

Chapter 8: Property Standards

- 8.1 Property Standards.** The purpose of this Chapter is to regulate all property within the City for protection of public health, safety, and welfare and to prevent interference with the comfortable enjoyment of life or property. Terms included herein may be defined in Chapter 9 of this Code.
- 8.2 Nuisance Prohibited.** The creation, causation, or maintenance of a nuisance, as defined in Chapter 9 of the Code, is strictly prohibited due to the blight, annoyance, offense, danger, and other interferences created for members of the public by such nuisance.
- A. Abatement by the City.** Whenever the Manager or other authorized municipal officer finds that a nuisance exists, the officer shall cause to be served upon the property owner a proper notice to abate the nuisance within a reasonable time after notice. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk who shall pay such expenses on behalf of the City. The Clerk shall certify costs of the abatement incurred by the City to the county auditor and it shall then be collected with, and in the same manner, as general property taxes. The following shall apply:
- 1. Notice to Abate.** The notice to abate shall contain:
 - a. Description of Nuisance.** A description of what constitutes the nuisance or other condition; and
 - b. Location of Nuisance.** The location of the nuisance or condition; and
 - c. Acts Necessary to Abate.** A statement of the act or acts necessary to abate the nuisance or condition; and
 - d. Reasonable Time.** A reasonable time within which to complete the abatement; and
 - e. Right to Hearing.** A statement that the owner has a right to a hearing before the Manager, or his or her designee, by filing a written request therefore with such officer within a reasonable time; and
 - f. Assessment of City Costs.** A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.
 - 2. Method of Service.** The notice may be served upon a property owner by any of the following methods:
 - a.** Personal service of the notice to the property owner by an employee or other contracted agent of the City; or
 - b.** Certified mail to the property owner. If a certified mailing has not been signed for by the property owner within (ten) 10 days of mailing, reasonable notice will be considered to have been given; or

- c. Posting a sign containing the notice in a conspicuous place on or near the property upon which action is pending. Such posted notice shall be of sufficient size and so placed upon the property that is easily visible from the street. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice; or
 - d. Publication in a newspaper having a general circulation in the City.
 - 3. **Request for Hearing.** Any person ordered to abate a nuisance may have a hearing with the Manager, or his or her designee, as to whether a nuisance exists. The following shall apply.
 - a. A request for a hearing must be made in writing and delivered to the Clerk, within the reasonable time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered.
 - b. The Manager, or his or her designee, shall serve as the hearing officer and the Clerk shall serve as secretary for the hearing.
 - c. The hearing will be conducted according to the provisions of Chapter 1.8 of this Code.
 - d. The findings of the hearing officer shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances. Any person requesting a hearing will have the right to appeal for further review and decision to the Iowa District Court of Pottawattamie County, Iowa within fourteen (14) days of the final orders of the hearing officer.
 - 4. **Emergency Abatement.** If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this Chapter without prior notice.
- B. **Abatement by Civil Action.** In lieu of abatement by the City as described above in Chapter 8.2(A) and its subsections, the Iowa District Court of Pottawattamie County, Iowa may adjudicate a nuisance violation as follows:
 - 1. **Citation Required.** A citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - a. The name and address of the defendant; and
 - b. The name or description of the infraction attested to by the officer issuing the citation; and
 - c. The location and time of the infraction; and
 - d. The amount of civil penalty to be assessed or the alternative relief sought, or both; and
 - e. The manner, location, and time in which the penalty may be paid; and
 - f. The time and place of court appearance; and
 - g. The penalty for failure to appear in court.

2. **Powers of the Court.** The Iowa District Court of Pottawattamie County, Iowa may:
- a. Order such person or legal entity to remove, correct, cease and desist, abate, and/or otherwise come into compliance with the City Code of Avoca; or
 - b. Restrain and enjoin such person, firm, partnership, corporation, or other legal entity from operating, conducting or maintaining a business contrary to this Code; or
 - c. Order such person, firm, partnership, corporation, or other legal entity to repair, rehabilitate, demolish or remove the building, structure, or appendage; or
 - d. Enter any order with specific terms deemed just and equitable by the court intended to achieve any of the purposes set forth in the subsections above; or
 - e. Convict the person maintaining the nuisance of a municipal infraction, punishable by civil penalty not to exceed \$750.00 for the first offence and not to exceed \$1,000.00 for each repeat offense. Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

- C. **Habitual Violators.** If a person is found responsible for the creation of two or more nuisances in a twelve (12) month period, the Manager or other authorized municipal officer may declare the person to be a habitual violator, thereby allowing the City to abate further violations without notice and assess the abatement costs thereof to the owner of the private property involved. Once a person has been declared a habitual violator, this designation shall be in effect for three (3) years. Prior to determining any person as a habitual violator, the City shall provide the person reasonable notice and opportunity for a hearing under Chapter 1.8. Notice shall be provided by a method allowed under Chapter 8.2(A)(2).

8.3 Property Maintenance and Life Safety Codes. The Section creates minimum property maintenance and life safety standards and accompanying enforcement measures.

- A. **Property Maintenance and Life Safety Codes.** Each property within the City shall comply to the standards of The International Property Maintenance Code, 2009 Edition, as published by the International Code Council and the National Fire Protection Association (NFPA) 101 Life Safety Code, 2012 Edition as fully and completely as adopted below by reference:
- 1. "Chapter 2: Definitions" of International Property Maintenance Code, 2009 Edition, as published by the International Code Council is hereby fully adopted by this reference and shall be used in the application of this ordinance and in regulation of property maintenance standards.
 - 2. "Chapter 3: General Requirements" of International Property Maintenance Code, 2009 Edition, as published by the International Code Council is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of property maintenance standards.

3. "Chapter 4: Light, Ventilation, and Occupancy Limitations" of International Property Maintenance Code, 2009 Edition, as published by the International Code Council is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of property maintenance standards.
4. "Chapter 5: Plumbing Facilities and Fixture Requirements" of International Property Maintenance Code, 2009 Edition, as published by the International Code Council is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of property maintenance standards.
5. "Chapter 6: Mechanical and Electrical Requirements" of International Property Maintenance Code, 2009 Edition, as published by the International Code Council is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of property maintenance standards.
6. "Chapter 7: Fire Safety Requirements" of International Property Maintenance Code, 2009 Edition, as published by the International Code Council is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of property maintenance standards.
7. "Chapter 8: References Standards" of International Property Maintenance Code, 2009 Edition, as published by the International Code Council is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of property maintenance standards.
8. "Chapter 24: One and Two Family Dwellings" of the National Fire Protection Association (NFPA) 101 Life Safety Code, 2012 Edition is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of life safety standards.
9. "Chapter 30: New Apartment Buildings" of the National Fire Protection Association (NFPA) 101 Life Safety Code, 2012 Edition is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of life safety standards.
10. "Chapter 31: Existing Apartment Buildings" of the National Fire Protection Association (NFPA) 101 Life Safety Code, 2012 Edition is hereby adopted by this reference and shall be used in the application of this ordinance and in regulation of life safety standards.

- B. Administrative Enforcement.** The Manager or other authorized official shall examine or cause to be examined every building, structure, integral equipment, or portion thereof likely to be in conflict with or in violation of this section. The enforcement officer shall provide the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer. Such notice shall also advise the owner that he or she may request a hearing, under Chapter 1.8, before the Manager on the notice by filing a written request for hearing within the time provided in the notice.
- C. Method of Service.** The notice may be served upon a property owner by any of the following methods:
1. Personal service of the notice to the property owner by an employee or other contracted agent of the City; or
 2. Certified mail to the property owner. If a certified mailing has not been signed for by the property owner within ten (10) days of mailing, reasonable notice will be considered to have been given; or
 3. Posting a sign containing the notice in a conspicuous place on or near the property upon which action is pending. Such posted notice shall be of sufficient size and so placed upon the property that is easily visible from the street. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice; or
 4. Publication in a newspaper having a general circulation in the City.
- D. Request for Hearing.** Any person may request a hearing with the Manager to contest an order under this section. The following shall apply.
1. A request for a hearing must be made in writing and delivered to the Clerk, within the reasonable time stated in the notice, or it will be conclusively presumed that the order is valid; and
 2. The Manager, or his or her designee, shall serve as the hearing officer and the Clerk shall serve as secretary for the hearing; and
 3. The hearing will be conducted according to the provisions of Chapter 1.8 of this Code; and
 4. The findings of the hearing officer shall be conclusive. Any person requesting a hearing will have the right to appeal for further review and decision to the Iowa District Court of Pottawattamie County, Iowa within fourteen (14) days of the final orders of the hearing officer.
- E. Order to Demolish.** The Manager or other authorized official shall order the demolition of buildings and structures meeting any of the following conditions:

1. If by reason of destruction, dilapidation, or neglect, a building or structure requires repairs or rehabilitation costing more than forty (40) percent of the replacement value of the building or structure in order to be brought into conformance with the standards adopted in this section; or
2. If the structure is so dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure.

F. Compliance Agreements. The Manager may enter into a compliance agreement with any person owning property not in compliance with the standards of Chapter 8.3(A). The compliance agreement is a written, executed agreement with the property owner which sets terms for the property owner to complete improvements necessary for the property to be in substantial compliance with the standards of Chapter 8.3(A). The voluntary compliance agreement shall provide reasonable terms for compliance and a description of necessary corrective action.

G. Costs Assessed to Property. Costs incurred to enforce any order of this section shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

8.4 Rental Housing Certification Program. The purpose of this section is to regulate rental housing facilities and conditions in order protect and promote the health, safety, and welfare of those persons utilizing such housing.

A. Rental Certificate Required. Every person offering a dwelling unit for rent within the City shall have a Rental Certificate from the City indicating that the unit has been properly registered and is in compliance with the property maintenance standards adopted in 8.3(A) of this Chapter. No person shall rent, lease, operate, or otherwise allow the occupancy of any dwelling unit unless such person holds a valid rental certificate as is required by this Section. Once rental registration and inspection requirements are satisfied, the Clerk shall issue a rental certificate for the dwelling unit.

B. Civil Action for Violations. If a person is in violation of this regulation, the Manager or other designated official shall seek any remedy provided for by Chapters 4.2, 4.5, or by civil action.

