIL BLUFFS, IOWA 51503  
149 WEST BROADWAY, COUNCIL BLUFFS, IOWA 51502

project no.  
150018  
sheet  
3 OF 4





## Proof Of Publication

State of Iowa

Pottawattamie County

### NOTICE OF PUBLIC HEARING

#### 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 the request of the Community Development Department for final plat approval of a three lot minor subdivision to be known as Arbor Creek, legally described as being part of the NE1/4 of Section 29-75-43, 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 24th day of September, 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.  
2018(9)16-1 Sunday

I, Amy McKay, on my oath do solemnly that I am Controller of the COUNCIL BLUFFS DAILY NONPAREIL, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

The attached notice was published in said newspaper 1 consecutive time(s) as follows:

The First publication thereof began on the 16th day of September, 2018.

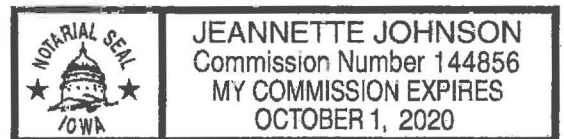
Signed in my presence by the said Amy McKay and by her sworn to before me this 16th day of September, A.D. 2018.

  
Amy McKay  
Daily Nonpareil Controller

  
Jeannette Johnson  
Notary Public

Filed this 16th day of September, A.D. 2018.

Pulication Cost: \$11.78



Customer Number: 1093258  
Order Number: 0030019014

**RECONSIDERED  
RESOLUTION NO. 18-273**

**A 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 ¼ OF SECTION 29-75-43, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.**

**WHEREAS,** The Community Development Department, on behalf of the City of Council Bluffs, is requesting final plat approval of a three-lot minor subdivision to be known as Arbor Creek, legally described as being part of the NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and being more particularly described on Attachment 'A'; and

**WHEREAS,** The subdivision is comprised of 29.86 acres of city-owned property and is located immediately north of the intersection of Railroad Avenue and College Road.; and

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

1. The proposed subdivision is zoned A-2/Parks, Estates and Agricultural District. The minimum lot size in an A-2 District is three acres, as per Section 15.05 of the Municipal Code (Zoning Ordinance). Proposed Lot 1, Arbor Creek contains 17.73 acres, Lot 2, Arbor Creek contains 6.19 acres, and Lot 3, Arbor Creek contains 2.30 acres. Lots 1 and 2, Arbor Creek are located west of Railroad Avenue and are relatively uniform in shape, which makes them suitable for development. Both lots comply with A-2 District lot area, depth, and width requirements. Lot 3 is located east of Railroad Avenue and has limited development capabilities due to its irregular dimensions, which were caused by the construction of Railroad Avenue and the City's acquisition of abandoned railroad right-of-way. The City has no other land holdings to combined with Lot 3, Arbor Creek so that it can confirm with A-2 District standards due to its location. A subdivision variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) must be granted by City Council. Per Section 14.11.040, *Variance(s)* of the Council Bluffs Municipal Code (Subdivision Ordinance) a variance can be granted 'where it can be shown that due to special conditions, literal enforcement of the ordinance will result in unnecessary hardship', the City shall have the power to vary such regulations so that the substantial justice will be accomplished, provided that such variance would:
  - a) Not be contrary to the public interest;
  - b) Be in the interest of the City;
  - c) Be within the spirit and intent of the ordinance; and
  - d) Not be detrimental to future residents in or near the proposed subdivision.

The Community Development recommends City Council grant a variance to allow Lot 3, Arbor Creek to not comply with the minimum A-2 District lot size requirements (area, depth, and width) based on reasons stated above.

2. On February 13, 2017, the City Council adopted Resolution No. 17-31 which declared the City's intent to execute a Lease Agreement and a Funding and Occupancy Agreement with Midlands Human Society for the lease of City owned property at 1020 Railroad Avenue for a term of 99 years. Included in the agreement was a plat of survey that identified 1020 Railroad Avenue as being separated into Parcels 'C' and 'D'. Parcel 'C' was left undeveloped and Parcel 'D' was leased to the Midlands Humane Society to be developed as an animal shelter. Proposed Lot 1, Arbor Creek is the same land area identified as Parcel 'C' and proposed Lot 2, Arbor Creek is the same land area identified as Parcel 'D'. The dimensions of proposed Lots 1 and 2, Arbor Creek are generally consistent with the dimensions shown for Parcels 'C' and 'D' on the plat of survey included in the lease agreement.

The Community Development Department met with the Midlands Humane Society on two occasions to discuss the Arbor Creek Subdivision and development proposal for Lot 1. As part of these conversations, Midlands Humane Society expressed concern about their ability to expand their animal shelter operation if Lot 1, Arbor Creek were sold to another entity. The Community Development Department researched MHS's concern and provided them with a conceptual layout plan for how their animal shelter could expand the building and double in size on proposed Lot 2, Arbor Creek. The concept included expansions that would avoid the stormwater detention facility, avoid existing dog runs, and included additional parking. The Community Development Department is of the opinion that the proposed Arbor Creek Subdivision will not interfere with the Midlands Human Society ability to operate and expand upon their animal shelter at 1020 Railroad Avenue.

3. The Community Development Department has received an application from Zimmerman Properties to rezone proposed Lot 2, Arbor Creek from A-2 District to R-3/Low Density Multi-Family Residential District with a Planned Residential Overlay. The rezoning is scheduled for review by the City Planning Commission on October 9, 2018 and will then be forwarded to City Council for final consideration. The purpose of the rezoning is to allow Zimmerman Properties to develop a new 62-unit apartment building on the subject property. Lot 2, Arbor Creek contains 6.19 acres of land and is adequate in size to allow the applicant, Zimmerman Properties, to develop a 62-unit multi-family apartment building in accordance with R-3 District standards.
4. The proposed subdivision is located within Flood Zones 'AE' and '0.2% X' according to FEMA map number 19155C0418F, effective 4/16/2013. With adequate engineering and construction controls, the land in this subdivision is generally suitable for development.

Planning Case No. #SUB-18-015

5. A 33' x 783.66' (0.59 acre) strip of land, located south of Lots 2 and 3, Arbor Creek is being dedicated to the City for additional College Road right-of-way on the final plat. Additionally, 0.04 acres of land abutting the west right-of-way line for Railroad Avenue is being dedicated to the City on the final plat. This land dedication is necessary to ensure that existing trail located adjacent to Lots 1 and 2, Arbor Creek is within Railroad Avenue right-of-way.
6. All lots in this subdivision have direct access to Railroad Avenue and/or College Road. No street extensions and/or improvements are required to be completed for this subdivision.
7. All lots in the subdivision have access to public water, sanitary and storm sewers along Railroad Avenue. No utility extension are required to be completed for this subdivision.
8. 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 developer.
9. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.
10. The Council Bluffs Fire Department stated they have no comments for the proposed subdivision.
11. The standard five and ten-foot wide side, front, and rear utility easements are notated on the final plat. The Public Works commented that the following language must be stated on the final plat relative to easements within this subdivision:
  - a) **ERECTION OF STRUCTURES PROHIBITED:** Grantor shall not erect any structure over or within the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld, provided however grantor shall have the right to place and maintain a surfaced roadway over and within the Easement Area.
  - b) **CHANGE OF GRADE PROHIBITED:** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City Engineer which shall not be unreasonably withheld.
  - c) **RIGHT OF ACCESS:** City shall have the right of access to the Easement Area and have all right of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described.
  - d) **REMOVAL AND REPLACEMENT:** With the exception of existing structures, the cost of removal and replacement of any unauthorized improvement or structures within the Easement Area, necessitated by

- the exercise of the rights under this easement, shall be borne by the Grantor or their successors or assigns.
- e) SURFACE RESTORATION: City's liability to restore the surface within the Easement Area shall be limited only to grading and seeding.
  - f) DUTY TO REPAIR: City agrees that any drain tile, drive or access way, fence, or yard or other improvements outside of the Easement Area which may be damaged as a result of any entry made through an exercise of the City's right of access shall be repaired at no expense to Grantor and to Grantor's satisfaction.
  - g) EASEMENT RUNS WITH LAND: This easement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.
12. No private restrictions or covenants will be recorded by the City with this plat. A note indicating such shall be stated on the plat prior to being executed; and

**WHEREAS,** The Community Development Department recommends final plat approval of a three lot minor subdivision to be known as Arbor Creek, legally described as being part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and as shown on Attachment 'A', subject to all comments stated above and following conditions:

- a. All technical corrections shall be incorporated into the final plat document prior to being executed; and
- b. 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
- c. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements;
- d. Granting a variance to allow proposed Lot 3, Arbor Creek to not meet the minimum A-2 District lot size and lot width requirements, based on reasons stated above;
- 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. A public sidewalk shall be installed along the frontage(s) of each lot prior to issuance of a Certificate of Occupancy for any development on each lot.



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

That the final plat approval for a three lot minor subdivision to be known as Arbor Creek, legally described as being part of NE ¼ of Section 29-75-43, City of Council Bluffs, Pottawattamie County, Iowa and as shown on Attachment 'A', 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 22, 2018.

\_\_\_\_\_  
MATTHEW J. WALSH

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
JODI QUAKENBUSH

\_\_\_\_\_  
City Clerk

## Council Communication

Department: Community Development  
Case/Project No.: OTB-18-026  
Submitted by: Chris Meeks, Planner

Resolution 18-299

Council Action: 10/22/2018

### Description

Resolution to dispose of City described as Lot 8, Block 14, Pierce's Subdivision. Location: Formerly addressed as 1813 8<sup>th</sup> Avenue. OTB-18-026

### Background/Discussion

See attachment.

### Recommendation

### ATTACHMENTS:

Description

[OTB-18-026 Jones 2nd Hearing Staff Report Including Attach \(10-22-18\) CC](#)

[Resolution 18-299](#)

Type

Other

Resolution

Upload Date

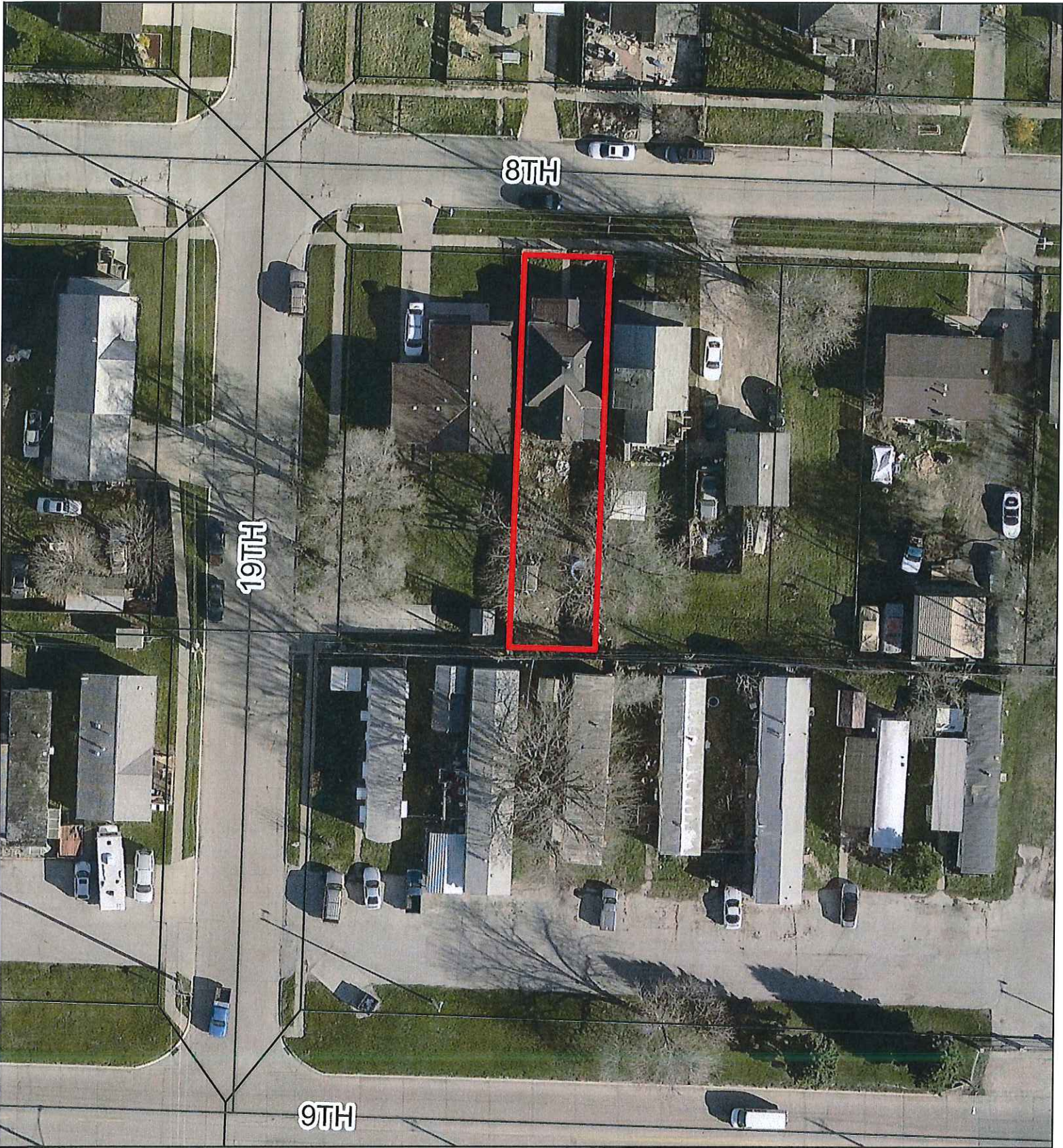
10/12/2018

10/16/2018

## Council Communication

Department: Community Development  CASE #OTB-18-026  Applicant: Joseph Jones 1813 8 <sup>th</sup> Avenue Council Bluffs, IA 51501	Resolution to Dispose No. _____	Public Hearing: 10/22/2018
<b>Subject/Title</b>		
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 <sup>th</sup> Avenue.		
<b>Background/Discussion</b>		
<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. The applicant has offered \$624.00 for the entirety of Lot 8, Block 14, Pierce's Subdivision, which would 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 of 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> <p>In an effort to resolve a potentially non-conforming side-yard setback, the Community Development Department contacted the owner of the home addressed as 1825 8<sup>th</sup> Avenue. That owner, Christina M. Martinez, indicated she was willing to acquire the West half of the subject parcel for \$327.00, which is the value established using the most recent fee schedule for street/alley vacations.</p>		
<b>Recommendation</b>		
<p>The Community Development Department recommends approval to disposal of the property legally described as Lot 8, Block 14, Pierce's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, in the following manner:</p> <ol style="list-style-type: none"> <li>1) Joseph Jones, owner of the home addressed as 1813 8<sup>th</sup> Avenue, will receive the East ½ of Lot 8, Block 14, Pierce's Subdivision, for the total purchase price of \$327.00 (\$265.00 due at closing, \$62.00 already paid as a down payment). Closing shall occur within 60 days of final approval.</li> <li>2) Christina M. Martinez, owner of the home addressed as 1825 8<sup>th</sup> Avenue, with receive the West ½ of Lot 8, Block 14, Pierce's Subdivision, for the total purchase price of \$327.00, case due at closing. Closing shall occur within 60 days of final approval.</li> </ol>		
<b>Attachment:</b> Location map <b>Prepared By:</b> Chris Meeks, Planner, Community Development Department		







Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629  
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO 18-299

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

WHEREAS, the City has previously expressed its intent to dispose of owned property described as Lot 8, Block 14, Pierce's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, and;

WHEREAS, a public hearing has been held in this matter on October 22, 2018 at 7:00 p.m.

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

That the Mayor and City Clerk be and are hereby authorized, empowered and directed to execute a quit claim deed conveying the City's interest in the above-described property as follows:

Joseph Jones, and all successors in interest: The East ½ of Lot 8, Block 14, Pierce's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, and;

Christina M. Martinez, and all successors in interest: The West ½ of Lot 8, Block 14, Pierce's Subdivision, City of Council Bluffs, Pottawattamie County, Iowa, and;

BE IT FURTHER RESOLVED

That the purchase price for each buyer will be \$327.00 cash due at closing and the property closing must occur within 60 days of the date of approval.

ADOPTED

AND

APPROVED:

October 22, 2018

\_\_\_\_\_  
Matthew J. Walsh

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush

\_\_\_\_\_  
City Clerk

## Council Communication

Department: Legal  
Case/Project No.:  
Submitted by: Legal Department at the request  
of Council Member Roger Sandau

Ordinance 6373

Council Action: 10/22/2018

### Description

Ordinance to amend Title 1 "Administration and Personnel" by amending Chapter 1.12 "City Council" Section 1.12.020 "Compensation for office of City Council".

### Background/Discussion

Council compensation has not changed since 1996 when it was increased to \$7,200 annually. The proposed ordinance would increase the annual compensation to \$12,000. We have reviewed the compensation being paid in other Iowa cities and have found the following:

The Average of all of these cities is \$10,251.28.

Ordinance 5271 in 1996 set it at the current \$7,200 per year.

City	Population	Annual Council Salary
Davenport	99,685	\$15,000
Sioux City	82,684	\$13,000
Waterloo	68,406	Did not respond
Iowa City	67,862	\$7,259.20
Council Bluffs	62,230	\$7,200
Ames	58,965	\$10,000
Dubuque	57,637	\$10,300
West Des Moines	56,609	\$9,000

The effective date for the proposed ordinance would be 1/1/2020 when the council members are elected in November 2019.

### Recommendation

Review of the proposed ordinance.

### ATTACHMENTS:

Description

[Redline Version](#)

[Ordinance 6373](#)

Type

Other

Ordinance

Upload Date

10/3/2018

10/16/2018



#### **1.12.020 - Compensation for office of city council.**

The compensation for the office of city council shall be ~~seven-twelve~~ thousand ~~two-hundred~~ dollars (\$~~712,200~~00.00) per year for all City Council ~~m~~Members.

The City Council shall review the compensation for the office of City Council at its first meeting in October on every year ending in an even number.

**ORDINANCE NO. 6373**

**AN ORDINANCE TO AMEND TITLE 1 “ADMINISTRATION AND PERSONNEL” OF THE 2015 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY AMENDING CHAPTER 1.12 “CITY COUNCIL” SECTION 1.12.020 “COMPENSATION FOR OFFICE OF CITY COUNCIL”.**

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

**SECTION 1.** That Title 1 “Administration and Personnel” Chapter 1.12 “City Council” of the 2015 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended Section 1.12.020 “Compensation for Office of City Council”, to read as follows:

**1.12.020 - Compensation for office of city council.**

The compensation for the office of city council shall be twelve thousand dollars (\$12,000.00) per year for all City Council Members.

The City Council shall review the compensation for the office of City Council at its first meeting in October on every year ending in an even number.

**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

November 5, 2018.

\_\_\_\_\_  
MATTHEW J. WALSH

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
JODI QUAKENBUSH

\_\_\_\_\_  
City Clerk

First Consideration: 10-22-18

Second Consideration: 11-5-18

Public Hearing: N/A

Third Consideration: \_\_\_\_\_

## Council Communication

Department: City Clerk  
Case/Project No.:  
Submitted by: Legal Department

Ordinances 6351 - 6359 & 6361- 6370

Council Action: 10/22/2018

### Description

Ordinances 6351 - 6359 & 6361-6370 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 6361 to amend Chapter 4.32 "Private Sewage Disposal Systems" by repealing existing Sections 4.32.010 through 4.32.170.
- 11) Ordinance 6362 to amend Chapter 4.33 "Private Wells" by repealing existing Sections 4.33.010 through 4.33.040.
- 12) Ordinance 6363 to amend Title 4 "Health and Sanitation" by amending Chapter 4.50 "Noise Control."
- 13) Ordinance 6364 to amend Chapter 4.70 "High-Risk Sexual Conduct" by repealing existing Sections 4.70.010 through 4.70.050.
- 14) Ordinance 6365 to amend Chapter 4.60 "Hazardous Substances" by repealing existing Sections 4.60.010 through 4.60.080.
- 15) Ordinance 6366 to amend Chapter 4.80 "Minimum Requirements for Tanning" by repealing existing Sections 4.80.010 through 4.80.070.
- 16) Ordinance 6367 to amend Chapter 4.90 "Quarantine" by repealing Sections 4.90.010 through 4.90.020.
- 17) Ordinance 6368 to amend Chapter 13.12 "Plumbing Code" by adding Section 13.12.13 "Application for Permit-Issuance or Denial."
- 18) Ordinance 6369 to amend Chapter 12.02 "Miscellaneous Provisions" by adding Section 12.02.056 "Open Burning Prohibited."
- 19) 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 - DELETED**

**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

[Ordinance 6351](#)

[Ordinance 6352 Redline](#)

[Ordinance 6352](#)

[Ordinance 6353](#)

Type

Ordinance

Ordinance

Ordinance

Ordinance

Upload Date

9/28/2018

10/1/2018

10/1/2018

10/1/2018

[Ordinance 6354](#)  
[Ordinance 6355 Redline](#)  
[Ordinance 6355](#)  
[Ordinance 6356 Redline](#)  
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**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 ~~mayer 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 dollars (\$~~13,692~~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 ~~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 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 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. 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.

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(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 ~~C~~city of Council Bluffs, and the local~~the board of health~~Board 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. 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 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. 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<sub>dn</sub>)" 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<sub>eq</sub>)" 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<sub>eq</sub> (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

<b>Sound Emitting Land-Use Category</b>	<b>Sound Receiving Land-Use Category</b>	<b>Sound Level Time of Day</b>	<b>Sound Level Limit, dBA Leq(1)</b>
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<sub>eq</sub>(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 L<sub>90</sub> 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<sub>dn</sub>)" 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<sub>eq</sub>)" 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<sub>eq</sub> (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<sub>eq</sub>(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 L<sub>90</sub> 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)

<b>Sound Level Limit (dBA)</b>	<b>Duration Hours and</b>	<b>Minutes</b>
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.

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MATTHEW J. WALSH

Mayor

Attest:

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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  $\pm 10$  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.

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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.: ZC-18-012  
Submitted by: Chris Meeks, Planner

Ordinance 6349

Council Action: 10/22/2018

### 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
<a href="#">ZC-18-012 Staff Report Including Attach A and B</a>	Other	9/12/2018
<a href="#">Ordinance 6349</a>	Ordinance	10/16/2018



## Council Communication

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

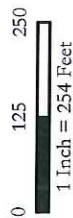
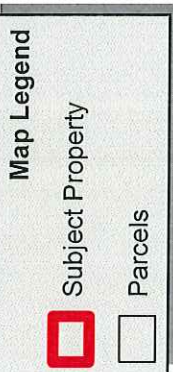
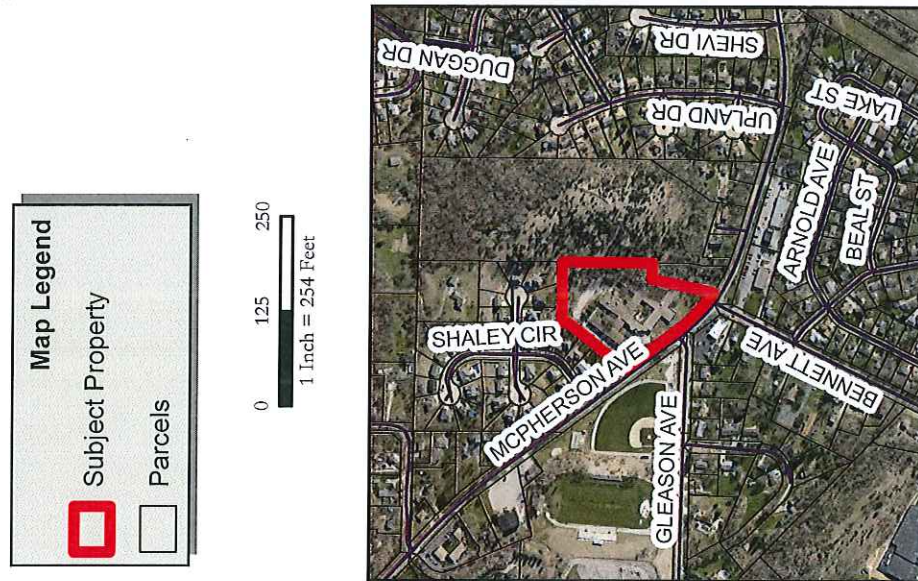
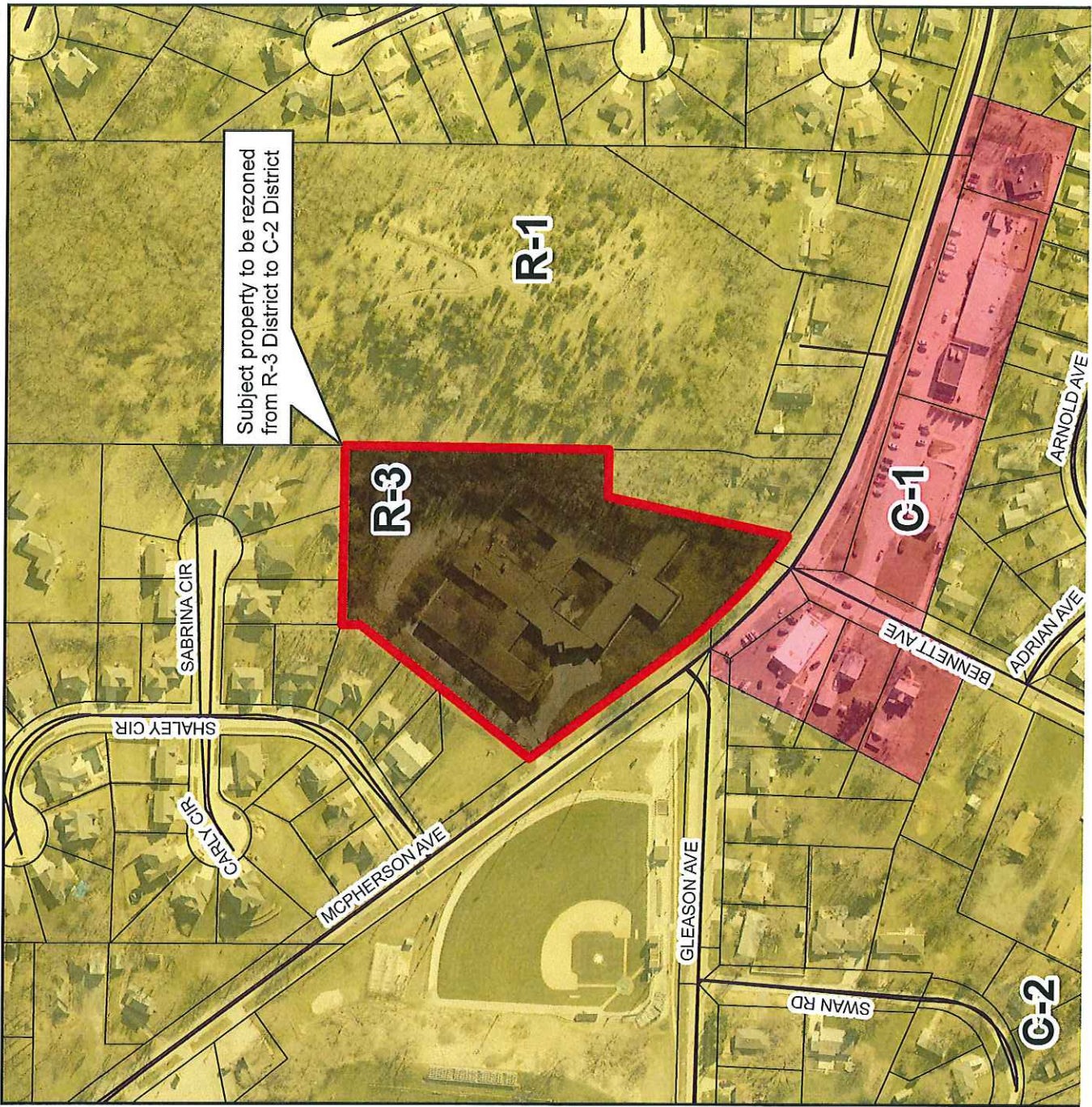
Attachment B: Proposed Building Renderings and Site Plans

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.

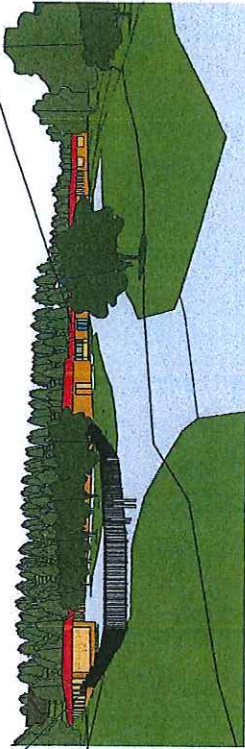
NEW PRESS POINT FENCING WITH MOTORIZED GATE AT MCPHERSON AVENUE ENTRANCE AND ALONG THE WEST PROPERTY LINE.



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

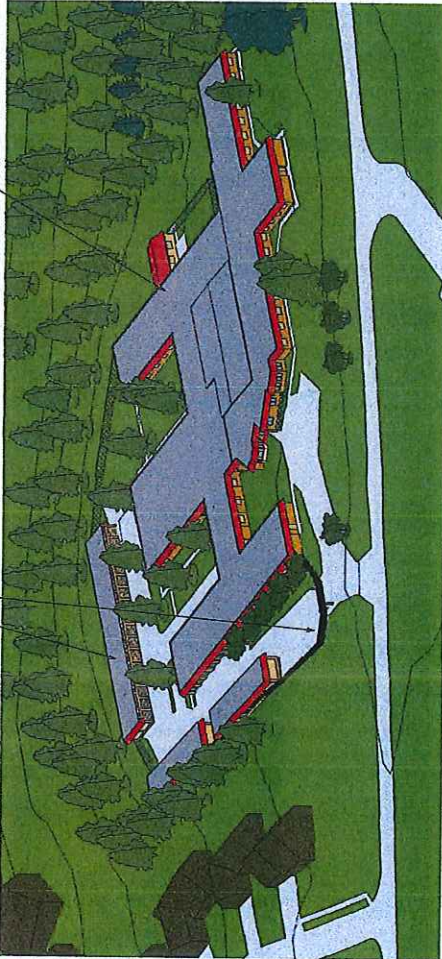


Existing Southeast Aerial View

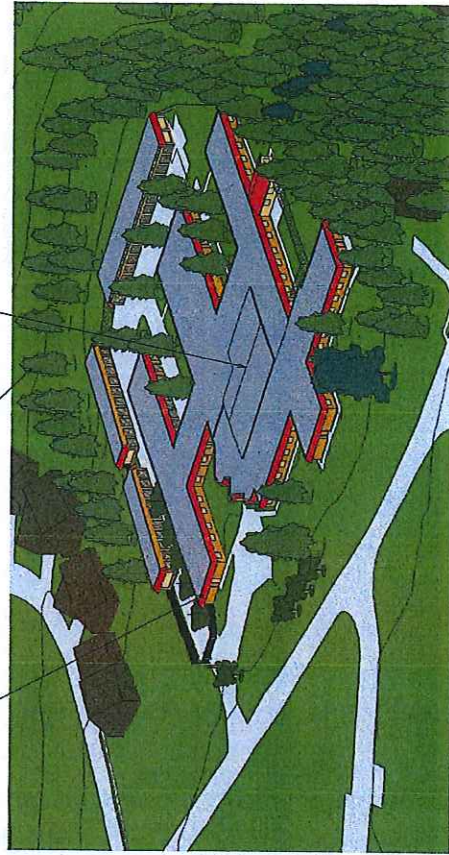
EXISTING COURTYARD INFILLED WITH LOW PROFILE ROOF

EXISTING PERIMETER TREE BUFFER TO REMAIN

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



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@pkajk.com  
10-01-01

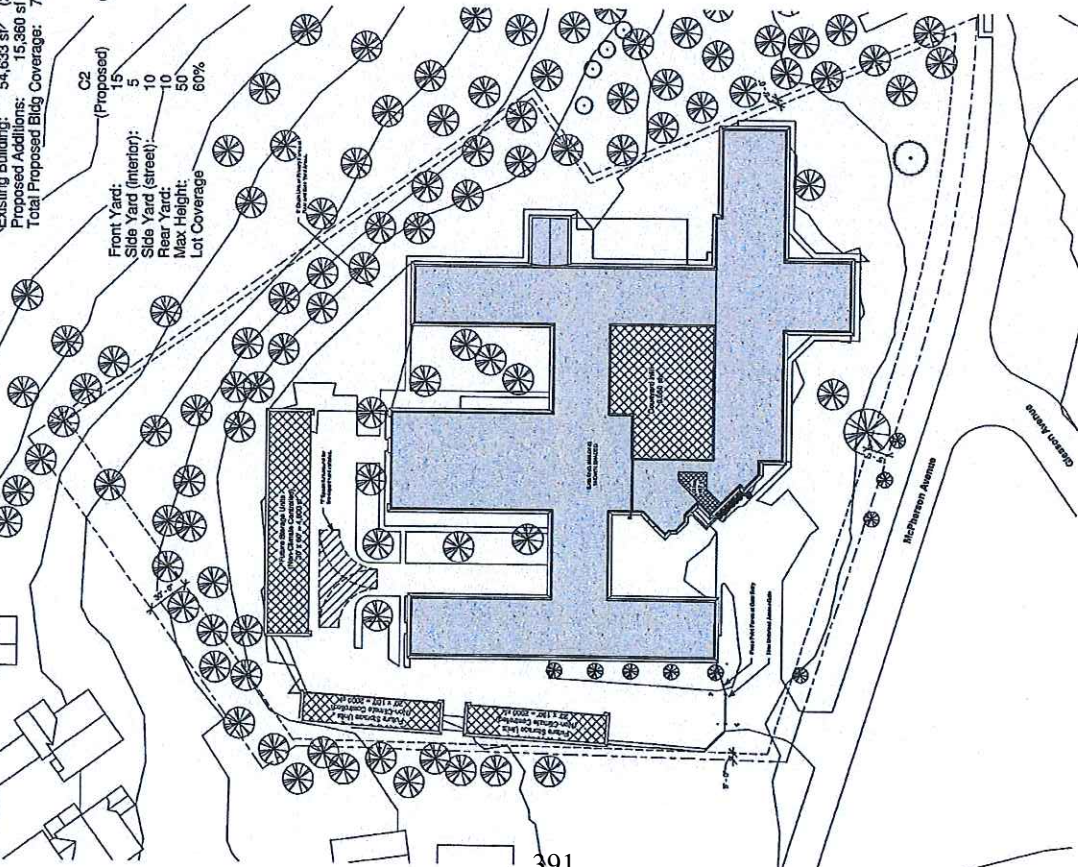


Existing Site: 232,348 sf

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: 20  
 Lot Coverage: 60%  
 R3 (Existing)  
 5  
 15  
 20  
 60  
 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	8				280			
5 x 10	50	81				4,050			
10 x 10	100	110				11,000			
10 x 15	150	130				6,900			
10 x 20	200	45				9,000			
10 x 23	230	35				5,290			
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					4,500			
10 x 1	30					4,500			
10 x 1	30					4,500			
Subtotal =						13,500			
Total =						44,703			



1. SITE PLAN - PROPOSED  
 1" = 40'-0"

2. PROPOSED FLOOR PLAN  
 1" = 30'-0"



0-2

Project No. 180041  
 Date 11 August 18



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

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

PROPOSED PLANS		
No.	Description	Date

## 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 22, 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: 10-22-18



## Council Communication

Department: Community Development  
Case/Project No.: PR-18-002  
Submitted by: Christopher Gibbons, Planning  
Coordinator

Resolution 18-301

Council Action: 10/22/2018

### Description

Resolution to adopt a planned residential development plan on 8.50 acres of undeveloped land zoned R-4/High Density Multi-Family Residential District with an appended Planned Residential Overlay, legally described as being part of Tract 4, Sherwood Subdivision (Phase 2) located in the NE1/4 of Section 29-75-43 and the SE1/4 of Section 20-75-43. Location: Undeveloped land lying immediately East of 2009 Sherwood Court.

### Background/Discussion

See attachments.

### Recommendation

#### **ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">PR-18-002 Clark Storage LLC Staff Report (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Location Map Attach A (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Letter of Intent Attach B (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Development Plans (FINAL VERSION) (10-9-18) Attach C (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Material Attach D 1 (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Building Elevations Attach D 2 (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Fence Renderings Attach E (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Sign Rendering Attach F (10-22-18) CC</a>	Other	10/11/2018
<a href="#">PR-18-002 Clark Storage LLC Copy of Conditional Use Permit #CU-18-001 Attach G (10-22-18) CC</a>	Other	10/11/2018
<a href="#">Resolution 18-301</a>	Resolution	10/16/2018

## Council Communication

<p>Department: Community Development</p> <p>CASE No. # PR-18-002</p> <p>Applicant: Clark Storage, LLC c/o Henry Clark P.O. Box 485 Glenwood, IA 51534</p> <p>Property Owner: Sherwood Forest View LLC 7455 France Avenue S #381 Edina, MN 55435</p> <p>Engineer: Schemmer Associates c/o Robert Duvall 1044 N. 115<sup>th</sup> Street, Suite 300 Omaha, NE 68154</p>	<p>Resolution No.</p>	<p>City Council: October 22, 2018</p> <p>Planning Commission Meeting: October 9, 2018</p>
<p><b>Subject/TitleRequest:</b> Adopt a planned residential development plan on 8.50 acres of undeveloped land zoned R-4/High Density Multi-Family Residential District w/an appended Planned Residential Overlay and being legally described as Part of Tract 4, Sherwood Subdivision (Phase 2) located in the NE1/4 of Section 29-75-43 and the SE1/4 of Section 20-75-43, City of Council Bluffs, Pottawattamie County, Iowa. Said property being more particularly described as follows: Beginning at the Southwest Corner of Parcel “B” part of Tract 4, Sherwood Subdivision (Phase 2); thence North 01°55’ 34” East, a distance of 365.68 feet along the West line of Tract 4 to the North Line of Tract 4; Thence South 88°07’43” East, a distance of 258.84 feet along the North line of Tract 4; Thence continuing along the North line of Tract 4 North 62°19’43” East, a distance of 136.04 feet; Thence continuing along the North line of Tract 4 North 03°22’57” East, a distance of 160.06 feet; Thence South 85°13’47” East, a distance of 229.00 feet; Thence North 03°23’07” East, a distance of 179.22 feet to the North line of Tract 4; Thence South 86°37’58” East, a distance of 219.30 feet to the West Right of Way Line of Valley View Drive as described in Book 2008, Page 8642 in Pottawattamie Records Office; Thence South 15°58’43” West, a distance of 759.19 feet along the West Right of Way Line of Valley View Drive as described in Book 2008, Page 8642 in Pottawattamie Records Office to the South line of Tract 4; Thence North 88°44’11” West, a distance of 649.73 feet along the South line of Tract 4 to the point of beginning.</p> <p><b>Location:</b> Undeveloped land lying immediately east of 2009 Sherwood Court.</p>		
<p style="text-align: center;"><b>Background/Discussion</b></p> <p>The Community Development Department has received an application from Clark Storage, LLC., represented by Henry Clark, to adopt a planned residential development plan for a ‘commercial storage’ use on property legally described above (see Attachment A). The subject property is comprised of 8.50 acres of undeveloped land and is located immediately east of the Sherwood Apartments. The proposed development will consist of 351 individual storage units (totaling 61,800 square feet), a 20’x30’ (600 square feet) resident office, 23 off-street parking spaces, fencing, landscaping, signage, and storm water management. The applicant has proposed this development in order to provide additional ‘commercial storage’ services for business and residents in Council Bluffs and the surrounding areas. A letter of intent along with a full set of development plans for this project are included with this report as Attachments B-F.</p>		

### **CURRENT ZONING & LAND USE**

The subject property is comprised of 8.50 acres of undeveloped property zoned R-4/High Density Multi-Family Residential District with a PR/Planned Residential Overlay. Surrounding zoning includes R-4 District /w PR Overlay to the North and West; C-2/Commercial District to the East; and A-2/Parks, Estates and Agricultural District to the South. Existing land uses include the Sherwood Apartments to the north; a single-family residential dwelling to the west; undeveloped land to the east; and the Midland Humane Society to the South.