C. Initial Rental Registration. Every dwelling unit being offered for rent at the date of the adoption of this section and every dwelling unit offered for rent after the adoption of this section must submit to the Clerk, on forms provided, an application requesting a rental certificate.

D. Initial Inspection. Every dwelling unit being offered for rent at the date of the adoption of this section and every dwelling unit offered for rent after the adoption of this section must have an initial inspection by the City to determine compliance with the standards adopted in Chapter 8.3(A). The fee for the initial inspection shall be the regular inspection fee established in Chapter 10 of the Code. If the dwelling unit is determined to be in compliance with the standards adopted in 8.3(A), no further inspection shall be required to receive the initial Rental Certificate for the dwelling unit. If the premises fail to comply, the inspector shall notify the applicant in writing, stating the reasons for such noncompliance. The inspector shall require the applicant to remedy defects prior to re-inspection. The Manager may enter into a reasonable compliance agreement as in Chapter 8.4(G) of this Chapter with the property owner and a Rental Certificate may still

be issued. Each additional inspection required shall be subject to the regular inspection fee established in Chapter 10.

- E. Ongoing Registration and Inspection Requirements.** Following the initial Inspection Registration and Inspection, each dwelling unit shall be subject to the following ongoing registration and inspection requirements as determined by the status of the dwelling unit.
- 1. Accredited Dwelling Unit:** Accredited Dwelling Unit status is dependent on the maintenance of the following requirements:
 - a. Registration.** An Accredited Dwelling Unit is a dwelling unit that has been timely registered in two consecutive years as required by 8.4(E)(3) of this Chapter. In the initial year of the program, a dwelling unit which has been properly registered shall meet this requirement.
 - b. Inspections.** An Accredited Dwelling Unit is a dwelling unit offered for rent that was in full compliance with the standards adopted in 8.3(A) upon the Initial Inspection or has maintained compliance with the standards of 8.3(A) following required corrective action or has remained in full compliance with any Compliance Agreement under 8.4(G).
 - c. Nuisance, Parking Violations, or Municipal Infractions.** An Accredited Dwelling Unit is a dwelling unit with an owner or tenant that has not been found to be creating or maintaining any nuisance within Chapter 8.2 of this Code upon the dwelling unit property within twelve months from filing of the most recent Rental Registration form or a dwelling unit occupied by a tenant who has committed, upon the dwelling unit property, a parking violation as prohibited by Chapter 5 of this Code or a municipal infraction as prohibited by Chapter 4 of this Code within twelve months from filing of the most recent Rental Registration form.
 - 2. Non-Accredited Dwelling Unit.** Any dwelling unit being offered for rent in the City that is not an Accredited Dwelling Unit. A Non-Accredited Dwelling Unit may earn Accredited Dwelling Unit status upon two consecutive required annual inspections determining the unit to be in full compliance with the standards adopted in 8.3(A) or has maintained compliance with the standards of 8.3(A) following required corrective action or in full compliance with any Compliance Agreement under 8.4(G).
 - 3. Ongoing Registration Requirements.** Every person offering a dwelling unit must register the dwelling unit with the City every year by filing a Rental Registration Form. The registration shall be for a calendar year and each Rental Registration Form must be received before January 31 of the current year, but not earlier than November 15 of the previous year to be considered timely. The person offering the dwelling unit must pay the Rental Registration Fee as established in Chapter 10 of this Code each year at the time the form is submitted.
 - 4. Ongoing Inspection Requirements.** All units must be inspected annually, but requirements differ based upon the status of the unit.

- a. **Accredited Dwelling Units.** An accredited dwelling unit must be inspected by the City once every thirty-six (36) months. The timing of the City inspection is intended to be approximately thirty-six months following the most recent City inspection of the property, meaning another inspection method would be required for the two years not certified by an inspection by the City. In the two intervening years, the property owner of the dwelling unit shall perform a self-assessed inspection using an "Inspection Checklist" form provided by the City. The "Inspection Checklist" form for required self-assessed inspections must be submitted along with the annually required registration form. The property owner of an Accredited Dwelling Unit shall only pay the inspection fee established in Chapter 10 in years in which the City performs the inspection. If the premises fail to comply, the inspector shall notify the applicant in writing, stating the reasons for such noncompliance and that the unit has lost Accredited Dwelling Status.
- b. **Non-Accredited Dwelling Units.** A Non-Accredited Dwelling unit must be inspected on an annual basis by the City. The property owner of a Non-Accredited Dwelling Unit shall pay the inspection fee established in Chapter 10 every year at the time the City performs the annual inspection. If the premises fail to comply, the inspector shall notify the applicant in writing, stating the reasons for such noncompliance. Each additional inspection required shall be subject to the regular inspection fee established in Chapter 10.

F. Request for Hearing. Any person offering a dwelling unit for rent may request a hearing with the Manager to contest an order under this section. The following shall apply:

- 1. A request for a hearing must be made in writing and delivered to the Clerk, within the reasonable time stated in the notice, or it will be conclusively presumed that the order is valid.
- 2. The Manager, or his or her designee, shall serve as the hearing officer and the Clerk shall serve as secretary for the hearing.
- 3. The hearing will be conducted according to the provisions of Chapter 1.8 of this Code.
- 4. The findings of the hearing officer shall be conclusive. Any person requesting a hearing will have the right to appeal for further review and decision to the Iowa District Court of Pottawattamie County, Iowa within fourteen (14) days of the final orders of the hearing officer

G. Compliance Agreements. The Manager may enter into a compliance agreement with any person offering the dwelling unit for rent that is not in compliance with the standards of 8.3(A). The compliance agreement is a written, executed agreement with the person responsible for the dwelling unit under which such person agrees to bring the property into substantial compliance with the standards of 8.3(A). The voluntary compliance agreement shall provide reasonable terms for compliance and a description of necessary corrective action. An extension of the time limit for compliance shall be granted by the Manager if the person offering the dwelling unit for rent has shown due diligence or substantial progress in correcting the violation, but circumstances render full and timely compliance under the original conditions unattainable.

8.5 Building Codes. The intent of this Section is to adopt standards to regulate the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City.

- A. Existing Building Code.** Each property within the City shall comply to the standards of The International Existing Building Code, 2009 Edition, as published by the International Code Council fully and completely, subject to the following:
1. Strike and eliminate "Chapter 1: Scope and Administration."
- B. International Building Code.** The International Building Code, 2006 Edition, and Appendix Chapters, as published by the International Code Council, subject to the following:
1. Sec. 101.01 Title. Insert Avoca.
 2. Sec. 101.4.1 Electrical. After ICC Electrical Code, insert "and the National Electrical Code, 2005 Edition, as Published by the National Fire Protection Association."
 3. Sec. 101.4.2 Gas. After ICC Fuel Gas Code, insert "2006 Edition."
 4. Sec. 101.4.3 Mechanical. After ICC Mechanical Code insert "2006 Edition."
 5. Sec. 101.4.4 Plumbing. After ICC Plumbing Code insert "2006 Edition."
 6. Sec. 101.4.5 Property Maintenance. After ICC Property Maintenance Code, insert "2006 Edition."
 7. Sec. 101.4.6 Fire Prevention. After ICC Fire Code, insert "2006 Edition."
 8. Sec. 101.4.7 Energy. After ICC Energy Conservation Code, insert "2006 Edition."
 9. Sec. 104.11 Alternative methods. After paragraph, insert "the Iowa Administrative Code 661, Chapter 16, Div. VI, Part 2 Manufactured Home Construction is hereby adopted for installation of mobile (manufactured) homes."
 10. Strike Sec. 108 Fees and replace with "Fees shall be established by Chapter 10 of the Code."
 11. Strike section 112 in its entirety.
 12. Strike section 113 in its entirety.
- C. The International Mechanical Code and Appendix Chapters, 2006 Edition, as published by the International Code Council.**
1. Sec. 101.1 Title. Insert Avoca.
 2. Strike section 108 in its entirety.
 3. Strike section 109 in its entirety.
- D. The International Plumbing Code and Appendix Chapters, 2006 Edition, as published by the International Code Council, subject to the following:**
1. Section 101.1. Insert "Avoca, Iowa."
 2. Strike section 108 in its entirety.

3. Strike section 109 in its entirety.
- E. The National Electrical Code and Appendix Chapters, 2005 Edition, as published by the National Fire Protection Association, subject to the following:
 1. Fees shall be established by Chapter 10 of the Code
 - F. The International Fuel Gas Code and Appendix Chapters, 2006 Edition, as published by the International Code Council.
 1. Sec. 101.1 Insert "Avoca."
 2. Sec. 105.5.2 Fee Schedule. Insert "Fees shall be established by Chapter 10 of the Code."
 - G. **Permits Required.** Permits shall be required for the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the City. Permit fees shall be established by Chapter 10 of the Code. Permits will be requested and approved upon forms provided by the City.
 - H. **Conditions of Permits.** All work must be completed in accordance with approved plans and specifications within one (1) year following the issuance of the permit, and if not so completed, the permit shall automatically cancel. A permit shall automatically cancel if for any reason work is not commenced within one-hundred-twenty (120) days of the date of issuing the building permit or if work is substantially stopped for a period of one-hundred-eighty (180) days, prior to said cancellation, unless a written extension is granted by the enforcement officer upon good cause shown by the applicant for such extension.
 - I. **Stop Orders.** Whenever any work is being done contrary to the provisions of this section or any other valid regulation, the Manager or other authorized officer may order the work stopped by notice in writing served on any persons engaged in doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the City to proceed with the work.
 1. **Notice to Stop.** The notice to stop shall contain:
 - a. **Description of Violation.** A description of what constitutes the violation causing the stop order; and
 - b. **Location.** The location subject to the stop order; and
 - c. **Right to Hearing.** A statement that the owner has a right to a hearing before the Manager, or his or her designee, by filing a written request therefore with such officer within a reasonable time.
 2. **Method of Service.** The notice may be served upon a property owner by any of the following methods:
 - a. Personal service of the notice to the property owner by an employee or other contracted agent of the City; or

- b. Certified mail to the property owner. If a certified mailing has not been signed for by the property owner within ten (10) days of mailing, reasonable notice will be considered to have been given; or
- c. Posting a sign containing the notice in a conspicuous place on or near the property upon which action is pending. Such posted notice shall be of sufficient size and so placed upon the property that is easily visible from the street. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice; or
- d. Publication in a newspaper having a general circulation in the City.

3. **Request for Hearing.** Any person subject to a stop order may have a hearing with the Manager, or his or her designee, regarding the order. The following shall apply:

- a. A request for a hearing must be made in writing and delivered to the Clerk, within the reasonable time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered.
- b. The Manager, or his or her designee, shall serve as the hearing officer and the Clerk shall serve as secretary for the hearing.
- c. The hearing will be conducted according to the provisions of Chapter 1.8 of this Code.
- d. The findings of the hearing officer shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances. Any person requesting a hearing will have the right to appeal for further review and decision to the Iowa District Court of Pottawattamie County, Iowa within fourteen (14) days of the final orders of the hearing officer.

J. **Civil Action for Violations.** If a person is in violation of this regulation, the Manager or other designated official shall seek any remedy provided for by Chapters 4.2, 4.5, or by civil action.

8.6 **Building Numbering.** Every property in the City shall comply with the following building numbering requirements:

- A. **Obtain Building Number.** The owner of each property in the City shall obtain the number street number assigned to the principal building from the Clerk. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.
- B. **Display Building Number.** The owner of each property in the City shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.
- C. **Failure to Comply.** If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

8.7 Noise Control. The purpose of this Section is to prevent excessive sound, which is a serious hazard to the public health and welfare and to the quality of life in the City.

A. Measurement of Noise. The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. The measurement shall be a slow, A-weighted sound level.

B. Regulations. No person shall engage or participate in the making and creating of an excessive or unusually loud sound within the city heard and measured in the manner prescribed below, except when done under and in compliance with a permit issued by the City.

1. It shall be the duty of persons in a position of ownership, possession or control of premises to prevent such premises from being the site of activities producing sound levels in excess of what is permitted under this Chapter. Failure or refusal to perform such duty shall constitute a violation of this section.
2. It shall be the duty of persons in positions of leadership or responsibility with respect to unincorporated associations, groups, gatherings and assemblages of people to prevent such from causing or making sound levels in excess of what is permitted under this Chapter. Failure or refusal to perform such duty shall constitute a violation of this section.
3. For the purpose of determining and classifying any sound as excessive or unusually loud, the following test measurement and requirements are to be applied:
 - a. The sound shall be measured at the edge of the city street or alley right-of-way reasonably appearing to be nearest to the source of the sound, or if in a park or agriculturally zoned area, approximately 25' from the source of the sound. When a complaint is received, a measurement may also be taken at a location on the property where the complaining party was disturbed.
 - b. The sound shall be measured on a sound level meter of standard design and quality operated in the "A" slow response weighing scale.
 - c. A sound measured or registered in excess of the maximum permitted levels according to the following table, is declared to be excessive and unusually loud and is unlawful.

Neighborhood Characteristic	Maximum Permitted
Residential	60 between 7 a.m. to Midnight
	55 between Midnight to 7 a.m.
Commercial	65
Industrial	80
Park or Agriculturally Zoned	65

- C. **Civil Action for Violations.** If a person is in violation of this regulation, the Manager or other designated official shall seek any remedy provided for by Chapters 4.2, 4.5, or by civil action.

8.8 Zoning Regulations. The regulations of this section provide comprehensive zoning and land use standards to serve the public health, safety and general welfare of the City and its citizens. The City intends that this Zoning Code and any amendments to it shall be consistent with the City's Comprehensive Plan. It is the City's intent to amend this Code whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Plan.

- A. **Administration:** The following regulations shall apply to the administration and enforcement of the Zoning Code.
 - 1. **Planning and Zoning Commission.** There shall be a Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members. Members shall be residents of the City, appointed by the Council. Commission members shall be qualified by knowledge or experience to act in matters pertaining to the development of a City plan and shall not hold any elective office in the City government. The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one-year. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council. Members of the Commission may be members of the Board also.
 - 2. **Board of Zoning Appeals.** A Board of Zoning Appeals, hereafter the Board, is hereby established. The Board shall consist of seven (7) members appointed by the Mayor, subject to approval by the Council, for terms shall of five (5) years. Members of the Board may be members of the Commission also.
 - 3. **Zoning Administrator.** This section shall be enforced by the Zoning Administrator, hereafter the Administrator. The Administrator shall be appointed by the Council. The Administrator shall have the following duties: 1) to issue all zoning permits and certificates of zoning compliance, 2) to cause any building, structure, land, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein in violation of any provision of this section, 3) ensure any site plan, conditional use permit, variance, or amendment approved by the Council or Board is faithfully executed, and 4) to interpret and enforce all zoning regulations.
 - 4. **Zoning Permit.** No structure, including signs, shall hereafter be erected, reconstructed, structurally altered, enlarged, added to or removed, nor shall any excavation for any such structure be commenced until and unless a zoning permit shall have been issued by the Administrator. No accessory buildings shall be constructed or altered, site changes made, removals or any type of construction, reconstruction or redevelopment of property take place until and unless a zoning permit shall have been issued by the Administrator. No surface, impervious or pervious, shall be constructed on the property unless a zoning permit shall have been issued by the Administrator. The Administrator shall issue a zoning permit after the following procedures and findings have been satisfied:
 - a. An application for a zoning permit, available from the Administrator, is completed in full and filed with the Administrator along with the required application fee.

- b. Supporting information is provided with the application for a zoning permit including a site plan indicating set back lines, building locations, proposed and existing uses and other such information as the Administrator may require to ascertain compliance with this Chapter.
 - c. A signed and attested statement from the property owner indicating compliance with all provisions of this Chapter and a detailed explanation of any permitted nonconformities on the subject property is submitted to the Administrator.
 - d. The Administrator shall determine the location of lot lines for all zoning permit applications in which lot line location is necessary to determine in order to verify compliance with required yard regulations. The Administrator shall first confer with any adjacent property owner who may be affected by the application to determine if the adjacent property owner objects to the location of lot lines as asserted by the applicant. If the adjacent property owner objects to the location as asserted by the applicant, the applicant must obtain a survey at their own cost and submit it to the City with their application.
5. **Permit Expiration.** All zoning permits issued under this Chapter shall expire and are null and void on the date which shall be twelve (12) months after issuance, unless work shall have been commenced under such permit prior to such date. At any time after twenty-four (24) months the Administrator may revoke the permit upon finding construction progress is not proceeding expeditiously.
6. **Certificate of Zoning Compliance.** No land shall be occupied or used, and no building be occupied or used in whole or in part for any purpose whatsoever, until a certificate is issued by the Administrator stating that the use complies with the provisions of this Chapter. No change of use shall be made on any land or in any building or part thereof until a certificate is issued by the Administrator stating that the proposed use complies with the provisions of this Chapter. Changes of use, without physical improvements to the property may request a certificate of zoning compliance without first receiving a zoning permit. Certificates of zoning compliance shall not be used as any form of guarantee from the City that the property owner has complied with this Chapter. The responsibility to comply with this section rests entirely upon the property owner. The Administrator may revoke a certificate at any time upon knowledge of non-compliant use of the property. In the event a certificate of compliance is revoked the property owner shall be notified by certified mail. All holders of zoning permits shall apply for a certificate of zoning compliance within thirty (30) days of completion of the improvement for which the zoning permit was secured.
7. **Conditional Use Permit.** Where in this section a conditional use permit is required, the following procedures for submission and approval by the Board shall be followed:
- a. **Purpose.** A conditional use permit allows the Board to permit uses or conditions that may be desirable, but which are not routinely allowed or permitted by right. The process emphasizes transparency and openness by requiring a public hearing process. The process is focused on preventing and controlling certain uses and conditions which could have detrimental effects on a community or neighboring properties. Approval is a discretionary act. A 'conditionally permitted use' on a specific property is subject to conditions that ensure compatibility with nearby land uses.

- b. Application.** An application for a conditional use permit, available from the Administrator, shall be completed in full and filed with the Administrator along with the required application fee as required by Chapter 10 of this Code.
- c. Criteria.** A conditional use permit shall only be granted in cases where the Board determines that the proposed use satisfies the goals of the Comprehensive Plan and that the proposed use is compatible with the surrounding area. Specific criteria that the Board and Commission may consider when evaluating a conditional use application include, but are not limited to the following:

 - i.** The proposed use satisfies the goals and objectives of the Comprehensive Plan and will contribute to the general welfare of the community.
 - ii.** Adequate utility, drainage and other necessary facilities or improvements have been provided or will be provided.
 - iii.** All necessary licenses and permits required for the operation of the conditional use have been obtained, or it clearly appears that such permits are obtainable for the proposed conditional use on the property.
 - iv.** The location and size of the conditional use, the nature and intensity of the activities to be involved or conducted in connection with it, the size of the site in relation thereto and the size of the site with respect to streets giving access to the conditional use, shall be such that it will be in harmony with appropriate and orderly development of the district and the neighborhood which it is located.
 - v.** The location, nature and height of buildings or structures on the site and nature and extent of the landscaping and screening on the site shall be such that the use will not reasonably hinder or discourage appropriate development, use or enjoyment of adjacent land, buildings or structures.
 - vi.** The proposed conditional use will not create a nuisance or cause injury to the value of other property in the neighborhood in which it is located.
- d. Hearing by Commission.** The Commission shall hold a hearing regarding the application within thirty (30) days of receipt of the complete application. A public notice of the hearing shall be published in the same manner as required by Chapter 362.3(b) of the Code of Iowa. The Commission shall transmit a written recommendation on the disposition of the application to the Board. The Commission shall make the recommendation to the Board with fourteen (14) days of the hearing.
- e. Hearing and Decision by Board.** The Board shall act upon a conditional use permit within thirty (30) days of receiving a recommendation on the application from the Commission. Failure to act within thirty (30) days shall constitute a denial of the application. The Board shall deny, approve, or approve with conditions the application for a conditional use permit and transmit a written decision to the applicant. The decision of the Board shall contain specific findings of fact supporting the granting or denial of a conditional use permit and shall clearly set forth any conditions or

restrictions imposed by the conditional use permit. The Board shall render its decision on the application within fourteen (14) days of the hearing.