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

*OTHER RELEVANT ZONING INFORMATION FOR THIS REQUEST – Not subject to City Planning Commission or City Council review/approval.*

*Per Section 15.11, R-4/High Density Multi-Family Residential District of the Municipal Code (Zoning Ordinance) a 'commercial storage' use is only permitted in an R-4 District upon issuance of a conditional use permit by the Council Bluffs Zoning Board of Adjustment (ZBA). On July 17, 2018, the Council Bluffs Zoning Board of Adjustment granted the applicant a conditional use permit (#CU-18-001) to operate a 'commercial storage' use on the subject property. The permit was issued after the ZBA determined through a series of findings that a 'commercial storage' use would be compatible with other existing properties in the general vicinity of the subject property. One of the approval conditions stated in the conditional use permit requires the applicant to adopt a development plan for the 'commercial storage' use since the subject property is located within a PR/Planned Residential Overlay. The City Planning Commission and City Council are now tasked with reviewing the development plan (e.g., building architecture, landscaping, fencing, off-street parking, signage, etc.) the applicant has proposed for their 'commercial storage' use on the subject property. The applicant's ability to use the property for 'commercial storage' was approved by the Zoning Board of Adjustment upon issuance of the conditional use permit (#CU-18-001). A copy of the approved conditional use permit is included with this report as Attachment G.*

The following exhibit shows the existing condition of the subject property and surrounding area.

#### **Exhibit A: 2017 aerial image of the subject property and surrounding area.**





**Exhibit B: 2018 Google street view image of the subject property**



**Comments**

Section 15.28.010, *P-R/Planned Residential Overlay*, Statement of Intent of the Council Bluffs Zoning Ordinance states “the planned residential overlay is established to permit flexibility in the use and design of structures and land in situations where conventional development may be inappropriate and where modifications of the requirements of the underlying zone would not be inconsistent with the Comprehensive Plan or harmful to the neighborhood in which it is located”.

All City departments and local utilities were notified of the proposed development request. All comments received from City Departments and local utilities are incorporated into the development discussion below.

The following development standards shall apply to the subject property:

**Site Development**

- a) The minimum size tract of land for property located in a PR Overlay is 1.5 acres. The subject property contains 8.50 acres, which complies with the minimum PR Overlay lot size requirement.
- b) The subject property is zoned R-4/High Density Multi-Family Residential District. All building setbacks, building heights, and lot coverage shall comply with standards stated in Section 15.11.050, *Site development regulations, R-4/High Density Multi-Family Residential District* of the Municipal Code (Zoning Ordinance). The submitted development plans show that all buildings will comply with R-4 District site development standards.
- c) Site access shall be limited to two driveways onto Railroad Avenue, as per the proposed development plan. The existing curb inlet, located near the northerly driveway entrance, shall not be altered, as per the Council Bluffs Public Works Department. Any disturbance to the existing trail system adjacent to the subject property shall be repaired to current standards. All site access and driveways shall be reviewed and approved by the Council Bluffs Public Works Department prior to construction.
- d) Trash receptacles and/or dumpster locations are not shown on the submitted development plans. All trash receptacles/dumpsters shall be enclosed on three sides and screened from public view. The enclosure shall have a lockable gate which when closed completely eliminates view of the dumpster.
- e) A geotechnical report shall be submitted to the Council Bluffs Permits and Inspections Division and Council Bluffs Public Works Department prior to issuance of any development permits for the proposed ‘commercial storage’ project. The applicant shall also obtain grading, construction in the public right-of-way, and parking lot permits from the City for this development project.

- f) A preliminary drainage report was submitted with the development plan proposal for the City to review. The Council Bluffs Public Works Department and the applicant's engineer will continue to work together to finalize the report to meet current standards and specifications.
- g) Stormwater run-off from the development will be contained in a detention pond located along the eastern portion of the subject property. The applicant's engineer is working with the Council Bluffs Public Works Department to complete a final drainage report for the subject property. A full stormwater plan that addresses water quality and quantity shall be submitted to the Public Works Department, prior to issuance of any permits for the project. The applicant shall also submit a Post-Construction Stormwater Management Application and bonding for the stormwater best-management practices (BMP) on-site to the Council Bluffs Public Works Department.
- h) Retaining walls are proposed to be installed along the northerly/westerly portions of the development site. The applicant shall submit stamped/sealed retaining wall plans to Council Bluffs Permits and Inspections Division and to the Council Bluffs Public Works Department for review. The applicant shall also obtain a permit from said City Departments prior to constructing these retaining walls.
- i) Outdoor lighting plans were not submitted with the development plan proposal. Any outdoor light poles erected on the subject property shall be painted or finished aluminum or steel and shall not exceed 30 feet in height. Wood poles are not allowed. All outdoor lighting shall comply with standards stated in Section 15.24.050, *Lighting Controls*, of the Municipal Code (Zoning Ordinance).
- j) The subject property is located in an X Flood Zone (see FEMA Firm Panel Map #19155C0418F, dated 4/16/13). The developer shall contact the Council Bluffs Permits and Inspections Division to ensure the proposed development complies with all Federal, State and Local floodplain management standards.
- k) A 600 square foot resident office is proposed on the northerly portion of the development and will be used to provide on-site management/security for the commercial storage business. The resident office is considered an accessory use to the 'commercial storage' business and shall only be used for on-site management purposes and not as a separate rental dwelling unit.

### **Utilities**

- a) Storm sewers and sanitary sewers are available along Railroad Avenue to service the proposed development. All sewers connections shall be constructed in accordance with SUDAS standards and specifications. Any cost to relocate, modify and/or extend these utilities to the subject property shall be the responsibility of the applicant and not the City.
- b) Public water is not available and must be extended to the site in order to service the proposed 'commercial storage' use. The applicant has contacted the Council Bluffs Water Works to discuss providing water to the property but has not entered into a main extension agreement yet. The applicant shall enter into a water main extension agreement with the Council Bluffs Water Works prior to issuance of any development permits for the project. Any cost to relocate, modify and/or extend these utilities to the subject property shall be the responsibility of the applicant and not the City.
- c) The Council Bluffs Fire Department stated the applicant must coordinate their hydrant locations with the Council Bluffs Water Works in order to eliminate the need for private hydrants within the development site.
- d) MidAmerican Energy stated the applicant has not entered into an agreement with their company to extend electrical distribution facilities to the subject property. The applicant shall enter into an agreement with MidAmerican Energy Company to extend electrical distribution facilities to the subject property prior to issuance of any building permits. Any cost to relocate, modify and/or extend these utilities to the subject property shall be the responsibility of the applicant and not the City.
- e) All utilities for the proposed development shall be installed underground.

### **Off-Street Parking**

- a) The required number of off-street parking spaces for the development shall be based on the standards stated in Section 15.23.060, *Parking spaces required*, of the Municipal Code (Zoning Ordinance), as follows:
  - i. Commercial storage – 1 space per 5,000 square feet gross floor area (Indoor warehousing)
  - ii. Resident Office – 1 space per 300 square feet of gross floor area (Office activity)

The development plan shows 351 individual storage units (totaling 61,800 square feet) and a 20'x30' (600 square feet) resident office. Based on these square footage totals a minimum of 12.36 off-street parking stalls shall be provided for the 'commercial storage' use and two off-street parking stalls shall be provided for the resident office. The submitted site plan shows 23 off-street parking stalls, therefore sufficient off-street parking is being provided for the development.

- b) All parking/loading areas, driveways, and drive aisles shall be hard-surfaced paved and shall be designed to comply with the standards stated in Chapter 15.23, *Off-Street Parking, Loading and Unloading* of the Municipal Code (Zoning Ordinance).
- c) All off-street parking shall comply with the Parking for Persons with Disabilities Chapter of the Iowa Administrative Code.

### **Architecture**

- a) The submitted development plans shows pre-engineered metal buildings for the resident office and commercial storage buildings. All buildings will be one-story in height. The approved conditional use permit (Case #CU-18-001) included language that does not allow the exterior walls of the buildings in this development to be solely constructed out of metal. In order to comply with the conditional use permit standards, the applicant has proposed to install a four-foot wide strip of decorative polymer brick panels along the bottom portion of each building façade that is not does not have openings for commercial storage units. For clarity purposes, the decorative four foot-wide decorative polymer brick panel shall be applied to each building in this development as follows:

- i. 14-unit (20'x140' building) – The north, east, and west façades
- ii. 10-unit (20'x100' building) – The north, south, and west facades
- iii. 20'x 30' resident office – All building elevations
- iv. 7-unit (20'x70' building) – The north, south, and east facades
- v. 37 unit (20'x370' building) – The north and south facades. The west façade will be constructed into an earthen berm/embankment and will not be visible.
- vi. 42-unit (30'x210' buildings) – The north and south facades.
- vii. 16-unit (20'x160' building) – The north, east, and south facades.
- viii. 42-unit (40'x210' buildings) – The north and south facades.
- ix. 15-unit (20'x150' building) – The north, east, and south facades.

Other acceptable building materials for the commercial storage buildings and resident office include brick masonry, EFIS, cement lap siding, wood siding, and split-face CMU. All building construction, materials and design shall be consistent with the proposed development plan.

- b) The applicant has proposed to install a decorative aluminum and/or wrought-iron style fence as well as a chain-link fence on the subject property. The decorative fence shall be installed between each storage building and along the perimeter of the parking/drive aisles areas on the eastern portion of the property in order to help screen the development from Railroad Avenue. A wood, vinyl, and/or chain-link fence shall be allowed along the southerly, northerly and westerly portions of the development. All fencing shall comply with Section 15.24.040, *Fence regulations* of the Council Bluffs Zoning Ordinance.

### **Landscaping**

- a) The submitted landscaping plan shows a mixture of evergreen and deciduous trees along with native grasses being planted on the property. The plant selection and their placement was designed to help screen the commercial storage use from Railroad Avenue and the Sherwood Apartments. The proposed landscaping plan is generally acceptable, with the following conditions:
  - i. All disturbed areas without a specific landscape design shall be seeded with sod, turf and/or prairie grass.

### **Signage**

a) Attached and detached signage for the commercial storage development are proposed as follows:

#### **Attached**

- i. (1) 72" x 28" (14 square feet) – UHAUL wall sign
- ii. (4) 96" x 12" (32 square feet total) - "www.ClarkStorageLLC.com" wall sign
- iii. (5) 96" x 48" (160 square feet total) – Clark Storage wall sign
- iv. (2) 18"x18" (6 square feet total) – Gate Hours Signs\*\*
- v. (5) 18" x 24" (15 square feet total) – Surveillance Sign\*\*

*\*\* The proposed 'gate hours' and 'video surveillance' signs do not contain any business logos/identification information and therefore shall not count towards the total maximum allowed sign square footage for the subject property.*

#### **Detached**

- i. (1) Clark Storage detached ground sign. The height and square footage to this sign is not stated on the plan. Per Section 15.33.160(03), *PR/Planned Residential District Signs* of the Municipal Code (Zoning Ordinance), detached signs shall not exceed 50 square feet or 10 feet in height. The applicant shall design the sign to comply with the detached sign standards stated above.
- b) All attached signage shall be affixed to a building/structure on the property. The 'gate hours' and 'video surveillance' signs can be attached to a building, structure, and/or fence on the subject property.
- c) All signage (detached and attached) shall comply with Section 15.33.160(03), *PR/Planned Residential District Signs* of the Municipal Code (Zoning Ordinance).

### **Recommendation**

The Community Development recommends approval to adopt the planning residential development plan for Clark Storage, on 8.50 acres of land legally described above, as shown on the attachments, and subject to compliance with all comments and conditions stated in the staff report.

### **Public Hearing**

Speakers in favor:

1. Henry Clark, 58681 Kidd Road, Glenwood, IA 58681

Speakers against: None.

### **Planning Commission Recommendation**

The Planning Commission recommends approval to adopt the planning residential development plan for Clark Storage, on 8.50 acres of land legally described above, as shown on the attachments, and subject to compliance with all comments and conditions stated in the staff report.

VOTE: AYE 6 NAY 0 ABSTAIN 2 ABSENT 2 VACANT 0 Motion: Carried

### **Attachments**

Attachment A: Location/zoning map  
Attachment B: Letter of intent  
Attachment C: Site/grading, utility, landscaping, and signage plans  
Attachment D: Building elevations  
Attachment E: Fence renderings  
Attachment F: Sign renderings  
Attachment G: Copy of conditional use permit #CU-18-001

Engineer: Robert Duvall, Schemmer Associates, 1044 N. 115<sup>th</sup> Street, Suite 300, Omaha, NE 68154

Prepared by: Christopher N. Gibbons, AICP, Planning Coordinator



# CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION LOCATION/ZONING MAP CASES # PR-18-002

## Map Legend

CASE #PR-18-002 Subject Property



0 200 400  
1 Inch = 400 Feet

## 2016 Aerial Photograph



Note: Subject property is highlighted in red.

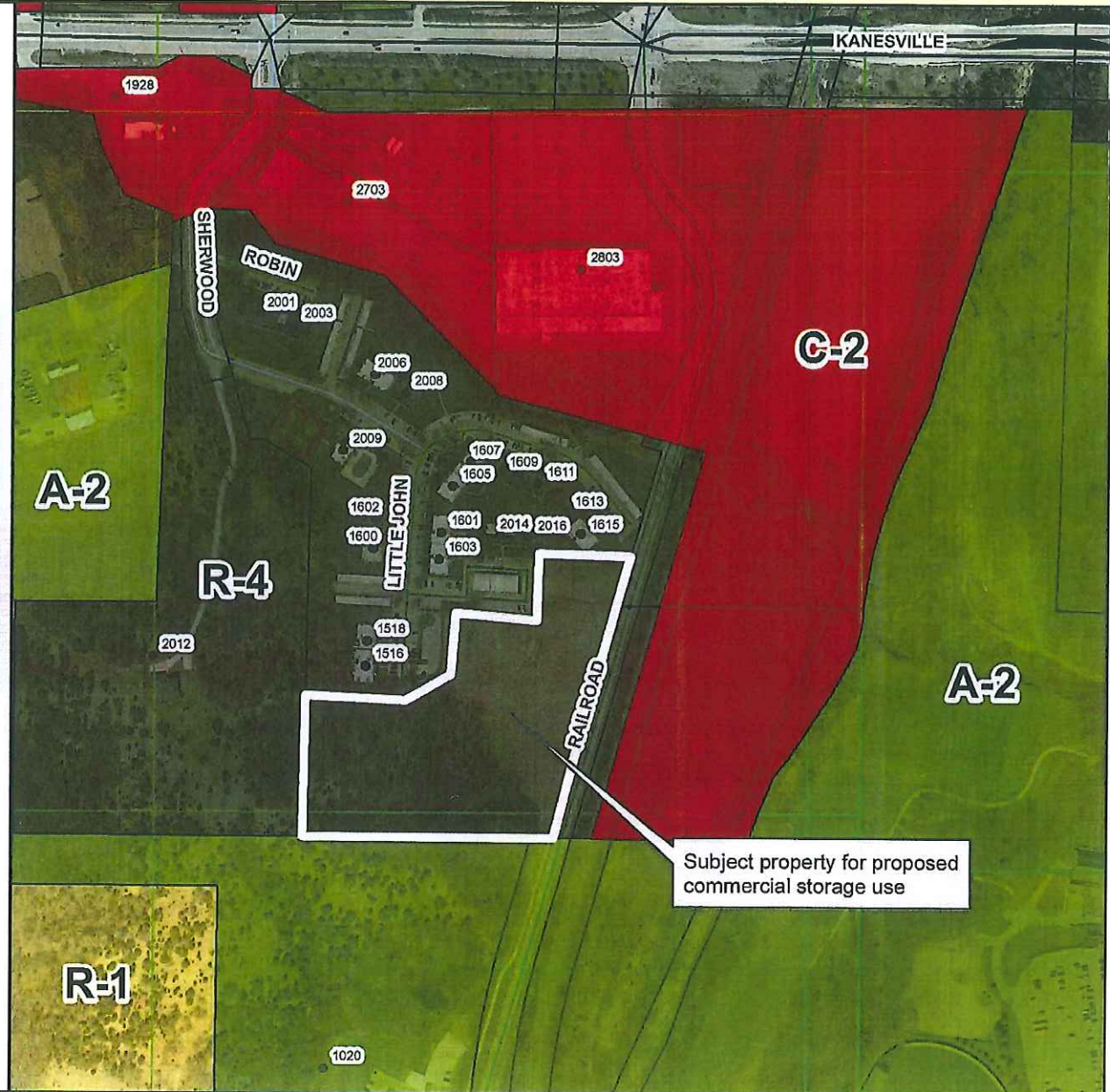


Last Amended: 8/21/18



Council Bluffs Community  
Development Department  
209 Pearl Street  
Council Bluffs, IA 51503  
Telephone: (712) 328.4629

**DISCLAIMER**  
This map is prepared and compiled from  
City documents, files and other public  
records of data. Users of this map are  
informed that the City expressly  
disclaims any and all responsibility for errors  
of any kind. The user should verify the  
accuracy of the information contained on  
this map before using it. The City assumes  
no legal responsibility for the information  
contained on this map.



ATTACHMENT A





Design with Purpose. Build with Confidence.

August 14, 2018

City of Council Bluffs  
Community Development Department  
209 Pearl Street  
Council Bluffs, IA 51503

Re: Clark Stoage  
Lot 4, Sherwood Subdivision Phase 2  
Planned Residential Development Plan Application Letter of Intent  
Schemmer Project No. 07352.001

To Whom It May Concern:

This letter is to inform you of the intentions of the owner of Lot 4, Sherwood Subdivision Phase 2 regarding the attached application for a Planned Residential Development Plan on said property.

The subject property is comprised of approximately 8 acres of undeveloped property zoned R-4/High Density Multifamily Residential District with a PR/Planned Residential Overlay. The owner is submitting an application for adoption of a Planned Residential Development Plan for the property to establish standards for building architecture, landscaping, screening, fencing, lighting, signage, off-street parking, building setbacks, site grading, storm water management, and other site development standards.

The proposed development will consist of "commercial storage" buildings per the City of Council Bluffs zoning code and is a conditional use in the R-4 zoning district. The development would also include drives, parking lots, grading, and utilities to serve the proposed building. Please see the attached site plan for a graphical representation of the proposed improvements.

Construction of these improvements is proposed to begin in the spring of 2019, with a proposed completion date in the fall of 2019.

Given the attached application and documentation, the property owner respectfully requests adoption of the Planned Residential Development.

Please submit all questions and comments to my attention at [rduvall@schemmer.com](mailto:rduvall@schemmer.com) or by phone at 712-329-0300.

Sincerely,

THE SCHEMMER ASSOCIATES INC.