- f. **Revocation of Conditional Use Permit.** At any time, the Board may revoke the conditional use permit upon finding the applicant has violated the conditions of approval. Prior to revocation the Board shall give the applicant a hearing in conformance with Chapter 1.8 of this Code. The Board may reinstate the conditional use permit if the owner remedies the deficiencies causing the revocation of the conditional use permit. If not reinstated, the property owner shall be in violation of this Chapter and the City may pursue its remedies thereunder.

8. **Site Plan Review.** The Site Plan Review procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property. The following shall apply:

- a. **Application.** A completed site plan must be filed with the Administrator along with the application fee required in Chapter 10.
- b. **Uses Requiring Site Plan Review.** The following selected uses shall follow the Site Plan review procedure prior to the issuance of a building permit, unless they are otherwise subject to a Conditional Use Permit procedure for specific zoning districts.
 - i. Multiple family developments with 3 or more dwelling units; and
 - ii. Civic use facilities; and
 - iii. Any commercial, industrial, or office use.
- c. **Authority to Approve.** The Administrator, or his/her designee(s) shall review and evaluate as site plans, and shall transmit such recommendation to the Board for review and denial or approval.
- d. **Application Requirements.** An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Administrator. The application shall include the following information:
 - i. Name and address of the applicant; and
 - ii. Owner, address, and legal description of the property; and
 - iii. A description of the nature and operating characteristics of the proposed use; and
 - iv. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
 - (i) The date, scale, north point, title, name of owner, and name of person preparing the site plan; and
 - (ii) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements; and

- (iii) The location, size, and use of proposed and existing structures on the site; and
- (iv) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, signage, and lighting; and
- (v) Location of any major site feature, including drainage and contours at no greater than five foot intervals; and
- (vi) Any other information that may be required for review by the Administrator, or his/her designee.

e. **Review and Evaluation.** The Board shall review and approve or disapprove the site plan based on the following criteria:

- i. **Height and Bulk.** Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations; and
- ii. **Building Coverage.** Building coverage should be similar to that of surrounding development of possible higher coverage should be mitigated by landscaping or site amenities; and
- iii. **Frontage.** Project frontage along a street should meet minimum frontage requirements and provide reasonable exposure for the development; and
- iv. **Parking and Internal Circulation.** Parking should serve all structures with minimal conflicts between pedestrians and vehicles. All structures must be accessible to public safety vehicles. Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points; and
- v. **Landscaping.** Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainageways should be preserved; and
- vi. **Building Design.** Architectural design and building materials should be compatible with surrounding areas or highly visible locations. Highly visible developments should maximize the aesthetic appeal of the community; and
- vii. **Traffic Capacity.** Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations; and
- viii. **External Traffic Effects.** Project design should direct non-residential traffic away from residential areas; and
- ix. **Operating Hours.** Projects with long operating hours must minimize effects on surrounding residential areas; and

- x. **Outside Storage.** Outside storage areas must be screened from surrounding streets and less intensive land uses; and
 - xi. **Storm Water Management.** Development should handle storm water adequately to prevent overloading of public storm water management system. Development should not inhibit development of other properties. Development should not increase probability of erosion, flooding, landslides, or other runoff related effects; and
 - xii. **Comprehensive Plan.** Projects should be consistent with the City Comprehensive Plan; and
 - xiii. **Lighting.** Impact of exterior lighting on surrounding area.
- f. **Modification of Site Plan.** The Board may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.
 - g. **Expiration.** A Site Plan approval shall become void one year after the date of approval, unless the applicant receives a Zoning Permit and diligently carries out development prior to the expiration of this period.
 - h. **Administration Following Approval.** The Administrator, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth above. The Administrator, or his/her designee may revoke a Site Plan approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board.
9. **Minor Variance:** The Administrator shall have the authority to approve a minor variance of ten percent (10%) or less as to regulations provided in Table 3: Minimum Development Standards. Administrative appeals for decisions of the Administrator in regards to minor variance requests may be made to the Board. The following shall apply:
- a. An application for a minor variance must be filed with the Administrator along with the application fee required in Chapter 10; and
 - b. The Administrator shall not grant a minor variance unless, based upon the evidence presented to him, they determine that:
 - i. The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or loss of revenue, if the strict letter of the regulations were carried out; and
 - ii. The granting of the minor variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and

- iii. The proposed minor variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood; and
- iv. The proposed minor variance complies with the spirit and intent of the restrictions imposed by this code.

10. Major Variance. The Board may authorize, upon appeal in specific cases, such major variance from the standards provided in Table 3, as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance can be considered for the property development standards of Table 3 only and variances for uses as provided in Table 2 is expressly disallowed. A major variance is any variance not meeting the standard of a minor variance. The Board shall act upon the variance request within thirty (30) days of the public hearing. Failure to act within thirty (30) days shall constitute denial of the request. A variance from the terms of this ordinance shall not be granted by the Board unless and until:

- a. An application for a major variance must be filed with the Administrator along with the application fee required in Chapter 10; and
- b. A public hearing on the matter shall be held in accordance with the regulations in Chapter 1.8 of this Code; and
- c. The Board shall make the following findings:
 - i. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district; and
 - ii. That literal interpretation of the provisions of this section would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance; and
 - iii. That the special conditions and circumstances do not result from the actions of the applicant; and
 - iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. No nonconforming use of neighboring lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance; and
 - v. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance that will make possible the reasonable use of the land, building or structure; and
 - vi. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

- d. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. Under no circumstances shall the Board grant a variance to allow a use not permitted in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

11. **Appeals.** The Board shall hear appeals from any person aggrieved by or contesting a decision of the Administrator. The following shall apply:

- a. A written request for appeal, which states the basis for the appeal, must be filed with the Administrator along with the fee required in Chapter 10; and
- b. Appeals shall be filed within thirty (30) days from when notice of the decision is served.
- c. The appeal shall be filed with the Clerk on a form available from the Clerk.
- d. The appeal hearing will be conducted according to the provisions of Chapter 1.8 of this Code.
- e. The Board shall render a decision on the appeal within thirty (30) days of the appeal; and
- f. An appeal shall toll the period to complete any requirements ordered by the Administrator until the Board has made a final decision on the appeal.

12. **Amendments.** The Council may from time to time, on its own motion or on petition, amend, supplement, change, modify or repeal by Chapter the boundaries of districts, or regulations or restrictions herein established. Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the Commission for its report and recommendation. The Commission shall hold a public hearing on the proposed amendment and make a report and recommendation to the Council within forty-five (45) days of the public hearing. Failure to act within forty-five (45) days shall constitute a recommendation of denial. Within thirty (30) days of receipt of the Commission's recommendation, the Council shall hold a public hearing on the proposed amendment. The Council shall act on the proposed amendment within forty-five (45) days of the public hearing. The City may take an additional forty-five (45) days to implement required multiple readings of the Chapter and required publication. Failure to enact an amendment within ninety (90) days shall constitute denial of the amendment. Reconsideration of the amendment, after denial, is processed as if it were newly initiated; following the same procedures before the Commission and Council.

13. **Divided Property.** Where one (1) parcel of property is divided into two (2) or more portions by reason of different zoning district classifications, each portion shall be used independently of the other in its respective zoning classification, and for the purpose of applying the regulations of this section, each portion shall be considered as if in separate and different ownership.

14. **Vacated Streets or Roads.** Whenever any street, road, alley or other public way is vacated by official action as provided by law, the zoning district adjoining the side of such public way shall be automatically extended, depending on the side or sides to which such lands revert to include right-of-way of the public way thus vacated which shall thenceforth be subject to all regulations of the extended district or districts.
15. **Enforcement.** The Administrator shall issue enforcement orders in writing. An enforcement order shall provide notice to the property owner or occupant of any violation by indicating the nature of the violation and the action necessary to correct it. The Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions. The following shall apply:
- a. **Civil Action for Violations.** If a person is in violation of this regulation, the Manager or other designated official shall seek any remedy provided for by Chapters 4.2, 4.5, or by civil action.
 - b. **Separate Offenses.** The owners or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.
 - c. **Other Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, nothing herein contained shall prevent the City from taking other lawful action as is necessary to prevent or remedy any violation.
16. **Nonconformities.** Any lawful use of land or structures existing at the time of passage of this section or subsequent amendment, may be continued with the following limitations:
- a. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of this Chapter. Use or occupation of an area of land is intended to mean only that land which is actually utilized by the nonconforming use and shall not be interpreted to include a larger area of land by virtue of ownership, intent to use or any other argument less than actual use and physical occupation by the nonconforming use; and
 - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel which was not physically occupied by such use at the time of adoption of this Chapter; and
 - c. Any structure containing a nonconforming use which has deteriorated or has been damaged to the extent of forty-percent (40%) of its replacement costs, as estimated immediately prior to damage, shall not be repaired or reconstructed, except in conformity with this Chapter; and
 - d. No nonconforming use may be substituted for any other nonconforming use; and

- e. A nonconforming use may be converted only to a conforming use. Once a use has been converted to a conforming use, it shall not be converted back to a nonconforming use; and
- f. No nonconforming use shall be established after having been discontinued for six months. Vacating of premises or building or non-operative status of the use shall be evidence of discontinuance; and
- g. A nonconforming use shall be terminated relating to any transfer or conveyance of portion of the property comprising the nonconforming use; however, a transfer or conveyance of the total property comprising the nonconforming use shall not terminate said nonconforming use; and
- h. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten percent (10%) of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased.
- i. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located; and
- j. Any use of land, use of structure, or any structure in existence at the time of adoption of this Chapter which was not an authorized nonconformity under previous zoning Chapters, shall not be authorized to continue its nonconforming status pursuant to this Chapter or amendments thereto.

B. Classification and Use Types. The Zoning Code establishes a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Administrator shall have the authority to determine the appropriate use type. The Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination. The following shall apply:

- 1. **Agricultural Use Types.** Agricultural use types include the on-site production and sale of plant and animal products by agricultural methods.
 - a. **Animal Production.** The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational use. Typical uses include grazing, ranching, dairy farming, and poultry farming.
 - b. **Crop Production.** The raising and harvesting of tree crops, row crops for field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

- c. **Horticulture.** The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.
- d. **Intensive Agriculture.** Uses on farms which include feed lots, hog and cattle farms and poultry operations where animals are tightly confined in buildings or outdoor pens, where less than fifty percent (50%) of the feed is grown on site, and which are not compatible with an urban or urbanizing area.

2. **Residential Use Types.** Residential use types include uses providing wholly or primarily non-transient living accommodations. Residential uses include:

- a. **Single Family Residential (Detached).** The use of a site for one dwelling unit, occupied by one family. A single family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.
- b. **Duplex Residential.** The use of a legally described lot for two dwelling units, each occupied by one family within a single building.
- c. **Townhouse Residential.** The use of a site for two, but not more than twelve or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.
- d. **Multiple-Family Residential.** The use of a site for three or more dwelling units within one building.
- e. **Upper-Story Residential.** The use of a building level(s) over and above the street level story for single or multiple family residential uses. The building level at street level shall not have any residential space, unless otherwise necessary for handicap accessibility in a multi-family use.
- f. **Group Residential.** The use of a site for a residence by four or more unrelated persons, not defined as a family, on a weekly or longer basis.
- g. **Retirement Residence.** A building or group of buildings which provide residential facilities for four or more residents of at least fifty years of age, or households headed by a householder of at least fifty years of age. A retirement residence may provide a range of residential building types and may also provide general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences with more than 50 living units may include additional health care supervision or nursing care, provided that the number of beds for such residences shall not exceed 25% of the total number of individual living units. Typical uses include assisted living centers or retirement centers.

3. **Civic Use Types.** Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with social importance.
- a. **Administration.** Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.
 - b. **Cemetery.** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
 - c. **Clubs.** Uses providing meeting, recreational, or social facilities for a private, non-profit or non-commercial association, primarily for use by members and guests.
 - d. **College and University Facilities.** An educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.
 - e. **Convalescent Services.** A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental illness, or communicable disease. Typical uses include nursing homes.
 - f. **Cultural Services.** A library, museum, or similar registered non-profit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.
 - g. **Day Care Services (Limited).** Includes all classifications of day care facilities regulated by the State of Iowa that operate providing care for not more than twelve (6) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.
 - h. **Day Care Services (General).** Includes all classifications of day care facilities regulated by the State of Iowa that operate providing care for more than twelve (6) children. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.
 - i. **Detention Facilities.** A publicly operated or contracted use providing housing and care for individuals legally confined, which is designed to isolate those individuals from the community.
 - j. **Emergency Residential Services.** A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings. Such facilities being limited to no more than three (3) victims at any one time.

- k. **Family Home.** A facility as defined in Iowa Code Section 414.22, and including, but not limited to, Elder Family Homes and Elder Group Homes.
- l. **Elder Family Homes.** A facility as defined in Iowa Code Section 231A.
- m. **Elder Group Homes.** A facility as defined in Iowa Code Section 231B.
- n. **Group Care Facility.** A government-licensed or approved facility which provides for resident care and short or long-term, continuous multi-day occupancy of more than 8 but no more than 30 unrelated persons, not including resident staff. Purpose of the facility may include the following:
 - i. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or developmental disabilities.
 - ii. Rehabilitation from the effects of drug or alcohol abuse.
 - iii. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.
 - iv. Others who require direct adult supervision.
- o. **Group Home.** A facility licensed by the State of Iowa in which at least three but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption, reside while receiving therapy, training, living assistance, or counseling for the purpose of adaptation to living with or rehabilitation from a physical or mental disability as defined by the relevant provisions of the Code of Iowa or by the Fair Housing Amendments Act of 1988.
- p. **Guidance Services.** A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.
- q. **Health Care.** A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to out-patients, employees, or visitors.
- r. **Hospital.** A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.
- s. **Maintenance Facilities.** A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.
- t. **Park and Recreation Services.** Publicly owned and operated parks, playgrounds, recreation facilities, and open spaces.

- u. **Postal Facilities.** Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.
 - v. **Primary Educational Facilities.** A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of Iowa.
 - w. **Public Assembly.** Facilities owned and operated by a public agency or a charitable non-profit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.
 - x. **Religious Assembly.** A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day-care facilities, and incidental parking facilities). A property tax exemption obtained pursuant to Property Tax Code of the State of Iowa shall constitute prima facie evidence of religious assembly use.
 - y. **Safety Services.** Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.
 - z. **Secondary Educational Facilities.** A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of Iowa.
 - aa. **Utilities.** Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land.
4. **Office Use Types.** Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.
- a. **General Offices.** Use of a site for business, professional, or administrative offices. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.
 - b. **Financial Services.** Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (Automatic Teller Machine) which is not accompanied on-site by an office of a its primary financial institution is considered a "General Retail Services" Use Type.

- vi. Short-Term Vehicle Storage.** Storage of operating or non-operating vehicles for a period of no more than forty (40) days. Typical uses include storage of private parking tow-away or impound yards but exclude dismantling or salvage. Long-term storage of operating or non-operating vehicles beyond (40) days constitutes an Industrial Use Type.
- c. Bed and Breakfast.** A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner of the structure, include no more than ten units, and accommodate each guest or visitor for no more than 7 consecutive days during any one month period.
- d. Business Support Services.** Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.
- e. Business or Trade Schools.** A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.
- f. Campground.** Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor for no more than 7 consecutive days during any one month period.
- g. Commercial Recreation.** Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. Typical uses include driving ranges, theaters, private dance halls, or private skating facilities. Commercial recreation is divided into the following categories:

 - i. Commercial Recreation (Limited).** Facilities which include a structure of five thousand (5,000) square feet or less and/or a site covering an area of no more than one-half acre.
 - ii. Commercial Recreation (General).** Facilities which include a structure of more than five thousand (5,000) square feet or and/or a site covering an area of more than one-half acre.

- h. Communications Services.** Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."
- i. Construction Sales and Services.** Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.
- j. Consumer Services.** Establishments which provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.
- k. Convenience Storage.** Storage services primarily for personal or non-intrusive commercial activity. Typical uses include mini-warehousing.
- l. Convenience Food Sales.** Establishments occupying facilities of less than five thousand (5,000) square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sales of fuel for motor vehicles.
- m. Food Sales.** Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

 - i. Limited Food Sales.** Establishments occupying facilities of less than five thousand (5,000) square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles. Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores.
 - ii. General Food Sales.** Establishments selling a wide variety of food commodities, using facilities larger than five thousand (5,000) square feet. Typical uses include supermarkets.
- n. Funeral Services.** Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.
- o. Gaming Facilities.** Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City of Avoca or the State of Iowa.

- p. General Retail Services (Small and Large Scale).** Sale or rental with incidental service of commonly-used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:
- i. General Retail Services (Small Scale)** include facilities with no more than five thousand (5,000) square feet in a single establishment or fifteen thousand (15,000) square feet within a multiple tenant Common Development.
 - ii. General Retail Services (Large Scale)** include facilities of five thousand (5,000) square feet or more in a single establishment or fifteen thousand (15,000) square feet or more within a multiple tenant Common Development.
- q. Hotel.** One or more buildings containing twenty (20) or more guest rooms, with such rooms being designed, intended to be used or are used as temporary or overnight accommodations for guests in which daily services of linen change, central telephone switchboard, towel change, soap change, general clean-up, and a registration lobby staffed on a twenty-four (24) hour daily basis are provided by the management. Each room shall be a minimum of two-hundred-fifty (250) square feet in area, exclusive of bathroom, closet, or balcony space. No room may be used by the same person or persons for a period exceeding thirty (30) days per year. Access to all rooms shall be provided through one or more common entrance(s). Accessory uses are encouraged and permitted accessory uses include restaurants, cocktail lounges, banquet halls, ballrooms, or meeting rooms.
- r. Kennel.** Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities; pet motels, or dog training centers.
- s. Laundry Services.** Establishments primarily engaged in the provision of laundering, cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plans, diaper services, or linen supply services.
- t. Liquor Sales.** Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.
- u. Motel (also Motor Hotel, Motor Court, Motor Lodge, or Tourist Court).** A building or group of buildings designed to provide sleeping accommodations to transient guests for compensation, and provides near each guest room a parking space for the guest's vehicles and a unique point of access for each unit.

- v. **Personal Improvement Services.** Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
- w. **Personal Services.** Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry cleaning stations serving individuals and households, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
- x. **Pet Services.** Pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.
- y. **Research Services.** Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.
- z. **Restaurants.** A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 per cent of the establishment's gross income. Further definition is as follows:
 - i. **Restaurant (Drive-in or Fast Food).** An establishment which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.
 - ii. **Restaurant (General).** An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.
- aa. **Restricted Businesses.** Any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the City, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, or scientific value. This category includes the sale or viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters.
- bb. **Stables and/or Riding Academies.** The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

- cc. **Surplus Sales.** Businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.
 - dd. **Trade Services.** Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.
 - ee. **Tavern/Lounge.** A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.
 - ff. **Vehicle Storage- Long Term.** Storage of private parking tow-away or impound yards beyond forty (40) days but excluding dismantling or salvage.
 - gg. **Veterinary Services.** Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals.
6. **Parking Use Types.** Limited to Off-Street Parking Lots/Facilities, which include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.
7. **Industrial Use Types.** Industrial use types will be classified according to each use type's impact on the surrounding area and community at-large. Industrial use types are the following:
- a. **Construction Yards.** Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.
 - b. **Custom Manufacturing.** Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving: the use of hand tools, the use of domestic mechanical equipment not exceeding 2 horsepower, or use of a single kiln not exceeding 8 KW or equivalent. This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, candle making shops.
 - c. **Light Industry.** Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

- d. **General Industry.** Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, storage, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.
 - e. **Heavy Industry.** Enterprises involved in the basic processing and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.
 - f. **Recycling Collection.** Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.
 - g. **Recycling Processing.** Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.
 - h. **Resource Extraction.** A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding the grading and removal of dirt. Typical uses are quarries, borrow pits, sand and gravel operations, mining.
 - i. **Salvage Services.** Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.
 - j. **Warehousing.** Uses including open air storage, distribution, and handling of goods and materials, but not including storage of hazardous materials. Typical uses include monument yards or open storage.
8. **Transportation Use Types.** Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.
- a. **Transportation Terminal.** Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.
 - b. **Truck Terminal.** A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck.
9. **Miscellaneous Use Types.** The following shall be classified as Miscellaneous Use Types.
- a. **Alternative Energy Production Devices.** The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector panels, geothermal energy installations, wind energy generation, or water powered mills or generating facilities.