Robert DuVall, P.E.  
Professional Civil Engineer

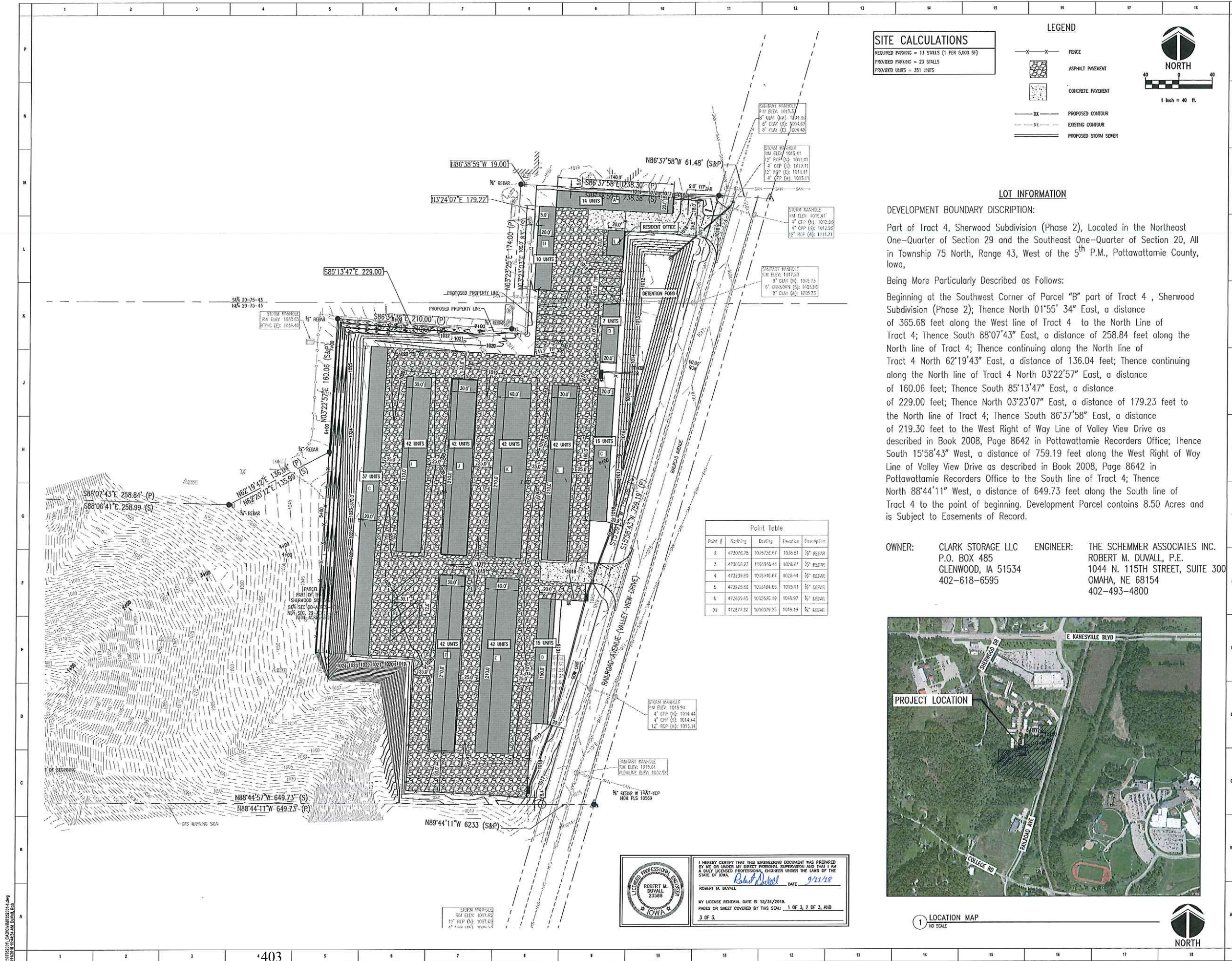
PHONE 402.493.4800  
FAX 402.493.7951

1044 North 115th Street, Suite 300  
Omaha, Nebraska 68154-4436

SCHEMMER.COM

ATTACHMENT B



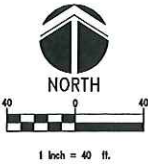


SITE CALCULATIONS

REQUIRED PARKING = 13 STALLS (1 PER 5,000 SF)  
PROVIDED PARKING = 23 STALLS  
PROVIDED UNITS = 351 UNITS

LEGEND

- X--- FENCE
- ASPHALT PAVEMENT
- CONCRETE PAVEMENT
- XX--- PROPOSED CONTOUR
- XX--- EXISTING CONTOUR
- XX--- PROPOSED STORM SEWER



LOT INFORMATION

DEVELOPMENT BOUNDARY DISCRIPTION:

Part of Tract 4, Sherwood Subdivision (Phase 2), Located in the Northeast One-Quarter of Section 29 and the Southeast One-Quarter of Section 20, All in Township 75 North, Range 43, West of the 5<sup>th</sup> P.M., Pottawattamie County, Iowa,

Being More Particularly Described as Follows:

Beginning at the Southwest Corner of Parcel "B" part of Tract 4, Sherwood Subdivision (Phase 2); Thence North 01°55' 34" East, a distance of 365.68 feet along the West line of Tract 4 to the North Line of Tract 4; Thence South 88°07'43" East, a distance of 258.84 feet along the North line of Tract 4; Thence continuing along the North line of Tract 4 North 62°19'43" East, a distance of 136.04 feet; Thence continuing along the North line of Tract 4 North 03°22'57" East, a distance of 160.06 feet; Thence South 85°13'47" East, a distance of 229.00 feet; Thence North 03°23'07" East, a distance of 179.23 feet to the North line of Tract 4; Thence South 86°37'58" East, a distance of 219.30 feet to the West Right of Way Line of Valley View Drive as described in Book 2008, Page 8642 in Pottawattamie Recorders Office; Thence South 15°58'43" West, a distance of 759.19 feet along the West Right of Way Line of Valley View Drive as described in Book 2008, Page 8642 in Pottawattamie Recorders Office to the South line of Tract 4; Thence North 88°44'11" West, a distance of 649.73 feet along the South line of Tract 4 to the point of beginning. Development Parcel contains 8.50 Acres and is Subject to Easements of Record.

OWNER: CLARK STORAGE LLC ENGINEER: THE SCHEMMER ASSOCIATES INC.  
P.O. BOX 485 ROBERT M. DUVALL, P.E.  
GLENWOOD, IA 51534 1044 N. 115TH STREET, SUITE 300  
402-618-6595 OMAHA, NE 68154  
402-493-4800

Point #	North	East	Elevation	Description
2	475076.75	100572.67	1035.51	3/4" REBAR
3	473058.27	100195.41	1008.71	3/4" REBAR
4	473239.20	100546.67	1028.44	3/4" REBAR
5	473925.82	100618.66	1015.41	3/4" REBAR
6	472655.85	100550.09	1049.97	3/4" REBAR
99	472377.22	1005079.25	1018.49	3/4" REBAR



LOCATION MAP  
NO SCALE



I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A duly licensed PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF IOWA.  
Robert M. Duvall DATE: 9/11/18  
ROBERT M. DUVALL  
MY LICENSE RENEWAL DATE IS 12/31/2019.  
PAGES OR SHEET COVERED BY THIS SEAL: 1 OF 3, 2 OF 3, AND 3 OF 3.

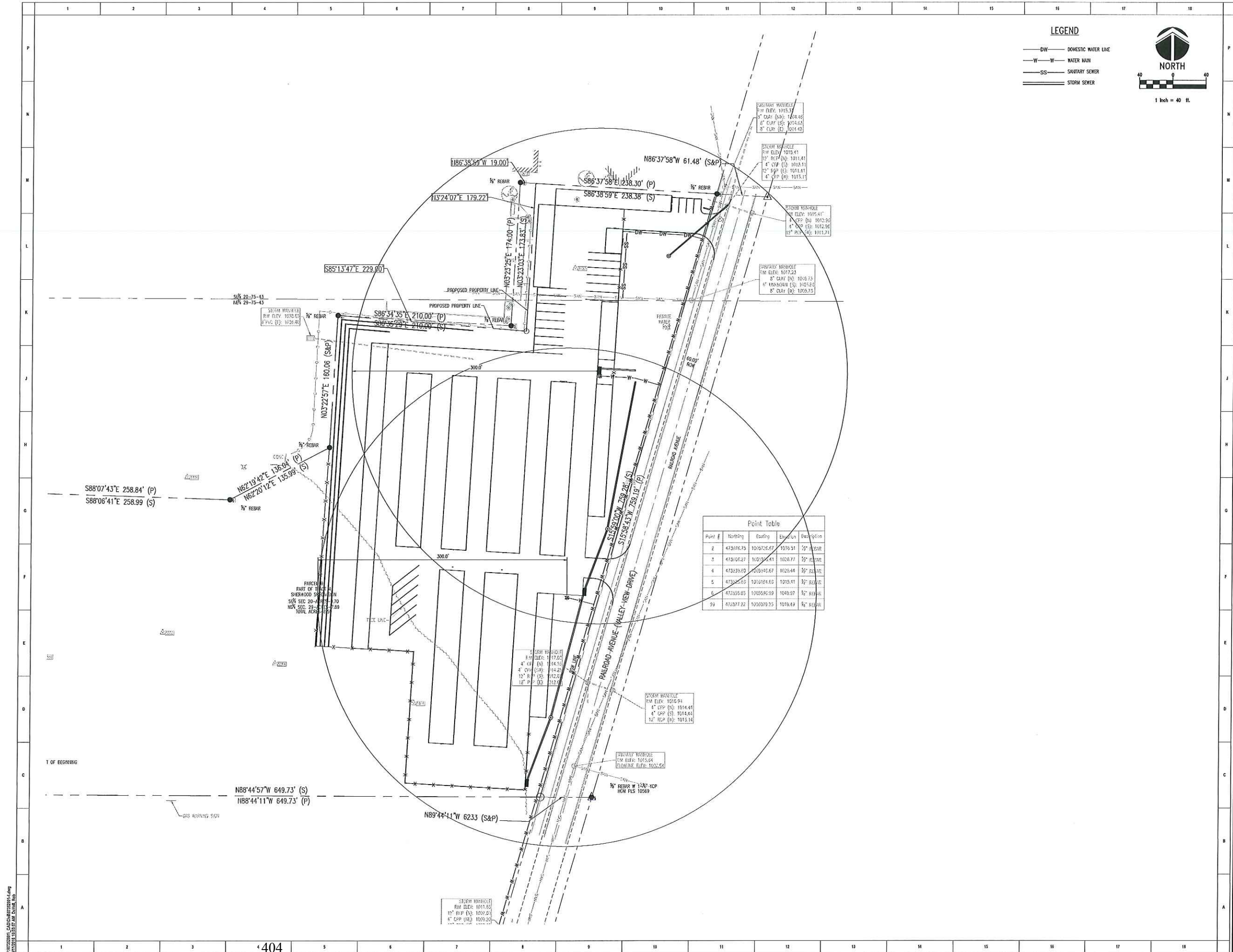
CLARK STORAGE  
PLANNED RESIDENTIAL DEVELOPMENT  
LOT 4, SHERWOOD SUBDIVISION PHASE 2  
SITE AND GRADING PLAN

PROJECT NO.: 07352.001

SCHEMMER  
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DESIGNED:	DRAWN:	CHECKED:	DATE:	BY:	DESCRIPTION:
NO	NS	NH			
ISSUE DATE:	August 14, 2018				
REVISIONS:					
No.					
1					
2					
3					
4					
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6					
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DESIGNED: RND  
DRAWN: RES  
CHECKED: MM

REVISIONS:  
NO. DATE BY DESCRIPTION

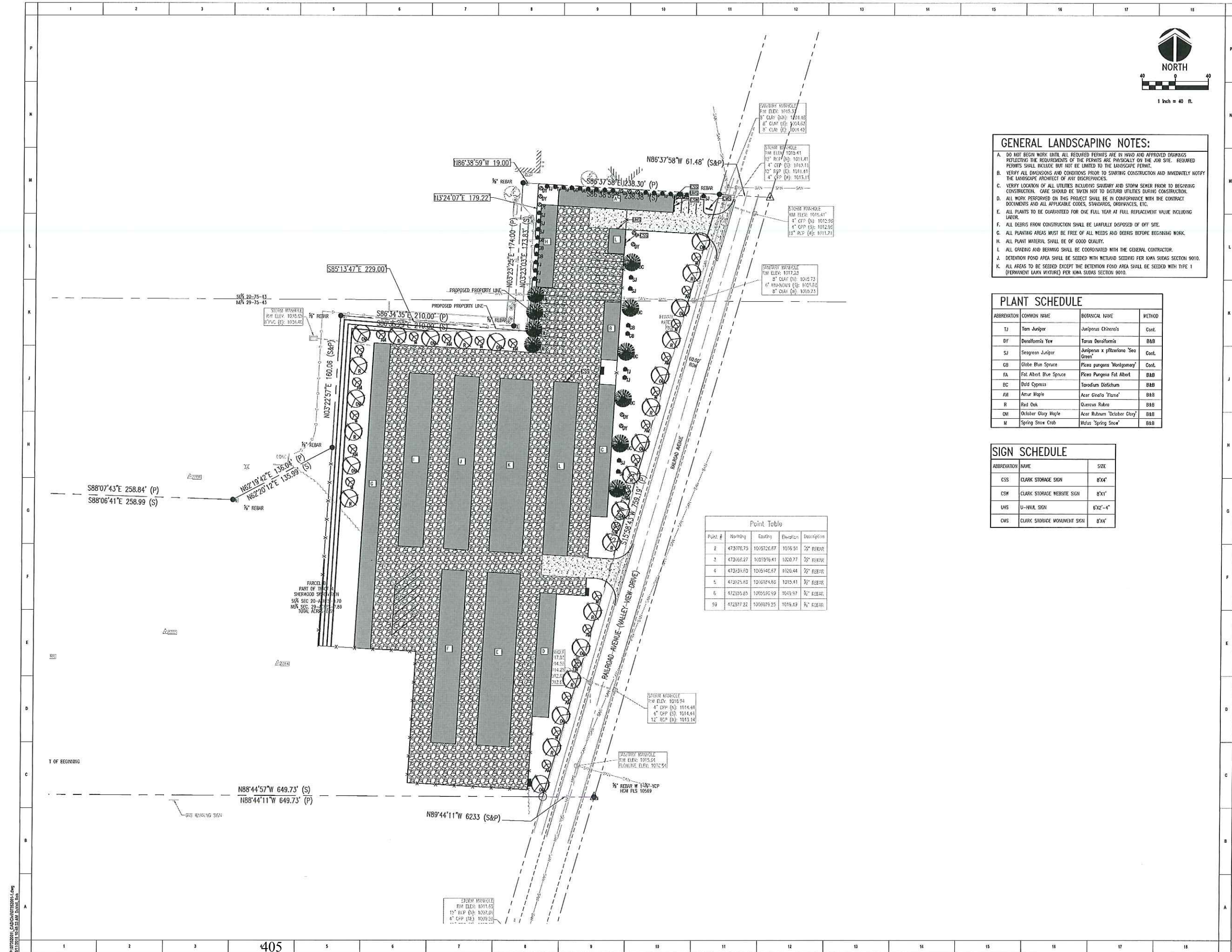
DATE: AUGUST 14, 2011

CLARK STORAGE  
PLANNED RESIDENTIAL DEVELOPMENT  
LOT 4, SHERWOOD SUBDIVISION PHASE 2  
SITE UTILITY PLAN

PROJECT NO.: 07352.001

2 OF 3





- GENERAL LANDSCAPING NOTES:**
- A. DO NOT BEGIN WORK UNTIL ALL REQUIRED PERMITS ARE IN HAND AND APPROVED DRAWINGS REFLECTING THE REQUIREMENTS OF THE PERMITS ARE PHYSICALLY ON THE JOB SITE. REQUIRED PERMITS SHALL INCLUDE BUT NOT BE LIMITED TO THE LANDSCAPE PERMIT.
  - B. VERIFY ALL DIMENSIONS AND CONDITIONS PRIOR TO STARTING CONSTRUCTION AND IMMEDIATELY NOTIFY THE LANDSCAPE ARCHITECT OF ANY DISCREPANCIES.
  - C. VERIFY LOCATION OF ALL UTILITIES INCLUDING SANITARY AND STORM SEWER PRIOR TO BEGINNING CONSTRUCTION. CARE SHOULD BE TAKEN NOT TO DISTURB UTILITIES DURING CONSTRUCTION.
  - D. ALL WORK PERFORMED ON THIS PROJECT SHALL BE IN CONFORMANCE WITH THE CONTRACT DOCUMENTS AND ALL APPLICABLE CODES, STANDARDS, ORDINANCES, ETC.
  - E. ALL PLANTS TO BE GUARANTEED FOR ONE FULL YEAR AT FULL REPLACEMENT VALUE INCLUDING LABOR.
  - F. ALL DEBRIS FROM CONSTRUCTION SHALL BE LAWFULLY DISPOSED OF OFF SITE.
  - G. ALL PLANTING AREAS MUST BE FREE OF ALL WEEDS AND DEBRIS BEFORE BEGINNING WORK.
  - H. ALL PLANT MATERIAL SHALL BE OF GOOD QUALITY.
  - I. ALL GRADING AND BERMING SHALL BE COORDINATED WITH THE GENERAL CONTRACTOR.
  - J. DETENTION POND AREA SHALL BE SEEDED WITH WETLAND SEEDING PER IOWA SUBS SECTION 9010.
  - K. ALL AREAS TO BE SEEDED EXCEPT THE DETENTION POND AREA SHALL BE SEEDED WITH TYPE 1 (PERMANENT LAWN MIXTURE) PER IOWA SUBS SECTION 9010.