- b. **Broadcasting Tower.** A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district.
- c. **Amateur Radio Tower.** A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC-licensed Amateur Radio operators.
- d. **Construction Batch Plant.** A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.
- e. **Landfill (Non-putrescible Solid Waste Disposal).** The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile.
- f. **Landfill (Putrescible and Non-putrescible Solid Waste Disposal).** The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of Iowa. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure.

C. **Establishment of Zoning Districts.** Zoning Districts are established in this Zoning Code to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district. Each Zoning District is designed to achieve the goals of the Comprehensive Plan. The following base districts and overlay districts are hereby established. A base district designation shall apply to each lot or site within the City and its planning jurisdiction. Each site must be in one base district. References in this Zoning Code to less intensive or more intensive districts shall represent a progression from the Single-Family Residential District as the least intensive to the Limited Industrial District as the most intensive. Table 1 displays the names of these districts. The Zoning Map attached as Exhibit A will serve as the Official Zoning Map to enact the establishment of Zoning Districts.

Table 1

<u>ZONING DISTRICTS</u>	<u>DISTRICT NAMES</u>
SFR	Single Family Residential District
UDR	Urban Density Residential District
FMU	Flexible Mixed Use District
TC	Town Center District
HC	Highway Corridor District
GC	General Commercial and Industrial District
AR	Agriculture Reserve District
PUD	Planned Unit Development District

1. **Single-Family Residential (SFR).** This district is intended to provide for low to moderate density residential neighborhoods, characterized by single-family dwellings on relatively large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
2. **Urban Density Residential (UDR).** This district is intended to provide for medium-density residential neighborhoods, characterized by single-family dwellings on moderately-sized lots with supporting community facilities and urban services. Its regulations apply to established parts of Avoca and to new areas which are developed to higher residential densities. Regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
3. **Flexible Mixed-Use (FMU).** This district is intended to recognize historical zones of transition between commercial and residential uses, but to provide general flexibility to allow for mixed uses. Desired uses include multiple-family housing, community facilities, commercial, and office uses. Uses that are more intense or less intense than the desired uses stated above shall be permitted by conditional use permit and the Board shall attach any conditions necessary to harmonize uses to the greatest degree possible.
4. **Town Center (TC).** This district is designed for the preservation and enhancement of the Town Center, located on Elm Street between Wool Street and Lyon Street. The regulations will encourage development that exhibits attractive design characteristics, storefront-style shopping; and greater social interaction. The district will accommodate mixed-use buildings with retail, service, and office uses on the ground floor and residential units above the nonresidential space.
5. **Highway Commercial (HC).** This district is intended to be applied to sites fronting on major highways for uses and services normally associated with the traveling public. Highway Commercial areas should be designed so that all or most of the needs of the traveling public can be accommodated at one stop. Other uses include sales, services, and retail which serve the needs of markets ranging from several neighborhoods to the overall region. The district is further characterized by a need for adequate off-street parking.
6. **General Commercial and Industrial (GCI).** This district accommodates a variety of commercial and industrial uses, some of which have significant traffic, environmental, or visual effects. These uses may create land use conflicts with adjacent residential areas, requiring provision of adequate buffering. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from surrounding residences.
7. **Agriculture Reserve (AR).** This district is intended to provide for the protection and preservation of agricultural land within the incorporated area of the City. As an urban area, intensive agriculture activity is not considered appropriate. These uses would adversely affect adjacent development. The district should protect agricultural areas that provide a stable and productive use until converted to urban land uses. Accessory uses would include the usual agricultural buildings and structures, provided all buildings or structures permanently housing livestock or poultry are located more than three hundred-twenty (320) feet from all property lines.

8. Planned Unit Development (PUD). This district is intended to provide for the development or redevelopment of land under the control and in accordance with a Master Plan and development guidelines and standards in which the land uses, transportation elements, building densities, arrangements, and types are set out in a unified plan, which may provide greater flexibility of land use, transfer of development rights within the PUD, and building locations than the conventional zoning district may permit. The PUD District is intended to maximize benefits from the use of open spaces, maximize aesthetics, encourage certain architectural standards for buildings, and permit mixed uses and diversity of bulk regulations without endangering the health, safety, welfare, and land value of surrounding and internal properties. A PUD may consist of a mix of land uses of residential, commercial, and limited industrial, provided such Planned Unit Development is compatible with the Comprehensive Plan of the City.

D. Land Use Regulations. Land uses shall be regulated by district. Table 2 below provides the permitted uses, conditional uses, and prohibited uses for each zoning district.

Table 2: Land Use Regulations

Agricultural Uses:	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Animal Production							C	
Crop Production						C	C	
Horticulture						C	C	
Intensive Agriculture								
Residential Uses:	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Single-Family Detached	P	P	C				C	P
Townhouse	C	P	C					P
Multiple-Family		P	P		C			P
Upper-Story Residential			P	P	C			P
Group Residential		P	C		C			P
Retirement Residential		P	C		C			P
Civic Uses:	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Administration	C	C	C	P	P	P		P
Cemetery					P	P	C	P
Clubs			C	P	P	P		P
College/University	C	C	C	P	P	P		P
Convalescent Service					P	P		P
Cultural Services	C	C	P	P	P	P		P
Day Care (Limited)	P	P	P	P	P	P		P
Day Care (General)			P	P	P	P		P
Detention Facilities								
Emergency Res. Serv.	C	C	P	C	C			P
Elder Family Home	C	C	P					P
Elder Group Home	C	C	P					P
Family Home	C	C	P	P	C			C
Group Care Facility	C	C	P	P	C			P
Group Home	C	C	P	P	P			P
Guidance Services			P		P	P		P
Health Care	C	C	P		P	P		P
Hospitals			P		P	P		P
Maintenance Facility	P	P	P		P	P		P
Parks/ Recreation	P	P	P	P	P	P		P
Postal Facilities	P	P	P	P	P	P		P
Public Assembly			P	P	P	P		P
Religious Assembly	C	C	P	P	P			P
Safety Services	C	C	C	C	C	C	C	P
Secondary Education	C	C	C	C	C	C	C	P
Utilities	C	C	C	C	C	C	C	P
Office Uses:	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
General Offices			P	P	P	P		P
Financial Services			P	P	P	P		P
Medical Offices			P	P	P	P		P
Transportation Uses:	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Transportation Terminal			C		C	P		
Truck Terminal			C		C	P		
Miscellaneous Uses:	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Alternative Energy Production	C	C	C	C	C	C	C	P
Broadcasting Tower					C	C	C	
Amateur Radio Tower	C	C	C	C	C	C	C	P
Construction Batch Plant	C	C	C	C	C	C		C
Landfill (Non-Putrescible)								
Landfill (Putrescible)								

Commercial Uses:	SFR	UDR	MFU	TC	HC	GCI	AR	PUD
Ag Sales/Service			C		P	P		P
A&E: Auto Rental/Sales			C	C	P	P		P
A&E: Auto Services			CP	C	P	P		P
A&E: Body Repair			C		P	P		P
A&E: Equip Rental/Sales			C		P	P		P
A&E: Equipment Repair			C		P	P		P
Bed and Breakfast	C	C	P	P	P			P
Business Support			P	P	P	P		P
Business/Trade School			P	P	P	P		P
Campground					P	P		P
Commercial Rec. Ltd.			C	P	P	P		P
Commercial Rec. (Gen.)			C	P	P	P		P
Communication Serv.			C	P	P	P		P
Construction Sale/Serv			C	P	P	P		P
Consumer Service			C	P	P	P		P
Convenience Storage			C		P	P		P
Food Sales (Conven)			C	C	P	P		P
Food Sales (Ltd)			C	P	P	P		P
Food Sales (General)			C	P	P	P		P
Funeral Service			C	C	P	P		P
Gaming Facility			C	C	P	P		P
General Retail (Small)			C	P	P	P		P
General Retail (Large)			C	P	P	P		P
Kennels			C	C	P	P		P
Laundry Services			C	P	P	P		P
Liquor Sales			C	P	P	P		P
Motel/Hotel			C	P	P	P		P
Personal Improvement			C	P	P	P		P
Personal Services			C	P	P	P		P
Pet Services			C	P	P	P		P
Research Services			C	P	P	P		P
Restaurants (Drive-in)			C	C	P	P		P
Restaurants (Gen)			C	P	P	P		P
Restricted Businesses				C	C	C		
Surplus Sales			C	C	P	P		P
Tavern/Lounge			C	P	P	P		P
Trade Services			C	C	P	P		P
Vehicle Storage			C		P	P		P
Veterinary Services			C	C	P	P		P
Parking Uses:	SFR	UDR	MFU	TC	HC	GCI	AR	PUD
Off-Street Parking			C	C	C	C		P
Industrial Uses:	SFR	UDR	MFU	TC	HC	GCI	AR	PUD
Custom Manufacturing					C	C		
Light Industry					C	C		
General Industry					C	C		
Heavy Industry								
Recycling Collection						C		
Recycling Processing						C		
Resource Extraction								
Salvage Services								
Veh. Stor (Long-term)					C	C		
Warehousing/Grain Storage					C	C		

- E. Development Standards.** Development standards shall be regulated by district. Table 3 shall provide the development standards for each district and other provisions of this subsection shall provide exceptions or conditional modifications to those regulations.

Table 3: Minimum Development Standards

Use Types	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Min. Lot Area	10,000 sq. ft.	6,000 sq. ft.	10,000 sq. ft.	1,200 sq. ft.	10,000 sq. ft.	7,200 sq. ft.	10 acres	9.9(5)(i)
Min. Lot Width (ft.)	60	40	80	20	80	60	200	9.9(5)(i)
Primary Structure Regulations (ft)	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Front Yard	30	20	25	0	20	20	50	9.9(5)(i)
Street Side Yard	30	20	25	0	20	20	50	9.9(5)(i)
Interior Side Yard	8	6	7	0	15	15	15	9.9(5)(i)
Rear Yard	30	20	25	0	10	10	50	9.9(5)(i)
Max. Building Height	35	35	35	35	35	35	35	9.9(5)(i)
Min. Building Width	Note 3	Note 3	Note 3	Note 3	Note 3	Note 3	Note 3	9.9(5)(i)
Max. Building Coverage	35%	50%	50%	100%	70%	70%	5%	9.9(5)(i)
Max. Impervious Coverage	50%	60%	65%	100%	80%	90%	8%	9.9(5)(i)
Site Area per Housing Unit	7,500 sq. ft.	2,250 sq. ft.	500 sq. ft.	500 sq. ft.	500 sq. ft.	NA	10 acres	9.9(5)(i)
Accessory Structure Regulations (ft)	SFR	UDR	FMU	TC	HC	GCI	AR	PUD
Front Yard	Note 2	Note 2	Note 2	Note 2	Note 2	Note 2	Note 2	9.9(5)(i)
Street Side Yard	35	25	25	0	15	15	50	9.9(5)(i)
Interior Side Yard	7	7	7	0	0	0	50	9.9(5)(i)
Rear Yard	7	7	7	7	7	7	7	9.9(5)(i)
Max. Building Height	15	15	15	15	35	35	35	9.9(5)(i)
Distance between Accessory and Primary Structure	7	7	15	15	15	15	15	9.9(5)(i)

1. **Planned Urban Development District.** By design, the Planned Urban Development Zone (PUD) is intended to have great flexibility in terms of uses, setbacks, height restrictions, densities, and other specifications. PUD zoning must be requested upon forms provided by the City and be accompanied by an extensive plan, which must be reviewed and approved by the Commission and the Council in the same manner as an amendment to the Zoning Map.
2. **Street Level Housing for Upper Story Housing Use in Town Center.** Applicable to the Town Center (TC) district only, handicap accessible housing on the first floor of a structure is permitted provided that the residential use has no frontage, including entry, on Elm Street and provided that reasonable and adequate civic, commercial, or office space be provided with frontage on Elm Street. By necessity this exception would apply only to buildings not locate on Elm Street or located on corner lots with frontage on Elm Street.
3. **Accessory Buildings.** No accessory building shall be erected in any required yard other than a rear yard. Accessory buildings shall be set back at least seven (7) feet from any adjoining lot line or alley. On any corner lot, an accessory building shall conform to the setback requirements on the side street as well. An accessory building shall not occupy more than thirty (30) percent of the rear yard. Accessory buildings may not be connected by a breezeway to the principal building, or if connected, shall be considered part of the principal building. No accessory building shall be constructed upon a lot until the construction of the principal building has been commenced and no accessory building shall be used for any otherwise permitted use unless the principal building on the lot is also being used for purposes in conformance with this Chapter.
4. **Accessory Uses.**
 - a. **Permitted Accessory Uses.** Accessory uses are permitted as follows:
 - i. **Agricultural uses.** The following are permitted accessory uses to permitted agricultural uses:
 - (i) Living quarters for persons regularly employed on the premises, but not including labor camps or dwellings for transient labor; or
 - (ii) Guest houses, not rented or otherwise conducted as a business.;
or
 - (iii) Limited Home-Based Occupations; or
 - (iv) Offices incidental to and necessary for conducting a permitted use;
or
 - (v) Private garages, stables and barns; or
 - (vi) Roadside stands not exceeding four hundred (400) square feet in floor area, for the sale of agricultural products grown on the premises.
 - ii. **Residential uses.** The following are permitted accessory uses to permitted residential uses:
 - (i) Private garages and private parking areas; or

(ii) Private swimming pools exclusively for the use of residents of the premises and their non-paying guests and subject to any other regulations or ordinances of the City; or

(iii) Limited Home-Based Occupations.r

iii. Civic, Office, Commercial, and Industrial Use.

(i) Accessory structures and uses necessarily, directly, and customarily associated with, and appropriate, incidental, and subordinate to the principal civic, office, commercial, or industrial uses shall be permitted where these use types are permitted; or

(ii) Private garages and private parking areas.

5. Foundation Requirements. Structures that are at least two-hundred (200) square feet, but less than six-hundred (600) square feet, in size shall be securely attached to a foundation, footing or concrete slab. Structures that are more than six-hundred (600) square feet in size shall be securely attached to a frost free footing meeting building code requirements.

a. Pier Footing Exception. Structures intended for human habitation may utilize a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. Said foundation system shall have visual compatibility with the permanent foundation systems of the surrounding residential structures. A permanent foundation shall not under any circumstances be construed as a conventional mobile home skirting.

6. Primary Structures Depth and Width. All primary structures must be at least twenty (20) feet wide on the frontage and at least twenty (22) feet deep for seventy-five percent (75%) of the width.

7. Temporary Structures. Generally, temporary structures will be regulated under the same regulations as permanent structures, subject to the following exceptions:

a. Tents. Any tent may be erected without a permit for private use for a time period not to exceed seven (7) days. A tent that will be erected for a private event for a time period exceeding seven (7) days will require a permit and be subject to the regulations for accessory buildings, unless the tent is used for a private event in which case the Administrator may permit the tent to be erected for thirty (30) days upon timely filing of a permit.

b. Modular Storage. Modular storage may be erected upon a property without a permit for private use for a time period not to exceed fourteen (14) days. The Administrator may permit the use of modular storage upon a property for up to thirty (30) days upon timely filing of a permit.

8. **Height Exceptions, Appurtenances.** The following appurtenances may exceed the prescribed height limit except when they would violate the height restrictions of an aircraft approach and turning zone provided they are normally required for a use permitted in the zone in which they are erected or constructed: flagpoles, chimneys, cooling towers, elevator bulkheads, belfries, penthouses for other than living purposes, grain elevators, stacks, silos, storage towers, observation towers, ornamental towers, monuments, cupolas, domes, spires, standpipes and other necessary mechanical appurtenances and their protective housing provided, however, that any of the above except flagpoles and chimneys when located in any zone with a height limit of forty feet (40') or less, shall be allowed only upon finding of the Board that such appurtenances will not be unduly detrimental to the surrounding property.
9. **Height Exceptions, Electronic Towers.** Radio, television, microwave and other electronic transmission or receiving towers in excess of height limits may be allowed in any zone as a conditional use, upon a finding by the Board that topographic or other physical considerations make it necessary that they be located outside of a zone where they are permitted as a matter of right and that the proposed tower or towers will not be unduly detrimental to surrounding property. Exceptions to height restrictions shall not be granted in cases where they would violate height restrictions of an airport approach and turning zone.
10. **Yard Space Encroachments, Eaves.** Eaves, cornices and similar features may extend one (1) foot into a required yard space, except that eaves may encroach three (3) feet into a yard space when such yard space is ten (10) feet or more in width. Additional yard space encroachment exceptions under this section may be approved by the Board under the conditional use permit process.
11. **Yard Space Encroachments, Porches and Terraces.** Open, uncovered porches or terraces equal to or lower than four (4) inches above grade of the lot on the side of the building where such porch or terrace is located, may extend into any required side yard. Additional yard space encroachment exceptions for covered porches higher than four (4) inches above grade may be approved by the Board under the conditional use permit process.
12. **Yard Space Encroachments, Canopies.** Awnings, canopies and marquees attached to and part of a building, may project into the front yard of all nonresidential districts no more than five (5) feet. Additional yard space encroachment exceptions under this section may be approved by the Board under the conditional use permit process.
13. **Yard Space Encroachments, Porches.** In residential zoning districts, a porch or vestibule which may be enclosed, may extend into a front yard a maximum of four (4) feet, plus not more than one foot of roof overhang; provided it does not exceed six (6) feet in length and shall not alter the front building line for future modifications or additions. Additional yard space encroachment exceptions under this section may be approved by the Board under the conditional use permit process.
14. **Yard Space Encroachments, Entry Steps.** Entry steps may encroach into a required yard. Additional yard space encroachment exceptions under this section may be approved by the Board under the conditional use permit process.

15. **Yard Space Encroachments, Fire Escapes and Chimneys.** Open fire escapes, fireproof outside stairways, chimneys and flues may extend into the required rear yard and not more than three and one half (3.5) feet into a required side yard. Additional yard space encroachment exceptions under this section may be approved by the Board under the conditional use permit process.
16. **Yard Space Encroachments, Fences.** Fences and walls may be constructed in required yards. Additional yard space encroachment exceptions under this section may be approved by the Board under the conditional use permit process.
17. **Yard Space Encroachments, Signs.** Signs may be permitted in required yards provided no portion of any sign encroaches into a traffic visibility zone. Additional yard space encroachment exceptions under this section may be approved by the Board under the conditional use permit process.

F. Fences and Hedges Regulations.

1. **Fences and Hedges, Corner Visibility.** Except in zones allowing the construction of buildings to the property line, there shall be provided an unobstructed view across the triangle formed by joining points measured twenty-five (25) feet distance along the property line from the intersection of two (2) streets or fifteen (15) feet along both the street and alley line from the intersection of a street and an alley. Within said triangle there shall be no sight obscuring or partly obscuring wall, fence or foliage higher than thirty (30) inches above curb grade or in the case of trees, foliage lower than five (5) feet. Vertical measurement shall be made at the top of the curb on the street or alley adjacent to the nearest side of the triangle or if no curb exists, from the edge of the nearest traveled way.
2. **Fences and Hedges, Other Than Corner.** On portions of a lot not covered by street or alley intersection restrictions, the height of fences or structures of any length, and foliage continuous for five (5) feet or more, shall be limited to the following:
 - a. Forty-eight (48) inches along the street line of the front yard.
 - b. Forty-eight (48) inches in any side yard from the front property line to the primary structure.
 - c. Seventy two (72) inches in any rear yard or along any inside side yard past the front of the primary structure.
3. **Fences and Hedges, Measurement Rule.** Heights of fences, structures, hedges and other continuous foliage shall be measured from the adjacent top of the street curb, surface of an alley or the official established grade thereof whichever is the higher. On inside lot lines the measurement shall be from the average grade thereof, whichever is higher.
4. **Fences and Hedges, Exception, Board.** The Board may approve, or may direct as a condition for granting an appeal, that fences or plantings of a height in excess of these regulations be placed as shielding between different uses, or between like uses upon agreement as a conditional use.