ABBREVIATION	COMMON NAME	BOTANICAL NAME	METHOD
TJ	Tom Juniper	Juniperus Chinensis	Cont.
DF	Denolfornia Yew	Taxus Denolfornia	B&B
SJ	Seagreen Juniper	Juniperus x pfitzeriana 'Sea Green'	Cont.
GB	Globe Blue Spruce	Picea pungens 'Montgomery'	Cont.
FA	Fol. Albert Blue Spruce	Picea pungens Fol. Albert	B&B
BC	Bold Cypress	Taxodium Distichum	B&B
AM	Amur Maple	Acer Ginnala 'Flora'	B&B
R	Red Oak	Quercus Rubra	B&B
OM	October Glory Maple	Acer Rubrum 'October Glory'	B&B
M	Spring Snow Crab	Malus 'Spring Snow'	B&B

ABBREVIATION	NAME	SIZE
CSS	CLARK STORAGE SIGN	8'X4'
CSW	CLARK STORAGE WEBSITE SIGN	8'X1'
UHS	U-Haul SIGN	6'X2'-4"
CMS	CLARK STORAGE MONUMENT SIGN	8'X4'

Point Table			
Point #	Northing	Easting	Elevation
2	473976.73	1005726.87	1015.51
3	473966.87	1005916.41	1020.77
4	473939.70	1005146.87	1020.44
5	473925.80	1005014.80	1015.41
6	472855.85	1005025.59	1049.97
99	472877.22	1008079.25	1019.49

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CLARK STORAGE  
PLANNED RESIDENTIAL DEVELOPMENT  
LOT 4, SHERWOOD SUBDIVISION PHASE 2  
SITE LANDSCAPE PLAN AND SIGNAGE  
PLAN

PROJECT NO.: 07352.001

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Omaha, NE 68154

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your zip code: 

Find

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7337 L St.  
Omaha, NE 68127

Select

ELKHORN  
750 N 205th Street  
Elkhorn, NE 68022

Select

X

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## Novik® Hand-Laid Brick-Look Red Used Blend Polymer Siding Panel

Model Number: 10005204 | Menards® SKU: 1467667 | Variation: Red Used Blend

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~~\$19.99~~**SALE  
PRICE**

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**\$15<sup>87</sup>**  
each**You Save: \$4.12 After Sale Price**Variation:  
Red Used Blend  
\*Prices may vary by variation

4 Variations Found



- 1 +

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[View Shipping Options](#)[View Return Policy](#)[Description](#) ▾ | [Accessories](#) ▾ | [Specifications](#) ▾[Add to Compare](#)

### Optional Accessories

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Novik® Red Used Blend Hand Laid Brick Polymer  
Corner  
Variation: Red Used Blend**\$16.44**

Online Price ⓘ

[Add to Cart](#) ☐

3 Variations Found

Novik® NoviStone™ Weathered Blend Premium  
Ledge Outside Corner - 4 pc  
Variation: Weathered Blend**\$124.99**

Online Price ⓘ

[Add to Cart](#) ☐

3 Variations Found

Novik® NoviStone™ 10' Gray Mortar Premium Ledge  
Variation: Gray Mortar**\$124.99**

Online Price ⓘ

[Add to Cart](#) ☐

Novik® Gray 6' Vinyl Universal Starter Strip

**\$5.99**

Online Price ⓘ

[Add to Cart](#) ☐

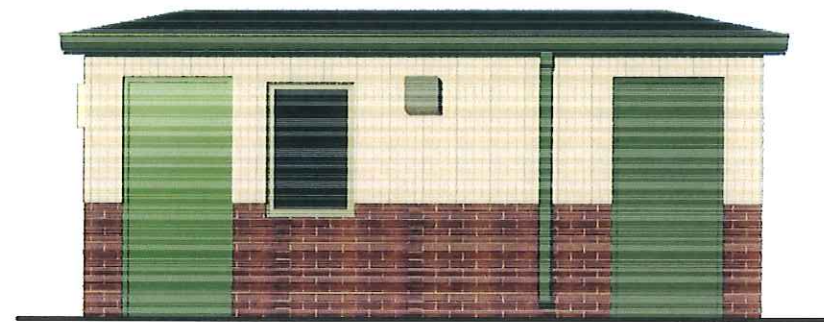
Novik® NoviTrim™ 2" x 2' Mortar Vinyl Trim

**\$8.99**

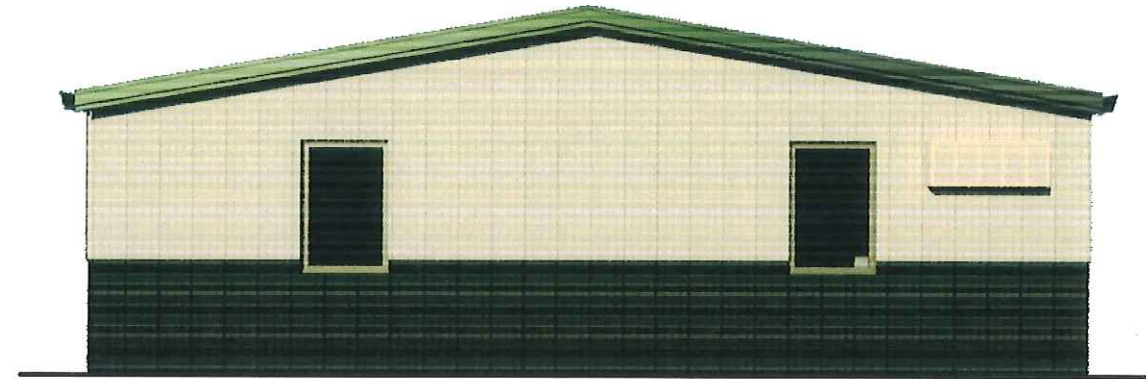
Online Price ⓘ

ATTACHMENT D

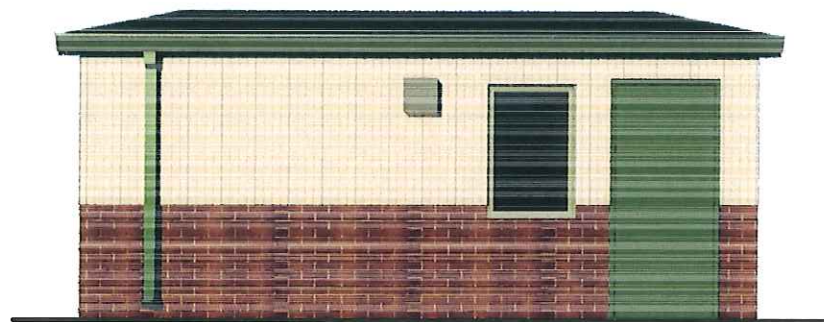




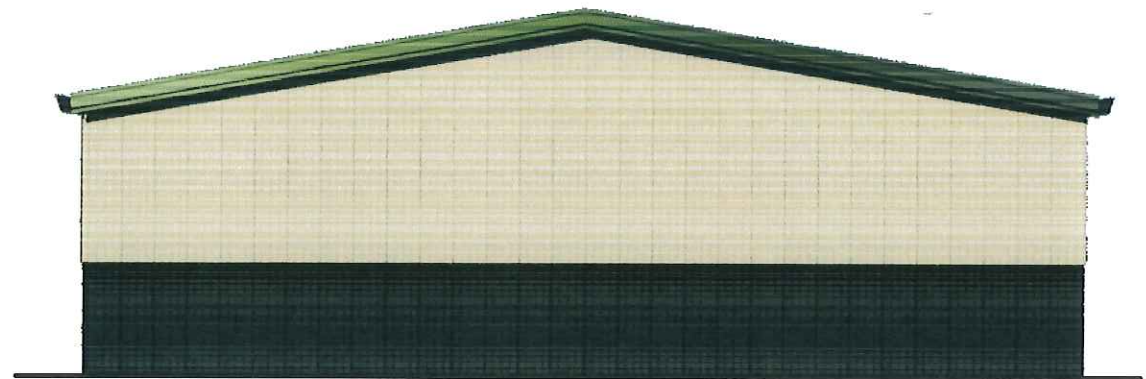
1 NORTH ELEVATION



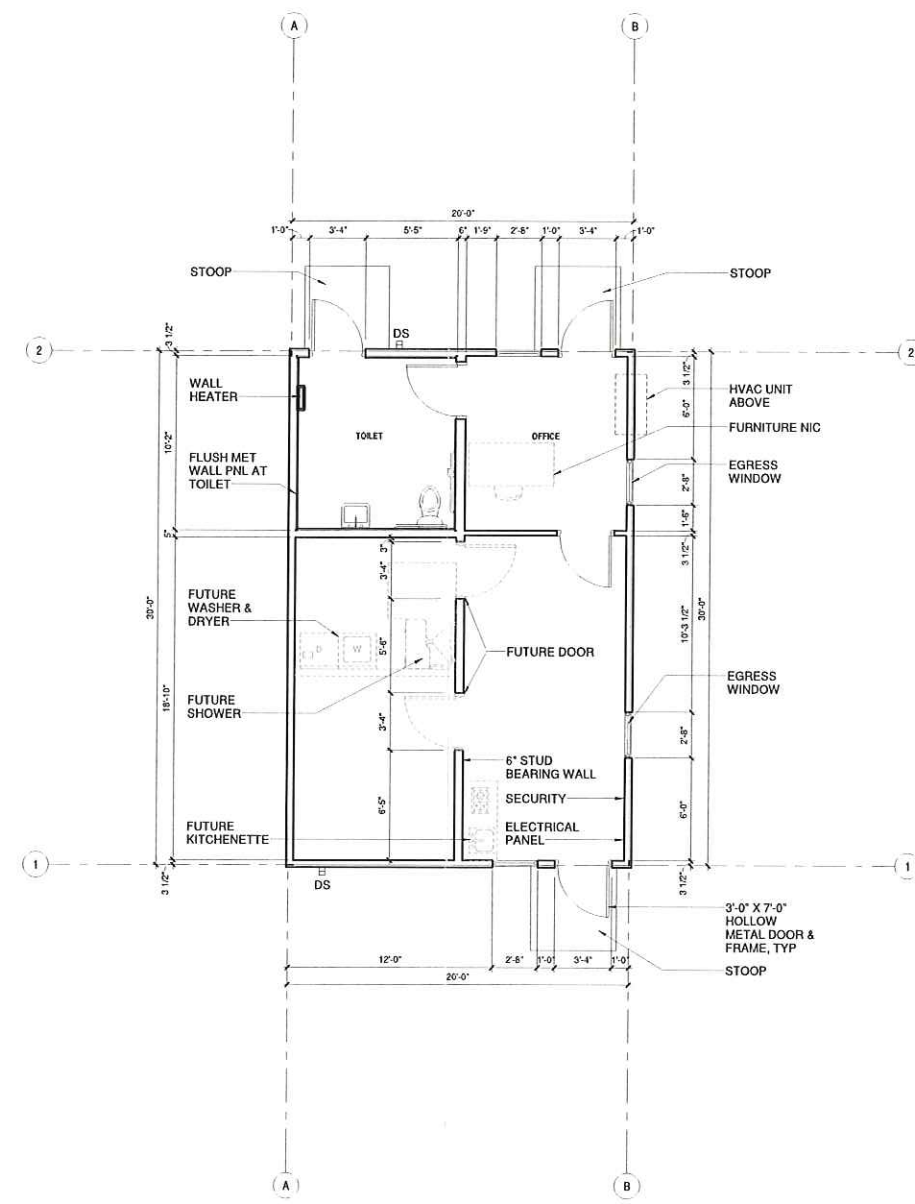
2 EAST ELEVATION



3 SOUTH ELEVATION



4 WEST ELEVATION



1 FLOOR PLAN











SIDE AND REAR YARD FENCE



FRONT YARD FENCE



**CLARK STORAGE<sup>LLC</sup>**

**Phone: 712-527-5213**

**Cell: 402-618-6595**

**(Secure Location)**

# Clark Storage Signs 9-17

Size: 96" x 48"

Quantity: 5

Price: \$244 each (same as last time)



Gate Hours Sign

Size: 18" x 18" with reflective base

Quantity: 2

Price: \$41.19 each (same as last time)



Surveillance Sign

Size: 18" x 24" with reflective base

Quantity: 5

Price: \$42.80 each (same as last time)

©  JOE DESIGNER, INC.

427 Sharp Street • Glenwood, IA 51534 • Office: 712-527-9565 • FAX: 712-527-2829 • [joe@joedesigner.net](mailto:joe@joedesigner.net)



# Clark Storage Website Signs

*Website Sign*

*Size: 96" x 12"*

*Quantity: 4*

*Price: \$56 each (same as last time)*

**[www.ClarkStorageLLC.com](http://www.ClarkStorageLLC.com)**

# U-Haul Signs

*Size: 72" x 28"*

*Sign Base: Metal*



## NOTICE OF APPROVAL

Case #CU-18-001

Council Bluffs Zoning Board of Adjustment

Date: July 17, 2018

Henry Clark  
P.O. Box 485  
Glenwood, IA 51534

To Whom It May Concern:

You are hereby officially notified that the Council Bluffs Zoning Board of Adjustment has **approved your request to allow a conditional use permit to allow 'commercial storage' in an R-4/High Density Multi-Family Residential District, on property legally described as being Part of Tract 4, Sherwood Subdivision, Phase 2 of the NE1/4 of Section 29-75-43 and the SE1/4 of Section 20-75-43, being more particularly described as: Commencing at the North One-Quarter Corner of said Section 29; thence South 00°28'46" West (assumed bearing) for 601.20 feet along the west line of Tract 1, Sherwood Subdivision; thence South 89°42'54" East for 734.06 feet along the south line of said Tract 1 to the Point of Beginning; thence North 01°55'34" East for 365.68 feet along the west line of said Tract 4 (Phase 2); thence the following six (6) courses along the northerly line of said Tract 4 (Phase 2): (1)South 88°07'43" East for 259.02 feet (2)North 62°19'42" East for 135.88 feet (3)North 03°22'57" East for 160.06 feet (4)South 86°34'35" East for 209.97 feet (5)North 03°23'25" East for 173.82 feet (6)South 86°37'58" East for 238.30 feet; thence South 15°58'43" West for 759.19 feet along the west line of Valley View Drive Right-of-Way as described in Book 2008, Page 8642 in the Pottawattamie Recorders Office; thence North 89°44'11" West for 649.73 feet along the south line of said Tract 4 (Phase 2) to the Point of Beginning, City of Council Bluffs, Pottawattamie County, Iowa, subject to the comments stated above and the following conditions:**

- 1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.*
- 2. The applicant shall have an adopted planned residential development plan for the proposed 'commercial storage' use prior to commencing any construction activity on the subject property.*
- 3. Fire hydrants shall be provided in accordance with Chapter 507.5.1 of the International Fire Code relative to hydrant spacing.*
- 4. Potable water shall be extended to the subject property to service the proposed development. Any costs to construct, remove and/or relocate any utilities for the proposed development shall be the responsibility of the applicant and not the City.*
- 5. The hours of operations shall be as presented in the application.*
- 6. Outdoor storage shall be ancillary to the commercial storage use and shall be limited in size to 10% of total site acreage. Outdoor storage shall be completely screened from view from Railroad Highway and the Sherwood Apartments and shall be limited to cars, trucks, boats and recreational*



*vehicles only. Exterior storage of junked, wrecked, inoperable and/or unregistered vehicles is prohibited.*

- 7. All outdoor storage areas, off-street parking, driveways and drive aisles shall be hard-surface paved with asphalt or concrete cement and shall be designed to comply with all standards stated in Chapter 15.23, Parking, Loading and Unloading of the Council Bluffs Zoning Ordinance.*
- 8. The applicant shall comply with all applicable stormwater management standards for the proposed development, as determined by the Council Bluffs Public Works Department.*

You are hereby advised that any one who objects to the Board's decision (including the City's Community Development Department, if its representatives recommended against your request) may appeal such decision by filing with the District Court a Petition for Certiorari within 30 days after the filing of the Board's decision.

You are hereby advised that if such appeal is taken, you may intervene in the appeal to present your position. In the event of an appeal, you should consult an attorney for advice on your legal rights.

You are hereby advised that if you, in reliance upon the Board's approval of your request, proceed with any construction plans and/or expend any money within 30 days of the filing of the Board's decision, you will be doing so **at your own risk**, because if someone appeals the Board's decision in that time and is ultimately successful with the appeal, then it will be as if the Board had never approved your request; you should do nothing in reliance upon the Board's decision until the 30 days has expired.

There may be public or private easements, covenants and/or deed restrictions which may limit the use of this property.



Bobbette Behrens, Chair  
Council Bluffs Zoning Board of Adjustment

cc: Building Division

Sherwood Forest View, LLC, 7455 France Avenue S #381, Edina, MN 55435

Robert Duvall, Schemmer Associates, 1044 N. 115<sup>th</sup> Street, Suite 300, Omaha, NE 68154

## RESOLUTION NO. 18-301

**A RESOLUTION TO ADOPT A PLANNED RESIDENTIAL DEVELOPMENT PLAN ON 8.50 ACRES OF UNDEVELOPED LAND ZONED R-4/HIGH DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT WITH AN APPENDED PLANNED RESIDENTIAL OVERLAY, LEGALLY DESCRIBED AS BEING PART OF TRACT 4, SHERWOOD SUBDIVISION (PHASE 2) LOCATED IN THE NE1/4 OF SECTION 29-75-43 AND THE SE1/4 OF SECTION 20-75-43, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.**

**WHEREAS,** Clark Storage, LLC, is requesting to adopt a residential development plan for Clark Storage and on 8.50 acres of undeveloped land, lying immediately east of 2009 Sherwood Court, and legally described as being part of Tract 4, Sherwood Subdivision (Phase 2) located in the NE1/4 of Section 29-75-43 and the SE1/4 of Section 20-75-43, City of Council Bluffs, Pottawattamie County, Iowa; and

**WHEREAS,** All City departments and local utilities were notified of the proposed development request and the following development standards shall apply to the subject property:

**Site Development**

- a) The minimum size tract of land for property located in a PR Overlay is 1.5 acres. The subject property contains 8.50 acres, which complies with the minimum PR Overlay lot size requirement.
- b) The subject property is zoned R-4/High Density Multi-Family Residential District. All building setbacks, building heights, and lot coverage shall comply with standards stated in Section 15.11.050, *Site development regulations, R-4/High Density Multi-Family Residential District* of the Municipal Code (Zoning Ordinance).
- c) Site access shall be limited to two driveways onto Railroad Avenue, as per the proposed development plan. The existing curb inlet, located near the northerly driveway entrance, shall not be altered, as per the Council Bluffs Public Works Department. Any disturbance to the existing trail system adjacent to the subject property shall be repaired to current standards. All site access and driveways shall be reviewed and approved by the Council Bluffs Public Works Department prior to construction.
- d) Trash receptacles and/or dumpster locations are not shown on the submitted development plans. All trash receptacles/dumpsters shall be enclosed on three sides and screened from public view. The enclosure shall have a lockable gate which when closed completely eliminates view of the dumpster.
- e) A geotechnical report shall be submitted to the Council Bluffs Permits and Inspections Division and Council Bluffs Public Works Department prior to issuance of any development permits for the proposed 'commercial storage' project. The applicant shall also obtain grading, construction in the public right-of-way, and parking lot permits from the City for this development project.
- f) A preliminary drainage report was submitted with the development plan proposal for the City to review. The Council Bluffs Public Works Department and the applicant's engineer will continue to work together to finalize the report to meet current standards and specifications.

- g) Stormwater run-off from the development will be contained in a detention pond located along the eastern portion of the subject property. The applicant's engineer is working with the Council Bluffs Public Works Department to complete a final drainage report for the subject property. A full stormwater plan that addresses water quality and quantity shall be submitted to the Public Works Department, prior to issuance of any permits for the project. The applicant shall also submit a Post-Construction Stormwater Management Application and bonding for the stormwater best-management practices (BMP) on-site to the Council Bluffs Public Works Department.
- h) Retaining walls are proposed to be installed along the northerly/westerly portions of the development site. The applicant shall submit stamped/sealed retaining wall plans to Council Bluffs Permits and Inspections Division and to the Council Bluffs Public Works Department for review. The applicant shall also obtain a permit from said City Departments prior to constructing these retaining walls.
- i) Outdoor lighting plans were not submitted with the development plan proposal. Any outdoor light poles erected on the subject property shall be painted or finished aluminum or steel and shall not exceed 30 feet in height. Wood poles are not allowed. All outdoor lighting shall comply with standards stated in Section 15.24.050, *Lighting Controls*, of the Municipal Code (Zoning Ordinance).
- j) The subject property is located in an X Flood Zone (see FEMA Firm Panel Map #19155C0418F, dated 4/16/13). The developer shall contact the Council Bluffs Permits and Inspections Division to ensure the proposed development complies with all Federal, State and Local floodplain management standards.
- k) A 600 square foot resident office is proposed on the northerly portion of the development and will be used to provide on-site management/security for the commercial storage business. The resident office is considered an accessory use to the 'commercial storage' business and shall only be used for on-site management purposes and not as a separate rental dwelling unit.

#### **Utilities**

- a) Storm sewers and sanitary sewers are available along Railroad Avenue to service the proposed development. All sewers connections shall be constructed in accordance with SUDAS standards and specifications. Any cost to relocate, modify and/or extend these utilities to the subject property shall be the responsibility of the applicant and not the City.
- b) Public water is not available and must be extended to the site in order to service the proposed 'commercial storage' use. The applicant shall enter into a water main extension agreement with the Council Bluffs Water Works prior to issuance of any development permits for the project. Any cost to relocate, modify and/or extend these utilities to the subject property shall be the responsibility of the applicant and not the City.
- c) The Council Bluffs Fire Department stated the applicant must coordinate their hydrant locations with the Council Bluffs Water Works in order to eliminate the need for private hydrants within the development site.

- d) The applicant shall enter into an agreement with MidAmerican Energy Company to extend electrical distribution facilities to the subject property prior to issuance of any building permits. Any cost to relocate, modify and/or extend these utilities to the subject property shall be the responsibility of the applicant and not the City.
- e) All utilities for the proposed development shall be installed underground.

**Off-Street Parking**

- a) The required number of off-street parking spaces for the development shall be based on the standards stated in Section 15.23.060, *Parking spaces required*, of the Municipal Code (Zoning Ordinance), as follows:
  - i. Commercial storage – 1 space per 5,000 square feet gross floor area (Indoor warehousing)
  - ii. Resident Office – 1 space per 300 square feet of gross floor area (Office activity)

The development plan shows 351 individual storage units (totaling 61,800 square feet) and a 20'x30' (600 square feet) resident office. Based on these square footage totals a minimum of 12.36 off-street parking stalls shall be provided for the 'commercial storage' use and two off-street parking stalls shall be provided for the resident office. The submitted site plan shows 23 off-street parking stalls, therefore sufficient off-street parking is being provided for the development.
- b) All parking/loading areas, driveways, and drive aisles shall be hard-surfaced paved and shall be designed to comply with the standards stated in Chapter 15.23, *Off-Street Parking, Loading and Unloading* of the Municipal Code (Zoning Ordinance).
- c) All off-street parking shall comply with the Parking for Persons with Disabilities Chapter of the Iowa Administrative Code.

**Architecture**

- a) The submitted development plans shows pre-engineered metal buildings for the resident office and commercial storage buildings. All buildings will be one-story in height. The approved conditional use permit (Case #CU-18-001) included language that does not allow the exterior walls of the buildings in this development to be solely constructed out of metal. In order to comply with the conditional use permit standards, the applicant has proposed to install a four-foot wide strip of decorative polymer brick panels along the bottom portion of each building façade that is not does not have openings for commercial storage units. For clarity purposes, the decorative four foot-wide decorative polymer brick panel shall be applied to each building in this development as follows:
  - 14-unit (20'x140' building) – The north, east, and west façades
  - 10-unit (20'x100' building) – The north, south, and west facades
  - 20'x 30' resident office – All building elevations
  - 7-unit (20'x70' building) – The north, south, and east facades

- 37 unit (20'x370' building) – The north and south facades. The west façade will be constructed into an earthen berm/embankment and will not be visible.
- 42-unit (30'x210' buildings) – The north and south facades.
- 16-unit (20'x160' building) – The north, east, and south facades.
- 42-unit (40'x210' buildings) – The north and south facades.
- 15-unit (20'x150' building) – The north, east, and south facades.

Other acceptable building materials for the commercial storage buildings and resident office include brick masonry, EFIS, cement lap siding, wood siding, and split-face CMU. All building construction, materials and design shall be consistent with the proposed development plan.

- b) The applicant has proposed to install a decorative aluminum and/or wrought-iron style fence as well as a chain-link fence on the subject property. The decorative fence shall be installed between each storage building and along the perimeter of the parking/drive aisles areas on the eastern portion of the property in order to help screen the development from Railroad Avenue. A wood, vinyl, and/or chain-link fence shall be allowed along the southerly, northerly and westerly portions of the development. All fencing shall comply with Section 15.24.040, *Fence regulations* of the Council Bluffs Zoning Ordinance.

#### **Landscaping**

- a) The submitted landscaping plan shows a mixture of evergreen and deciduous trees along with native grasses being planted on the property. The plant selection and their placement was designed to help screen the commercial storage use from Railroad Avenue and the Sherwood Apartments. The proposed landscaping plan is generally acceptable, with the following conditions:
- i. All disturbed areas without a specific landscape design shall be seeded with sod, turf and/or prairie grass.

#### **Signage**

- a) Attached and detached signage for the commercial storage development are proposed as follows:

##### **Attached**

- i. (1) 72" x 28" (14 square feet) – UHAUL wall sign
- ii. (4) 96" x 12" (32 square feet total) - "www.ClarkStorageLLC.com" wall sign
- iii. (5) 96" x 48" (160 square feet total) – Clark Storage wall sign
- iv. (2) 18"x18" (6 square feet total) – Gate Hours Signs\*\*
- v. (5) 18" x 24" (15 square feet total) – Surveillance Sign\*\*

*\*\* The proposed 'gate hours' and 'video surveillance' signs do not contain any business logos/identification information and therefore shall not count towards the total maximum allowed sign square footage for the subject property.*

Detached

- i. (1) Clark Storage detached ground sign. The height and square footage to this sign is not stated on the plan. Per Section 15.33.160(03), *PR/Planned Residential District Signs* of the Municipal Code (Zoning Ordinance), detached signs shall not exceed 50 square feet or 10 feet in height. The applicant shall design the sign to comply with the detached sign standards stated above.
- b) All attached signage shall be affixed to a building/structure on the property. The 'gate hours' and 'video surveillance' signs can be attached to a building, structure, and/or fence on the subject property.
- c) All signage (detached and attached) shall comply with Section 15.33.160(03), *PR/Planned Residential District Signs* of the Municipal Code (Zoning Ordinance); and

**WHEREAS,** The Community Development recommends approval to adopt the Planned Residential Development Plan for Clark Storage, on 8.50 acres of land legally described above, as shown on the attachments, and subject to compliance with all comments and conditions stated herein.

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

That the planned residential development plan for Clark Storage is hereby adopted and approved.

ADOPTED  
AND  
APPROVED

October 22, 2018.

\_\_\_\_\_  
MATTHEW J. WALSH

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
JODI QUAKENBUSH

\_\_\_\_\_  
City Clerk

## Council Communication

Department: Public Works Admin  
Case/Project No.: PW19-04  
Submitted by: Matthew Cox, City Engineer

Resolution 18-302

Council Action: 10/22/2018

### Description

Resolution authorizing the Mayor and City Clerk to execute an agreement with Veenstra & Kimm, Inc. for engineering services in connection with a Sanitary Sewer Rate Study. Project # PW19-04

### Background/Discussion

The costs to own, operate, and maintain a sanitary sewer system are managed through an enterprise fund. The expenses have to be offset by revenues collected from user fees. The sewer fees are based on established rates with the need to be a self-supporting utility.

A previous study was completed in 2014/2015 and was the basis of a 5-year program of rate increases. This study is intended to assess the existing revenues based on the revised rate structure and determine whether further adjustments will be necessary. The study will consider ongoing operations and maintenance of the sanitary sewer system as well as anticipated wastewater plant infrastructure upgrades and treatment capacity expansions, including nutrient reduction improvements.

The results of the rate study are intended to guide the City with decisions related to future capital improvements and user rates. It will consider all impacts to the enterprise fund, resulting in a financial plan and implementation timeline. The completed study is expected to be a resource for the City to compare projected expenditures and revenues, and propose potential modifications to the sewer fees. The previous rate study included a cost of service analysis and the findings were considered during the development of the rate structure. It is assumed that the current effort will also utilize an equitable rate structure strategy.

A final rate increase under the current plan is scheduled to occur on July 1, 2019. In order to provide sewer users with adequate notice of any increases, any changes to the Ordinance are anticipated to occur at least one year prior to the effective date of the increase.

The FY19 CIP included a budget of \$50,000 for studies, to be paid from the Sales Tax Fund.

The Engineer was selected based on their ability to provide the necessary services utilizing the selection criteria outlined in the Professional Services Policy. Statements of qualifications were solicited from five engineering firms on the pre-qualified list. Three submittals were received and each was reviewed and individually scored using the evaluation criteria of team qualifications; past experience on similar projects; project approach and understanding; and clarity and conciseness of the proposal. V&K was selected as the most qualified for this study.

### Recommendation

Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
<a href="#">Agreement</a>	Agreement	10/11/2018
<a href="#">Resolution 18-302</a>	Resolution	10/16/2018



## **CONTRACT FOR CITY ENGINEER SERVICES**

### **MASTER SERVICE AGREEMENT**

This Contract approved on \_\_\_\_\_, 2018 and effective immediately, between the CITY OF COUNCIL BLUFFS, IOWA, a municipal corporation, 209 Pearl Street, Council Bluffs, Iowa 51503, hereinafter referred to as "CITY," and VEENSTRA & KIMM, INC., an Iowa corporation, hereinafter referred to as "ENGINEER".

1. CITY is a municipal corporation which needs certain services performed as more specifically set forth hereafter.
2. ENGINEER agrees to perform these services for City under the terms and conditions set forth in this Contract.

3. Regulation Compliance, Nondiscrimination and Information Requirements

The ENGINEER agrees to comply within the requirements as described in Appendix A, attached hereto and incorporated within.

4. Services

The ENGINEER shall provide engineering services to the CITY as requested. The scope of engineering services for any assignment shall be set forth in a separate written task order. The task order shall define scope and schedule for the project. The CITY retains the right at its sole discretion to determine what services will be provided by the ENGINEER under this Master Service Agreement.

5. Ownership of Work Product

Any data, design, files, or other work products of this Agreement including electronic CADD and GIS files developed by the ENGINEER or received by the ENGINEER as a part of their services under this Agreement shall be the property of the CITY. The ENGINEER shall provide the work product to the CITY upon request at no cost. Nothing in this Agreement shall prevent the ENGINEERS from retaining a copy of any and all work product developed as a part of this Agreement or received by the ENGINEERS during the course of services under this Agreement.

6. Compensation

The CITY will pay the ENGINEER professional fees, plus reimbursable expenses. The basis for compensation and the maximum or lump sum fee for any assignment shall be set forth in the written task order for that assignment.

When services are provided on an hourly rate basis services will be provided in accordance with the then current hourly fee schedule of the ENGINEER. The ENGINEER may adjust its standard hourly rates once each year by providing the CITY a copy of the adjusted standard hourly rate schedule.

Unless otherwise provided in the task order reimbursable expenses included within the allowed compensation includes all reasonable expenses incurred in good faith on behalf of the CITY included but not limited to copying, mailing, out of pocket per diem expenses, equipment rental and transportation at a rate not to exceed the then current IRS reimbursement rate.

Fees for services under this Agreement shall be billed monthly with a separate invoice for work under each task order.

7. Term

This Contract shall be in effect until such time that either CITY or ENGINEER terminates the contract in accordance with the terms and conditions set forth in this Contract.

8. Contractual Relationship

The parties intend that an Independent Contractor-employer relationship will be created by this Contract. CITY is interested only in the results to be achieved, and the conduct and control of the work will lie solely with ENGINEER. ENGINEER is not to be considered an agent or employee of CITY for any purpose, and neither ENGINEER nor any employees of ENGINEER are entitled to any of the benefits that CITY provides for City's employees. It is understood that CITY does not agree to use ENGINEER exclusively, and CITY in its sole discretion may contract with or use the services of any other person or entity for any type of engineering services at any time. It is further understood that ENGINEER is free to contract for similar services to be performed for other cities, persons or entities while it is under Contract with CITY. ENGINEER shall be fully responsible for all income, social security or other taxes or deductions, including but not limited to worker's compensation and unemployment deductions, relating to the services it performs for CITY.

9. Indemnification

The ENGINEER agrees to indemnify and save harmless the City, its officers, agents, and employees from and against any and all claims including reasonable attorneys' fees and defense costs arising out of the negligent acts, errors, or omissions of the ENGINEER, its officers, agents, and employees in the execution of the services specified in this Agreement.

In recognition of the relative risks and benefits of the project to both the City and ENGINEER, the risks have been allocated such that the City agrees, to the fullest extent permitted by law, to limit the liability of the ENGINEER and their sub-consultants to the OWNER and to all construction contractors and subcontractors on the project for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, so that the total aggregate liability of the ENGINEER and their sub-consultants to all those named shall not

exceed \$2,000,000.00. Such claims and causes include negligence, professional errors or omissions, strict liability, breach of contract or warranty.

10. Insurance

The ENGINEER shall maintain insurance to protect the ENGINEER from claims under Worker's Compensation Acts; claims due to personal injury or death of any employees or any other person; claims due to injury or destruction of property; and claims arising out of errors, omissions, or negligent acts for the ENGINEER is legally liable. The amounts and extent of such insurance is as follows:

- |                             |   |
|-----------------------------|---|
| 1. Professional Liability - | \$2,000,000 each claim; \$2,000,000 aggregate         |
| 2. Vehicle Coverage         |   |
| Bodily Injury -             | \$1,000,000 combined single limit (each accident)     |
| 3. Worker's Compensation -  | \$1,000,000 Statutory Benefits Coverage B             |
| 4. General Liability -      | \$1,000,000 each occurrence and \$2,000,000 aggregate |
| 5. Excess Liability for     |   |
| Items 2. and 4. above       |   |
| (Umbrella) -                | \$8,000,000 each occurrence and \$8,000,000 aggregate |

11. Arbitration

Any controversy or claim arising out of this Agreement may, if both parties agree, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association.

The cost of the arbitration, if any, will be divided equally between the OWNER and the ENGINEER.

12. Engineer's Responsibility

The ENGINEER shall be responsible for the professional quality and technical accuracy of all services furnished by the ENGINEER under this Agreement, except for that work provided by OWNER. The ENGINEER shall, without additional compensation, correct or revise any error or deficiencies in his work. Approval of the OWNER of any such work shall not in any way relieve the ENGINEER of responsibility for the technical accuracy and adequacy of said services. The OWNER's review, approval or acceptance of, or payment for any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

13. Assignability

ENGINEER shall not assign, delegate, or transfer any interest in this Contract nor the performance of any ENGINEER'S obligations hereunder, without the prior written consent of the CITY.

14. Miscellaneous

As used in this Contract, the masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

15. Notices

Any notices to be sent pursuant to this Contract shall be directed to CITY at 209 Pearl Street, Council Bluffs, Iowa 51503, and to ENGINEER at 3000 Westown Parkway, West Des Moines, Iowa 50266, or at such other address as each party shall give the other in writing from time to time, and notices shall be deemed received at the time of personal delivery or three (3) working days after being placed in the United States Mail, postage prepaid, certified mail, return receipt requested.

16. Termination

This Agreement may be terminated as follows:

A. For Cause. Either party may terminate this Contract for cause as follows:

- 1 The party electing to terminate shall give the other party written notice of termination at least seven (7) days prior to the termination date, setting forth very specifically the grounds for termination, the specific provisions of the Contract that has been violated, and a full statement of the facts surrounding the violation(s).
- 2 If the terminated party so elects, the parties shall meet promptly and make good faith efforts to resolve the violation(s) in a mutually agreeable way.
- 3 If any such violation cannot be resolved by the parties at such meeting, or at any mutually agreed extension(s) of such meeting, the termination shall proceed.
- 4 If the violation(s) have not been resolved, the terminating party may proceed with termination, and with retaining other person(s) or entities to provide engineering services, if the terminating party is the City.

B. Without Cause. Either party may terminate the Contract at any time without cause upon at least sixty (60) days prior written notice to the other party.

17. Equal Opportunity

ENGINEER shall insure that its policies and practices provide equal opportunity to all applicants and employees without regard to race, color, creed, sex, age, religion, ancestry, citizenship, national origin, handicap, mental condition, veteran or marital status, and in addition, ENGINEER must comply with the Americans with Disabilities Act.

IN WITNESS WHEREOF, the parties have executed this Contract at Council Bluffs, Iowa, the day and year first above written.


CITY OF COUNCIL BLUFFS, IOWA

VEENSTRA & KIMM, INC.

By: \_\_\_\_\_  
Mayor

By:   
H. R. Veenstra Jr.

Attest:

Attest: 

\_\_\_\_\_  
\_\_\_\_\_  
Print Name and Title

Forrest S. Aldrich, P.E., Project Manager  
Print Name and Title

## **APPENDIX "A"**

During the performance of this contract, the engineer, for itself, its assignees and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

1. Compliance with Regulations: The Engineer shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The Engineer, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix "B" of the Regulations.
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.
4. Information and Reports: The Engineer shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Council Bluffs, the Iowa Department of Transportation or Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of an engineer is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the City of Council Bluffs, the Iowa Department of Transportation or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Engineer's noncompliance with the nondiscrimination provisions of this contract, the City of Council Bluffs shall impose such contract sanctions as it, the Iowa Department of Transportation or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the Engineer under the contract until the Engineer complies; and/or,
  - b. cancellation, termination or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The Engineer shall include the provisions of Paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Engineer shall take such action with respect to any subcontract or procurement as the City of Council Bluffs, the Iowa Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that, in the event an engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City of Council Bluffs or the Iowa Department of Transportation to enter into such litigation to protect the interests of the City of Council Bluffs or the Iowa Department of Transportation; and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.



VEENSTRA & KIMM, INC.  
HOURLY RATES BY EMPLOYEE CLASSIFICATION  
(Effective July 2018)

Management I .....	\$172.00
Management II .....	170.00
Process Engineer.....	193.00
Engineer I-A.....	172.00
Engineer I-B.....	162.00
Engineer I-C.....	154.00
Engineer II-A.....	140.00
Engineer II-B.....	129.00
Engineer III-A.....	122.00
Engineer III-B.....	118.00
Engineer III-C.....	115.00
Engineer IV.....	111.00
Engineer V.....	102.00
Engineer VI.....	99.00
Engineer VII.....	91.00
Engineer VIII.....	87.00
Engineer IX.....	81.00
Engineer X.....	74.00
Engineer XI.....	67.00
Accountant I.....	100.00
Accountant II.....	60.00
IT I.....	125.00
IT II.....	95.00
Design Technician I.....	97.00
Planner I.....	108.00
Planner II.....	75.00
Planner III.....	69.00
Drafter IA.....	96.00
Drafter IB.....	89.00
Drafter II.....	84.00
Drafter III.....	79.00
Drafter IV.....	72.00
Drafter V.....	61.00
Drafter VI.....	58.00
Drafter VII.....	45.00
Clerical I.....	89.00
Clerical II.....	61.00
Clerical III.....	53.00
Clerical IV.....	46.00
Clerical V.....	36.00
Construction Manager .....	166.00
Surveyor I.....	115.00
Surveyor II.....	96.00
Technician I.....	86.00
Technician II.....	79.00
Technician III.....	73.00
Technician IV.....	69.00
Technician V.....	62.00
Technician VI.....	58.00
Technician VII.....	49.00
Technician VIII.....	43.00
Technician IX.....	35.00
Building Inspector I.....	154.00
Building Inspector I-A.....	108.00
Building Inspector II.....	83.00
Building Inspector III.....	61.00

Robotics .....	30.00/Hour
GPS.....	30.00/Hour
Leica Total Station .....	20.00/Hour
Total Station Robotics .....	15.00/Hour
Tablet.....	45.00/Hour
Fluoroscope .....	50.00/Hour
4-Wheeler .....	45.00/Hour
Mileage .....	.545¢/Mile

**RESOLUTION**  
**NO 18-302**

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK  
TO EXECUTE AN AGREEMENT WITH  
VEENSTRA & KIMM, INC. FOR ENGINEERING SERVICES  
IN CONNECTION WITH A  
SANITARY SEWER RATE STUDY  
PROJECT #PW19-04**

WHEREAS,           the city is in need of professional services for a  
Sanitary Sewer Rate Study within the city, as therein  
described; and

WHEREAS,           Veenstra & Kimm, Inc. has submitted an agreement  
to provide engineering services for the work necessary  
for said study; and

WHEREAS,           the city council deems approval of said agreement to be  
in the best interest of the City of Council Bluffs.

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

That the Mayor and City Clerk are hereby authorized and directed to execute an agreement with  
Veenstra & Kimm, Inc. for engineering services relative to the Sanitary Sewer Rate Study.

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 22, 2018

\_\_\_\_\_  
Matthew J. Walsh, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush, City Clerk

## Council Communication

Department: Public Works Admin  
Case/Project No.: PW19-13  
Submitted by: Matthew Cox, City Engineer

Resolution 18-303

Council Action: 10/22/2018

### Description

Resolution authorizing the Mayor to execute Iowa Department of Transportation Agreement No. 2019-TS-019 for Traffic Safety Improvement Program Funding.

### Background/Discussion

The Iowa DOT Traffic Safety Improvement Program provides safety funds to cities, counties and the DOT for roadway safety improvements, research, studies or public information initiatives. The program is funded annually with 0.5 percent of Iowa's Road Use Tax Fund.

Public Works submitted an application for funding under the category of traffic control devices and was successful in being selected for the program.

The proposed project replaces the existing, nonconforming MUTCD traffic signal at the intersection of North Broadway and Hunter Avenue with a pedestrian hybrid beacon, commonly known as a High-Intensity Activated Crosswalk (HAWK) signal, which adheres to MUTCD. The Public Works Department will also update the curb ramp to meet ADA standards. These improvements will improve the safety of the pedestrian crossing of North Broadway that provides direct access to Hoover Elementary School and also serves Gerald W. Kirn Junior High School.

The project was selected for partial funding and received \$40,000 in Traffic Safety Funds.

The total cost estimate for the project is \$94,000. This project was included in the FY19 CIP with a budget of \$60,000 in Sales Tax Funds.

The project is scheduled to be constructed during the summer break from school in 2019.

### Recommendation

Approval of this resolution.

### ATTACHMENTS:

Description	Type	Upload Date
<a href="#">Agreement</a>	Agreement	10/11/2018
<a href="#">Resolution 18-303</a>	Resolution	10/16/2018

**IOWA DEPARTMENT OF TRANSPORTATION  
AGREEMENT FOR TRAFFIC SAFETY IMPROVEMENT PROGRAM FUNDING  
(Traffic Control Device)**

County	<u>Pottawattamie</u>
Recipient	<u>City of Council Bluffs</u>
Project No.	<u>CS-TSF-1642(679)--85-78</u>
Iowa DOT	
Agreement No.	<u>2019-TS-019</u>

This agreement is entered into by and between the Iowa Department of Transportation, hereinafter designated the "DOT", and the city of Council Bluffs, Iowa, hereinafter designated the "Recipient". The Recipient submitted an application to the DOT for funding through the Traffic Safety Improvement Program (TSIP) under Iowa Code Section 312.2(11), and the application was approved by Transportation Commission Order No. H-2018-41 on, December 12, 2017.

Pursuant to the terms of this agreement, and applicable statutes and administrative rules, the DOT agrees to provide funding to the Recipient to aid in the development of a certain traffic safety improvement project.

In consideration of the foregoing and the mutual promises contained in this agreement, the parties agree as follows:

**1. Project Information**

- a. The Recipient shall be the lead local governmental agency for carrying out the provisions of this agreement.
- b. All notices required under this agreement shall be made in writing to the DOT's and/or the Recipient's contact person. The DOT's contact person shall be the District 4 Local Systems Engineer in Atlantic, Iowa. The Recipient's contact person shall be Mark Franz, Street Superintendent.
- c. The Recipient shall be responsible for the development and completion of the following described project located in the city of Council Bluffs:

The current traffic signal at the intersection of North Broadway and Hunter Avenue violates the Manual on Uniform Traffic Control Devices (MUTCD) requirements, as side street movements are stop controlled. The purpose of this project is to replace the existing, nonconforming MUTCD traffic signal with a pedestrian hybrid beacon, commonly known as a High-Intensity Activated Crosswalk (HAWK) signal, which adheres to MUTCD guidance. See Exhibit A-1 for the location of the project and Exhibit A-2 for the estimated project cost.

**2. Project Costs**

- a. Eligible project costs for the project described in Section 1 of this agreement which are incurred after the effective date of Commission Approval shall be paid from TSIP Funds and other funds as listed below, subject to the execution of a signed agreement:

TSIP Funds:     \$40,000

- b. The portion of the total project costs paid by TSIP shall not exceed the amount stated above or the actual cost of the TSIP eligible items, whichever is the smaller amount.
- c. If a letting is required, the project shall be let to contract within 2 years of the date this agreement is approved by the Department. If a letting is not required, construction on the project shall begin within 2 years of the date this agreement is approved by the Department. If neither condition is met, the

Recipient may be in default, for which the Department may revoke funding commitments. This agreement may be extended for a period of 6 months upon receipt of a written request from the Recipient at least 30 days prior to the 2-year deadline.

- d. Project activities or costs eligible for TSIP funds include only the cost of materials purchased for initial installation of traffic control devices or replacement of obsolete traffic control devices to comply with the applicable warrants in the Manual on Uniform Traffic Control Devices (MUTCD) adopted in 761 Iowa Administrative Code 130.1(321).
- e. Project activities and costs ineligible for TSIP funds include, but are not limited to, the following: (a) any and all costs incurred prior to Transportation Commission approval of funding; (b) maintenance or energy costs for traffic control devices or lighting; or (c) installation costs.
- f. For traffic control device projects where the devices will be furnished and installed by a contractor, the contract will need to have a bid item for materials only.
- g. If Federal highway funds, Farm-to-Market funds, or other Federal funds are used in combination with TSIP Funds, the Recipient shall also follow all administrative and contracting procedures which would normally be used when such funds are used on a non-TSIP project. The Recipient shall comply with all requirements for the use of said funds.

### **3. Right of Way and Permits**

- a. In the event that right-of-way is required for the project, said right-of-way shall be acquired in accordance with 761 Iowa Administrative Code Chapter 111, Real Property Acquisition and Relocation Assistance. If the project impacts the Primary Road System, the Recipient shall submit preliminary right-of-way plans to the DOT's Office of Right of Way for review and approval prior to the commencement of any acquisition. Additionally, if said right-of-way is for an improvement to the Primary Road System, it shall be acquired in the name of the State of Iowa.
- b. The Recipient shall be responsible for obtaining any permits, such as the Work Within the Right-of-Way Permit, Access Connection/Entrance Permit, Utility Accommodation Permit, Application for Approval of a Traffic Control Device, and/or other construction permits required for the project prior to the start of construction. Neither the approval of the TSIP application for funding nor the signing of this agreement shall be construed as approval of any required permit from the DOT.
- c. The Recipient shall be responsible for obtaining any environmental permits and approvals, when necessary, to comply with all environmental regulations.

### **4. Project Design**

- a. The Recipient shall develop all project improvements using good engineering judgment. The Recipient shall use the DOT "Design Manual" on projects involving the Primary Road System and/or routes located on the National Highway System. Projects not on the Primary Road system shall use "A Policy on Geometric Design of Highways and Streets", (latest edition), by the American Association of State Highway and Transportation Officials. In all cases the "The Manual on Uniform Traffic Control Devices for Streets and Highways" (MUTCD), as adopted pursuant to 761 Iowa Administrative Code, Chapter 130 shall apply.
- b. For projects which include the installation or modification of traffic signal systems, the following shall apply:
  - i. There will be a minimum of one mast-arm mounted signal head with back plate for each incoming through or left-turn lane. In addition, there will be one signal head, side of pole mounted, on the far right side pole. All vehicle signal lenses shall be 12-inch. The positioning of signal faces and

the signal indications for left-turn movements shall be in accordance with current adopted MUTCD.

- ii. Combination signal/lighting pole shall be used to minimize the number of fixed objects.
- iii. Interconnection and coordinated traffic signal timing plans shall be developed for the traffic signals if there are two or more other signal installations within ½ mile of the subject access to provide for progressive traffic flow. Said plans shall be reviewed and approved by the DOT Office of Traffic & Safety.
- iv. Pedestrian activated signals shall be provided for all pedestrian movements and timed in accordance with the MUTCD.
- v. The concrete pad for the controller shall extend no more than 4 inches above the ground line.
- vi. Where the distance from the stop bar to the signal indication is in excess of 180 feet, there shall also be a near side signal head.
- vii. Dilemma zone protection shall be provided if the 85<sup>th</sup> percentile speed is at/over 35 mph.

## **5. Procurement**

- a. If the estimated project cost is greater than the competitive bid threshold established pursuant to Iowa Code 314.1, the Recipient shall follow the competitive bidding procedures in Iowa Code sections 26.3 through 26.13. Project plans, specifications and engineer's cost estimate for site specific improvements and/or traffic control devices shall be prepared and certified by a professional engineer licensed to practice in the State of Iowa. The Recipient shall submit the plans, specifications and other contract documents to the DOT for review. This submittal may be in divisions and in the order of preference as determined by the Recipient. However, the plans, specifications and other contract documents for each division must be submitted at least ten weeks (traffic control devices) or fourteen weeks (site specific project) prior to the project letting of each division. The DOT shall review said submittal(s) recognizing the Recipient's development schedule and shall, after satisfactory review, authorize in writing the Recipient to proceed with implementation of the project. The work on this project shall be in accordance with the survey, plans, and specifications on file. Any substantial modification of these plans and specifications must be approved by the DOT prior to the modification being put into effect.
- b. If the estimated project cost is less than the competitive bid threshold established pursuant to Iowa Code section 314.1, the Recipient shall solicit competitive quotations in accordance with Iowa Code section 26.14. Before placing an order to purchase the materials, the Recipient shall provide the DOT with a summary of the quotes received and the vendor selected and request approval to proceed. After receiving DOT approval, the Recipient may proceed with the purchase of materials.
- c. The Recipient shall notify prospective bidders and quoters that Sales Tax Exemption Certificates will be issued, as provided for by Iowa Code section 423.3, subsection 80. The Recipient shall be responsible for obtaining the sales tax exemption certificates through the Iowa Department of Revenue and Finance. The Recipient shall issue these certificates to the successful bidder and any subcontractors to enable them to purchase qualifying materials for the project free of sales tax.
- d. The Recipient shall use positive efforts to solicit bids or quotes from and to utilize Targeted Small Business (TSB) enterprises as contractors and ensure that the contractors make positive efforts to utilize these enterprises as subcontractors, suppliers or participants in the work covered by this agreement. Efforts shall be made and documented in accordance with Exhibit B which is attached hereto and by this reference incorporated into this agreement.



## **6. Construction and Maintenance**

- a. The Recipient shall conduct the project development and implementation in compliance with applicable laws, ordinances and administrative rules.
- b. The Recipient shall maintain records, documents, and other evidence in support of work performed under the terms of this contract. All accounting practices applied and all records maintained will be in accordance with generally accepted accounting principles and procedures. Documentation shall be made available for inspection and audit by authorized representatives of the DOT or its designee at all reasonable times during the period of the contract and for three (3) years after the date of final payment. Reimbursement shall be based on eligible actual and indirect costs associated with performance of contract service work. The Recipient shall provide copies of said records and documents to the DOT upon request.
- c. The Recipient shall require its contractors to permit the DOT authorized representative to inspect all work materials, records, and any other data with regard to agreement related costs, revenues and operating sources.
- d. The Recipient shall install, or cause to be installed, the traffic control devices provided by this agreement.
- e. Upon project completion and prior to final reimbursement for the project, the Recipient shall furnish three sets of "as-built" plans for any portion of the project which is on or intersects any primary road or primary road extension to the DOT's contact person for future maintenance and road design purposes.
- f. If this project requires the installation of or modification to a traffic control signal system, the Recipient shall be responsible for all future ownership, maintenance, operation and energy costs of said installation or modification.
- g. The Recipient hereby certifies that, for a period of ten (10) years following completion of project and receipt of final payment from the DOT, there shall be no modifications in the geometric features, the construction features, or the access management features (including driveway design and location) of the project, nor shall there be any fixed objects or obstructions placed in any clear zone established in conjunction with this project without the prior written approval of the Office of Traffic and Safety. Failure to comply shall be considered a default under the terms of this agreement.

## **7. Payments and Reimbursements**

- a. The Recipient may submit to the DOT periodic itemized claims for reimbursement for eligible project activities. Eligible and ineligible costs are outlined in Iowa Administrative Code (IAC) 761 Chapter 164, Traffic Safety Improvement Program (see IAC 761-164.6(312) and IAC 761-164.7(312)). Reimbursement claims shall include certification by a professional engineer licensed to practice in the State of Iowa that all eligible project activities for which reimbursement is requested have been completed in substantial compliance with the terms of this agreement.
- b. The Department will reimburse the Recipient for properly documented and certified claims for eligible project costs. The Department may withhold up to 5% of the construction costs or 5% of the TSIP funds available for the project, whichever is less. Reimbursement will be made either by State warrant or by crediting other accounts from which payment was initially made. If, upon final audit or review, the Department determines the Recipient has been overpaid, the Recipient shall reimburse the overpaid amount to the Department. After the final audit or review is complete and after the Recipient has provided all required paperwork, the Department will release the funds withheld, if any.

- c. Upon completion of the project described in this agreement, a professional engineer licensed to practice in the State of Iowa shall certify in writing to the DOT that the project activities were completed in substantial compliance with the terms of this agreement. Final reimbursement of TSIP Funds shall be made only after the DOT accepts the project as complete.
- d. The Recipient shall request reimbursement and final payment from the DOT within one year of field completion of the work. If this condition is not met, the Recipient may be in default, for which the Department may revoke funding commitments.
- e. If the Recipient fails to perform any obligation under this agreement, the DOT shall have the right, after first giving thirty (30) days written notice to Recipient by certified mail return receipt requested, to declare this agreement in default. The Recipient shall have thirty (30) days from date of mailing of notice to cure the default. If the Recipient cures the default, the Recipient shall notify DOT no later than five (5) days after cure or before the end of said thirty (30) day period to cure default. Within ten (10) working days of receipt of Recipient's notice of cure, the DOT shall issue either a notice of acceptance of cure or notice of continued default.
- f. In the event a default is not cured the DOT may revoke funding commitments and/or seek repayment of TSIP Funds granted by this agreement through charges against the Recipient's road use tax funds.

## **8. General Provisions**

- a. This agreement shall be considered to be in default if the DOT determines that the Recipient's application for funding contained inaccuracies, omissions, errors or misrepresentations.
- b. To the extent allowed by law, the Recipient agrees to indemnify, defend and hold the DOT harmless from any action or liability arising out of the design, construction, maintenance, placement of traffic control devices, or inspection of this project. To the extent allowed by law, this agreement to indemnify, defend and hold harmless applies to all aspects of the DOT's application review and approval process, plan and construction reviews, and funding participation.
- c. In accordance with Iowa Code Chapter 216, the Recipient shall not discriminate against any person on the basis of race, color, creed, age, sex, sexual orientation, gender identity, national origin, religion, pregnancy, or disability.
- d. The Recipient shall comply with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the associated Federal regulations that implement these laws.
- e. If any part of this agreement is found to be void and unenforceable then the remaining provisions of this agreement shall remain in effect.
- f. This agreement is not assignable without the prior written consent of the DOT.
- g. It is the intent of both parties that no third party beneficiaries be created by this agreement.
- h. In case of dispute concerning the terms of this agreement, the parties shall submit the matter to arbitration pursuant to Iowa Code Chapter 679A. Either party has the right to submit the matter to arbitration after ten (10) days' notice to the other party of their intent to seek arbitration. The written notice must include a precise statement of the disputed question. DOT and the Recipient agree to be bound by the decision of the appointed arbitrator. Neither party may seek any remedy with the state or federal courts absent exhaustion of the provisions of this paragraph for arbitration.

- i. This agreement shall be executed and delivered in two or more copies, each of which so executed and delivered shall be deemed to be an original and shall constitute but one and the same instrument.
  - j. This agreement, including referenced exhibits, constitutes the entire agreement between the DOT and the Recipient concerning this project. Representations made before the signing of this agreement are not binding, and neither party has relied upon conflicting representations in entering into this agreement. Any change or alteration to the terms of this agreement must be made in the form of an addendum to this agreement. Said addendum shall become effective only upon written approval of the DOT and Recipient.
-

January 2017

IN WITNESS WHEREOF, each of the parties hereto has executed Agreement No. 2019-TS-019 as of the date shown opposite its signature below.

**City of Council Bluffs, Iowa:**

By: \_\_\_\_\_ Date \_\_\_\_\_, 20\_\_\_\_.

Title: \_\_\_\_\_

I, \_\_\_\_\_, certify that I am the Clerk of the City, and that  
\_\_\_\_\_, who signed said Agreement for and on behalf of the City was duly  
authorized to execute the same by virtue of a formal Resolution duly passed and adopted by the City, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

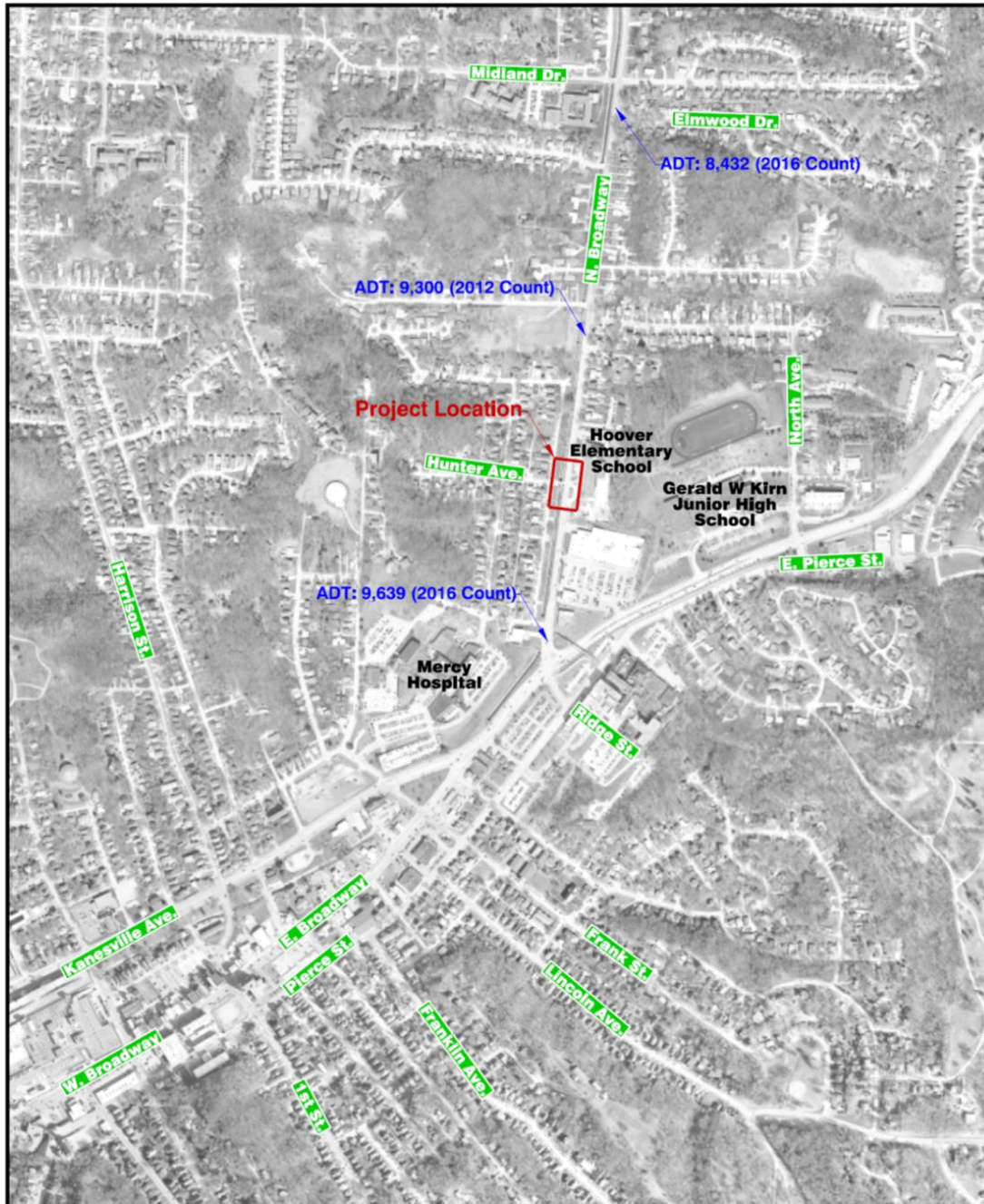
Signed \_\_\_\_\_ Date \_\_\_\_\_, 20\_\_\_\_.  
City Clerk of Council Bluffs, Iowa

**Iowa Department of Transportation:**

By: \_\_\_\_\_ Date \_\_\_\_\_, 20\_\_\_\_.

Steve J. Gent  
Director,  
Office of Traffic and Safety

**EXHIBIT A-1**  
[Project Location]



**NORTH BROADWAY & HUNTER AVENUE**  
**COUNCIL BLUFFS, IOWA**

**EXHIBIT A-2**  
[Estimated Project Cost]

C. ITEMIZED BREAKDOWN OF COST  
BIDDER: Engineer's Estimate

**PROJECT: N. Broadway & Hunter Ave. TSIP**  
**Pedestrian Traffic Signal Upgrades**  
**DATE: August 2017**



ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	AMOUNT
<b>HAWK SIGNAL</b>					
1	MOBILIZATION	1	LS	\$2,000.00	\$2,000.00
2	TRAFFIC SIGNAL REMOVAL	1	LS	\$2,500.00	\$2,500.00
3	COMBINATION MAST ARM SIGNAL AND LIGHTING POLE & FOUNDATION (15' & 20') & (20' & 25')	2	EACH	\$14,000.00	\$28,000.00
4	TRAFFIC SIGNAL, 2-SECTION	4	EACH	\$750.00	\$3,000.00
5	TRAFFIC SIGNAL, 3-SECTION	4	EACH	\$1,000.00	\$4,000.00
6	TRAFFIC SIGNAL CONTROLLER, TYPE TS2 WITH CONTROLLER CABINET (POLE MOUNTED)	1	EACH	\$12,000.00	\$12,000.00
7	PEDESTRIAN SIGNAL	2	EACH	\$675.00	\$1,350.00
8	PEDESTRIAN PUSH BUTTON	2	EACH	\$250.00	\$500.00
9	2-INCH CONDUIT, JACKED	100	LF	\$20.00	\$2,000.00
10	TRAFFIC SIGNAL & LIGHTING WIRING	1	LS	\$2,500.00	\$2,500.00
11	250W HPS EQUIVALENT LED ROADWAY LUMINAIRE	2	EACH	\$1,500.00	\$3,000.00
12	OVERHEAD SIGN	6	EACH	\$250.00	\$1,500.00
13	SIGN AND POST	5	EACH	\$400.00	\$2,000.00
<b>HAWK SIGNAL TOTAL</b>					<b>\$64,350.00</b>
RIGHT OF WAY					\$0.00
CONTINGENCIES (10%)					\$6,400.00
<b>SAFETY RELATED PROJECT COSTS</b>					<b>\$70,800.00</b>
UTILITY RELOCATIONS (3%)					\$1,900.00
DESIGN ENGINEERING (15%)					\$9,700.00
CONSTRUCTION ENGINEERING (5%)					\$3,200.00
ADA CURB RAMP UPDATE					\$8,400.00
<b>INELIGIBLE EXPENSES PROJECT COSTS</b>					<b>\$23,200.00</b>
<b>TOTAL PROJECT COST</b>					<b>\$94,000.00</b>

**EXHIBIT B**  
**UTILIZATION OF TARGETED SMALL BUSINESS (TSB) ENTERPRISES**  
**ON NON-FEDERAL AID PROJECTS**  
**(THIRD-PARTY STATE-ASSISTED PROJECTS)**

In accordance with Iowa Code Section 19B.7, it is the policy of the Iowa Department of Transportation (Iowa DOT) that Targeted Small Business (TSB) enterprises shall have the maximum practicable opportunity to participate in the performance of contracts financed in whole or part with State funds.

Under this policy the Recipient shall be responsible to make a positive effort to solicit bids or proposals from TSB firms and to utilize TSB firms as contractors or consultants. The Recipient shall also ensure that the contractors or consultants make positive efforts to utilize TSB firms as subcontractors, subconsultants, suppliers, or participants in the work covered by this agreement.

The Recipient's "positive efforts" shall include, but not be limited to:

1. Obtaining the names of qualified TSB firms from the Iowa Economic Development Authority (515-725-3132) or from its website at: <https://www.iowa.gov/tsb/index.php/home>.
2. Notifying qualified TSB firms of proposed projects involving State funding. Notification should be made in sufficient time to allow the TSB firms to participate effectively in the bidding or request for proposal (RFP) process.
3. Soliciting bids or proposals from qualified TSB firms on each project, and identifying for TSB firms the availability of subcontract work.
4. Considering establishment of a percentage goal for TSB participation in each contract that is a part of this project and for which State funds will be used. Contract goals may vary depending on the type of project, the subcontracting opportunities available, the type of service or supplies needed for the project, and the availability of qualified TSB firms in the area.
5. For construction contracts:
  - a) Including in the bid proposals a contract provision titled "TSB Affirmative Action Responsibilities on Non-Federal Aid Projects (Third-Party State-Assisted Projects)" or a similar document developed by the Recipient. This contract provision is available on-line at:  
  
[http://www.dot.state.ia.us/local\\_systems/publications/tsb\\_contract\\_provision.pdf](http://www.dot.state.ia.us/local_systems/publications/tsb_contract_provision.pdf)
  - b) Ensuring that the awarded contractor has and shall follow the contract provisions.
6. For consultant contracts:
  - a) Identifying the TSB goal in the Request for Proposal (RFP), if one has been set.
  - b) Ensuring that the selected consultant made a positive effort to meet the established TSB goal, if any. This should include obtaining documentation from the consultant that includes a list of TSB firms contacted; a list of TSB firms that responded with a subcontract proposal; and, if the consultant does not propose to use a TSB firm that submitted a subcontract proposal, an explanation why such a TSB firm will not be used.



The Recipient shall provide the Iowa DOT the following documentation:

1. Copies of correspondence and replies, and written notes of personal and/or telephone contacts with any TSB firms. Such documentation can be used to demonstrate the Recipient's positive efforts and it should be placed in the general project file.
2. Bidding proposals or RFPs noting established TSB goals, if any.
3. The attached "Checklist and Certification." This form shall be filled out upon completion of each project and forwarded to: Iowa Department of Transportation, Civil Rights Coordinator, Office of Employee Services, 800 Lincoln Way, Ames, IA 50010.

**CHECKLIST AND CERTIFICATION**  
**For the Utilization of Targeted Small Businesses (TSB)**  
**On Non-Federal-aid Projects (Third-Party State-Assisted Projects)**

Recipient: \_\_\_\_\_ Project Number: \_\_\_\_\_

County: \_\_\_\_\_ Agreement Number: \_\_\_\_\_

1. Were the names of qualified TSB firms obtained from the Iowa Economic Development Authority? ☐ YES ☐ NO

If no, explain \_\_\_\_\_

2. Were qualified TSB firms notified of project? ☐ YES ☐ NO

If yes, by ☐ letter, ☐ telephone, ☐ personal contact, or ☐ other (specify) \_\_\_\_\_

If no, explain \_\_\_\_\_

3. Were bids or proposals solicited from qualified TSB firms? ☐ YES ☐ NO

If no, explain \_\_\_\_\_

4. Was a goal or percentage established for TSB participation? ☐ YES ☐ NO

If yes, what was the goal or percentage? \_\_\_\_\_

If no, explain why not: \_\_\_\_\_

5. Did the prime contractor or consultant use positive efforts to utilize TSB firms on subcontracts? ☐ YES ☐ NO

If no, what action was taken by Recipient? \_\_\_\_\_

Is documentation in files? ☐ YES ☐ NO

6. What was the dollar amount reimbursed to the Recipient  
from the Iowa Department of Transportation?

\$ \_\_\_\_\_

What was the final project cost?

\$ \_\_\_\_\_

What was the dollar amount performed by TSB firms?

\$ \_\_\_\_\_

Name(s) and address(es) of the TSB firm(s) \_\_\_\_\_

(Use additional sheets if necessary)

Was the goal or percentage achieved? ☐ YES ☐ NO

If no, explain \_\_\_\_\_

As the duly authorized representative of the Recipient, I hereby certify that the Recipient used positive efforts to utilize TSB firms as participants in the State-assisted contracts associated with this project.

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**RESOLUTION**  
**NO 18-303**

**RESOLUTION AUTHORIZING THE MAYOR AND CITY CLERK  
TO EXECUTE IOWA DEPARTMENT OF TRANSPORTATION  
AGREEMENT NO. 2019-TS-019  
IN CONNECTION WITH  
TRAFFIC SAFETY IMPROVEMENT PROGRAM FUNDING  
PROJECT #PW19-13**

- WHEREAS, the City wishes to make improvements to the Hunter Avenue and North Broadway intersection by adding a pedestrian activated HAWK signal, within the City, as therein described; and
- WHEREAS, the Iowa Department of Transportation will provide funding to aid in the development of certain traffic safety improvement projects; and
- WHEREAS, the Iowa Department of Transportation has submitted an agreement for said improvements; and
- WHEREAS, the city council deems approval of said agreement to be in the best interest of the City of Council Bluffs.

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

That the Mayor and City Clerk are hereby authorized and directed to execute Agreement No. 2019-TS-019 with Iowa Department of Transportation in connection with Traffic Safety Improvement Program Funding.

ADOPTED  
AND  
APPROVED

October 22, 2018

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Matthew J. Walsh, Mayor

ATTEST:

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Jodi Quakenbush, City Clerk

## Council Communication

Department: Community Development  
Case/Project No.:  
Submitted by: Brenda Carrico

Resolution 18-304

Council Action: 10/22/2018

### Description

Resolution authorizing one additional year of 50% Property Tax Abatement Incentives to Echo Group, Inc. for their project at 4325 Gifford Road.

### Background/Discussion

See attachments.

### Recommendation

#### **ATTACHMENTS:**

Description	Type	Upload Date
<a href="#">Echo Group Staff Report (Oct 2018)</a>	Other	10/12/2018
<a href="#">14-107</a>	Other	10/12/2018
<a href="#">Resolution 18-304</a>	Resolution	10/16/2018

### Council Communication

Department: Community Development	Resolution No.: 18-____	City Council: October 22, 2018
<b>Subject/Title</b>		
Tax abatement benefits under the High Quality Jobs Program (HQJP) for Echo Group, Inc.		
<b>Location</b>		
4325 Gifford Road		
<b>Background/Discussion</b>		
<p>Back in 2014, the City and the Chamber of Commerce worked with Echo Group Inc. (Echo) on their relocation and expansion project. This included applications to the State of Iowa for tax credits and sales tax refunds under the High Quality Jobs Program, including local property tax abatement incentives and benefits from the Targeted Jobs Withholding Tax Credit Program.</p> <p>The proposed project was significant for many reasons, including the number of jobs created, number of jobs retained and the substantial investment in the community. Approved by City Council Resolution 14-107 was the local commitment of 75% property tax abatement each year for ten years and a 50% property tax abatement for an additional five years for the project.</p> <p>Unfortunately, the tax abatement commitment was not given to the County Assessor and the project was fully assessed for their tax bill this year. Several discussions with county and city staff and the company have resolved the issue but of significance is the tax bill that Echo must pay. A compromise solution in order to correct the mistake and alleviate the financial hit to the company is to offer the 75% abatement beginning in the 2018 assessment year, continuing through the 2027 assessment year and 50% abatement beginning in the 2028 assessment year with one additional year added to the end of the original tax abatement term and continuing through the 2033 assessment year (a total of sixteen years versus the original commitment of fifteen years). The property would be fully taxable in 2034.</p>		
<b>Staff Recommendation</b>		
The Community Development Department recommends that City Council adopt the resolution committing one additional year of 50% tax abatement to Echo Group, Inc. for their project at 4325 Gifford Road under the High Quality Jobs Program.		
<b>Attachments</b>		
City Council Resolution 14-107		

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

Approved by: Brandon Garrett, Director, Community Development Department

**RESOLUTION NO. 14-107**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA AUTHORIZING A JOINT APPLICATION TO THE IOWA ECONOMIC DEVELOPMENT AUTHORITY BY THE CITY OF COUNCIL BLUFFS AND ECHO GROUP, INC. FOR BENEFITS UNDER THE HIGH QUALITY JOBS PROGRAM, INCLUDING LOCAL PROPERTY TAX ABATEMENT INCENTIVES AND THE TARGETED JOBS WITHHOLDING TAX CREDIT PROGRAM.**

**WHEREAS,** Echo Group, Inc. has been a valued employer in Council Bluffs for over 64 years; and

**WHEREAS,** Echo Group, Inc. is considering consolidating operations from three locations in Council Bluffs into a new facility located at Veterans Memorial Highway and South 24<sup>th</sup> Street; and

**WHEREAS,** Echo Group, Inc. will retain 108 full-time jobs and create 8 new positions over a 3-year period; and

**WHEREAS,** The project budget is \$10,687,665 with \$1,100,000 of the costs in land acquisition, \$853,000 in site preparation, \$6,770,600 in building construction, \$805,065 in parking and paving, \$1,000,000 in fixtures and equipment, and \$159,000 in landscaping; and

**WHEREAS,** The Business Financial Assistance Application requests tax credits and sales tax refunds under the High Quality Jobs Program from the State of Iowa, including local property tax abatement incentives, and benefits from the Targeted Jobs Withholding Tax Credit Program; and

**WHEREAS,** It is in the opinion of the City Council that it would be in the best interest of the City of Council Bluffs to support the application of Echo Group, Inc. to the Iowa Economic Development Authority and to enter into certain certain agreements relating to this project; and

**WHEREAS,** This includes the local commitment of 75% property tax abatement each year for ten years and a 50% property tax abatement for an additional five years for the proposed project.

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

**Section 1.0** That the City declares Echo Group, Inc. is an eligible business for the High Quality Jobs Program and Targeted Jobs Withholding Tax Credit Program.

**Section 2.0** The City Council approves and supports Echo Group, Inc. requests for state assistance through the High Quality Jobs Program and the Targeted Withholding Tax Credit Program including the diversion of withholding taxes to be granted back to the company for qualifying project expenditures.

- Section 3.0** That the City shall provide a copy of this resolution to the Iowa Economic Development Authority and shall file this resolution with the Pottawattamie County Recorder.
- Section 4.0** The Mayor is hereby authorized to take such further actions as are deemed necessary in order to carry into effect the provisions of this resolution including the signing of certain agreements relating to the project.
- Section 5.0** The provisions of this resolution shall be governed by the laws of the State of Iowa.
- Section 6.0** That all resolutions and parts thereof in conflict therewith are hereby repealed to the extent of such conflict.
- Section 7.0** That the provisions of this resolution are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared to be invalid, such declaration shall not effect the validity of the remainder of the sections, phrases and provisions hereof.
- Section 8.0** That the approval of the High Quality Jobs Program and Targeted Jobs Withholding Tax Credit Program benefits are contingent upon the company meeting all applicable City codes and ordinances.
- Section 9.0** That this resolution shall become effective immediately upon passage and approval.

ADOPTED  
AND  
APPROVED:

April 21, 2014

  
Matthew J. Walsh Mayor

ATTEST:   
Marcia L. Worden City Clerk



**RESOLUTION NO. 18-304**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COUNCIL BLUFFS, IOWA  
AUTHORIZING ONE ADDITIONAL YEAR OF 50% PROPERTY TAX ABATEMENT  
INCENTIVES TO ECHO GROUP, INC. FOR THEIR PROJECT AT 4325 GIFFORD ROAD.**

- WHEREAS,** Echo Group, Inc. has been a valued employer in Council Bluffs for over 68 years; and
- WHEREAS,** Echo Group, Inc. consolidated their operations from three locations in Council Bluffs into a new facility located at 4325 Gifford Road; and
- WHEREAS,** the City originally committed to a 75% property tax abatement each year for ten years and a 50% property tax abatement for an additional five years for the project; and
- WHEREAS,** an error in recording the tax abatement incentives has led Echo to be fully assessed for their 2017 taxes; and
- WHEREAS,** in order to correct the mistake and partially alleviate the financial burden to the company, one additional year of 50% property tax abatement should be added to the end of the original tax abatement term; and
- WHEREAS,** it is in the opinion of the City Council of the City of Council Bluffs to support the local commitment of 75% property tax abatement each year for ten years and a 50% property tax abatement for an additional six years for the project.

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

That the City does hereby agree to notify the County Assessor and County Auditor of this additional year of 50% property tax abatement and execute any related documents as required.

ADOPTED  
AND  
APPROVED:

October 22, 2018

\_\_\_\_\_  
Matthew J. Walsh

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Jodi Quakenbush

\_\_\_\_\_  
City Clerk

## Council Communication

Department: City Clerk  
Case/Project No.:  
Submitted by:

Liquor License Renewals

Council Action: 10/22/2018

### Description

- 1) Casey's General Store, 2301 South 24th Street
- 2) Hard Luck Saloon, 626 16th Avenue
- 3) Hy-Vee Clubhouse, 1745 Madison Avenue
- 4) Mega Saver, 3540 West Broadway
- 5) Pizza King, 1101 North Broadway

### Background/Discussion

No calls for service on these establishments for this licensing period.

### Recommendation

Approval

### ATTACHMENTS:

Description

[Applications](#)

Type

Other

Upload Date

10/17/2018



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## Applicant LE0002538, Casey's General Store #2096, 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): Casey's Marketing Company (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Casey's General Store #2096

Address of Premise: 2301 S 24th St

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 352-0067

Cell / Home Phone:

Same Address

Mailing Address: PO Box 3001

Mailing Address Line 2:

City: Ankeny

State: Iowa

Zip: 50021

Contact Name: JESSICA FISHER, Store Operations

Phone: (515) 446-6404

Email Address: JESSICA.FISHER@caseys.c

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## Applicant LC0038771, Hard Luck Saloon, Council Bluffs

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Corporation Name/Sole Proprietor  
Name/Partnership Name(s): Hard Luck LLC  
Name of Business (D/B/A): Hard Luck Saloon

(Sole Proprietorship, Partnership, Corporation, etc.)

Address of Premise: 626 16th Ave

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (712) 322-6086

Cell / Home Phone: (712) 355-1958

Same Address

Mailing Address: 626 16th Ave

Mailing Address Line 2:

City: Council Bluffs

State: Iowa

Zip: 51501

Contact Name: Kathy Collier

Phone: (712) 355-1958

Email Address: eabin36@gmail.com

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## Applicant BW0094345, Hy-Vee #2 Clubroom, Council Bluffs

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Corporation Name/Sole Proprietor Name/Partnership Name(s): Hy-Vee, Inc. (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Hy-Vee #2 Clubroom

Address of Premise: 1745 Madison Ave

Address Line 2: Clubroom Area

City: Council Bluffs

County: Pottawattamie

Zip: 51503

Business Phone: (712) 322-9260

Cell / Home Phone:

Same Address

Mailing Address: 5820 Westown Pkwy

Mailing Address Line 2:

City: West Des Moines

State: Iowa

Zip: 50266

Contact Name: Jackie Russo

Phone: (515) 267-2874

Email Address: jrusso@hy-vee.com

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## Applicant LE0002792, Mega Saver, Council Bluffs

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Corporation Name/Sole Proprietor Name/Partnership Name(s): TFL, Inc (Sole Proprietorship, Partnership, Corporation, etc.)

Name of Business (D/B/A): Mega Saver

Address of Premise: 3540 W Broadway

Address Line 2:

City: Council Bluffs

County: Pottawattamie

Zip: 51501

Business Phone: (402) 208-2367

Cell / Home Phone: same

Same Address

Mailing Address: 202 s 73rd st

Mailing Address Line 2:

City: omaha

State: Nebraska

Zip: 68114

Contact Name: Kamol Samiev

Phone: (402) 208-2367

Email Address: kamol@tflcorp.net

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## Applicant LC0007825, Pizza King, Council Bluffs

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**Corporation Name/Sole Proprietor** Pizza King, Inc. (Sole Proprietorship, Partnership, Corporation, etc.)

**Name/Partnership Name(s):** Pizza King

**Name of Business (D/B/A):** Pizza King

**Address of Premise:** 1101 N Broadway

**Address Line 2:**

**City:** Council Bluffs

**County:** Pottawattamie

**Zip:** 51503

**Business Phone:** (712) 323-4911

**Cell / Home Phone:** (712) 323-9228

### Same Address

**Mailing Address:** 1101 North Broadway

**Mailing Address Line 2:**

**City:** Council Bluffs

**Zip:** 51503

**State:** Iowa

**Contact Name:** Pete Poujos

**Phone:** (952) 653-1033

**Email Address:** tbeck@hamiltonassociatescp

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