5. **Material Regulations.** Fences located in required front or street side yards in residential zoning districts shall be constructed of wood, vinyl coated chain link, composite materials made to look like wood or painted fencing, stone, or masonry materials only. Solid fences which have no openings shall not be permitted in required front or street side yards in residential zoning districts. Sheet metal shall not be an accepted fencing material in any zoning district. Barbed wire fences are not allowed within the City except in agricultural areas totaling more than 5 acres. Electrified fences are not allowed within the city.
 6. **Condition.** All fences shall be maintained in neat and presentable condition. Fences shall not be allowed to be maintained in a condition suggestive of deterioration or inadequate maintenance.
- G. Bufferyard and Screening Provisions.** These provisions apply when a more intensive zoning district is adjacent to a less intensive zoning district.
1. When zoning districts of different intensities create conflicts between adjacent property owners, the owner of the use within the more intensive zoning district shall maintain a landscaped bufferyard on the property as set forth in Table 4 below. The Board may require additional bufferyard or screening as part of the site plan approval process.
 2. **Screening Required.** Screening is required when one or more of the following conditions exists. The owner of the property maintaining the specified condition shall be required to maintain the proper screening of the specified condition.
 - a. The property is required to provide a bufferyard by Table 4 and any of the following conditions is visible to a property in the less intensive district.
 - i. Rear elevation of buildings.
 - ii. Outdoor storage areas or storage tanks.
 - iii. Loading docks, refuse collection points, and other service areas.
 - iv. Major machinery or areas housing a manufacturing process.
 - v. Major on site traffic circulation areas or truck and or trailer parking.
 - vi. Sources of glare, noise, or other environmental effects.
 - b. A property in the Flexible Mixed Use district maintaining a multi-family, civic, commercial, or office use and located adjacent to a residential use also located in the Flexible Mixed Use district.

Table 4: Bufferyard Provisions

Zoning District	SFR	UDR	FMU
FMU	20 ft	15 ft.	N/A
HC	30 ft	20 ft	15 ft
GCI	40 ft	30 ft	20 ft

H. Parking Standards. The following parking regulations shall apply:

1. All driveways and parking lots in the City shall conform to the standards of the Iowa Statewide Urban Design and Specifications Design Manual, except that a gravel or pervious surface shall be permitted for parking under the following conditions:
 - a. A gravel or pervious surface roadway connects to the parking or driveway.
 - b. The parking or driveway serves a commercial or industrial use where conforming parking is impractical and the Board has approved the gravel or pervious parking or driveway through the Site Plan Review Process, subject to any required mitigating factors.
2. Parking for nonresidential uses may be permitted within required yards if necessary to provide sufficient space for off-street parking or loading, provided the parking is compliant with any other regulation of this section.
3. Parking shall be permitted in the required yards for residential uses, provided the parking is compliant with any other regulation of this section.
4. Uses in the Town Center Zoning District shall be exempt from off-street parking requirements due to the design of the district and availability of on-street public parking.
5. No addition to an existing building shall be constructed which reduces the number of spaces, area or usability of existing parking or loading space unless such building and its addition, conform with the regulations for parking and loading contained herein. Contractual agreements may be made between uses which generate parking demand at different times in such a manner that the requirements of more than one (1) use may be met by the same space, provided the parking demand for each such use involved is in fact met.
6. All off-street parking and loading spaces, access and aisles shall be paved with an improved surface such as concrete, asphalt, laid brick, or other impervious material. Low impact design measures, such as pervious forms of concrete, asphalt, and pavers may be acceptable with the approval of the Administrator.
7. The parking or storage of inoperable vehicles is prohibited on any lot or any public street or way, except in enclosed buildings or where otherwise permitted by this Zoning Code.
8. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, is prohibited on any lot, parcel or tract of land or part thereof, except in enclosed buildings or garages or where otherwise permitted by this Zoning Code.
9. The storage or parking of any non-motorized vehicle, other than those equipped to motorized vehicles necessary for normal operation, in any public way, right-of-way, or in any required front yard shall not be permitted, except in the case of conforming commercial sales uses.
10. The parking or storage of any vehicle is permitted within an enclosed building when such building conforms to the regulations of its residential zoning district.

11. Oversized vehicles shall not be stored on any lot, except in enclosed buildings or garages, or on any public street or way within a residential zoning district.
12. Parking and storage of recreational vehicles and boats within residential districts are subject to the following conditions:
 - a. Recreational vehicles and boats must be maintained in a clean, well-kept state.
 - b. Recreational vehicles and boats must be stored in the rear yard of lots where access to the rear yard is connected by a paved or gravel surface on a dedicated public right-of-way or alley. Recreational vehicles and boats may be stored in the front or side yards of lots where access to the rear yard is not connected by a paved or gravel surface on a dedicated public right-of-way and/or alley.
 - c. Recreational vehicles may be used as temporary housing by non-paying guests for a maximum of three consecutive days or fourteen days total during any calendar year. Cooking in the recreational vehicle is prohibited at all times.
 - d. Recreational vehicles may not be permanently connected to utilities on any parcel, nor shall utility connections disturb any public right-of-way.
 - e. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.
 - f. Recreational vehicles and boats hauled on a trailer equipped to a conforming vehicle may be parked on a public street or way as necessary for loading or unloading for periods not exceeding 24 hours.

I. Nishnabotna Residential Overlay District. All residential properties located in the designated area are regulated by the Nishnabotna Residential Overlay District (NROD). The purpose of the district is to ensure high-quality residential developments that incorporate appropriate building materials, landscaping, and other site characteristics. The following shall apply:

1. **Boundaries.** The District corresponds generally to the area outlined as NROD in the official zoning map. This zoning classification is not intended to be applied elsewhere in the City.
2. **Interpretation of Standards.** The NROD standards contained herein constitute an overlay zoning district. They shall operate in conjunction with any underlying zoning district, and all other applicable regulations, remain in effect. If provisions of the NROD standards conflict with the underlying zoning, the NROD standards shall prevail.
3. **Minimum Gross Floor Area.** The following minimum floor areas shall apply within the District
 - a. Single Family Detached: 1,200 sq. ft. total.
 - b. Townhome or Duplex Residential: 900 sq. ft. per dwelling unit
 - c. Multiple-Family Residential: 650 sq. ft. per dwelling unit.

4. **Accessory Uses and Structures.** This section applies to all residential uses in the NROD:
 - a. Accessory uses and structure(s) shall not be located in any required yard other than a rear yard except for attached garages, statues, arbors, trellises, flagpoles, planters, mailboxes, outdoor lighting, or similar structures; or fences in the side yard.
 - b. An accessory structure(s), must be constructed of building materials which are complementary of the primary structure.
 - c. Refuse containers must be placed in a convenient location for the residential units of multiple family housing developments and must be enclosed with wooden or masonry structure.
 5. **Garage Structures.** Each residential use type will require the following:
 - a. Single Family Detached: A minimum of a single car garage.
 - b. Townhome or Duplex Residential: A minimum of a single car garage per dwelling unit.
 - c. Multiple-Family Residential: Parking amenities shall be determined through the Site Plan Review Process, with a minimum of a single care garage provided for 25% of units in development.
 6. **Fences and Hedges.** No fence or hedge shall be erected or maintained in the front yard of a residence. Shrubbery and trees may be planted around the building foundation and may be used as accent plantings in ornamental islands and along entrance walkways or driveways. Plantings along driveways and entrance walkways shall be limited to thirty (30) inches in height. In no instance, however, shall such shrubbery or hedges be planted along front property lines or sidewalks. For the purpose of the District, hedge shall mean a row of closely planted shrubs, bushes, or other vegetative screening, forming a boundary or restrictive barrier.
 7. **Retaining Walls.** Walls may be brick, individual decorative modular wall stone, or natural stacked wall or filed stone. Walls composed of landscape timbers or other wood products are not desired due to the deterioration potential of the material. Wood walls may be used, with approval by the Administrator, in areas where views of the wall are minimal.
 8. **Minimum Landscaping.** Each residential development shall provide for a landscaping plan include the installation or on-site retention of a minimum of two trees and three shrubs. Trees shall be located in the front setback of the lot. Shrubs may be located throughout the development. The Administrator shall approve the landscaping plan.
- J. **Town Center Zoning District Preservation and Design Regulations.** All structures in the Town Center (TC) zoning district shall conform to the general provisions and standards set forth in this section. All construction, alterations, signs, facades and awnings located within the TC zoning district are permitted only in compliance with the following regulations. The intent of this section is to evoke historical architectural influences of the pre-1935 era in which the existing structures in the district were constructed. The following shall apply:

1. New buildings constructed within the TC zoning district shall evoke historical architectural influences of the era in which the existing structures in the district were constructed. Styles of the Victorian architectural period were the primary influence in the development of the existing pre-1935 buildings.
2. All signs, facades and awnings in the TC zoning district shall be constructed to achieve the design recommendations of the Downtown Master Plan.
3. Every building located within the TC zoning district shall be used in a manner which enhances its appearance and site.
4. All alterations and additions to existing buildings in the TC zoning district shall preserve the architectural integrity of the building and not seek to create an appearance which is of a later or earlier period. However, where existing buildings have already been changed over the course of time, consideration shall be given as to whether these changes may have an architectural or historical significance of their own.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or site shall, whenever possible, be preserved. Removal or alteration of any historic material or distinctive architectural features shall be avoided under all circumstances. Deteriorated architectural features shall be repaired or replaced but not removed. In the event that replacement is necessary, the new material shall match the material being replaced in arrangement, design, color, texture and other visual qualities. Repair or replacement of missing architectural features shall be based on accurate duplications.
6. Sign designs and colors shall be compatible with the architecture of the building and relate to the building features. Signs shall not be dominant but shall be proportionate, appropriate and complementary to the building and existing signs and surroundings.
7. Signs shall be made of appropriate materials. Wooden or wood-like signs are preferred. Signs shall have texture and depth; lettering shall have depth.
8. Logos or graphics are permitted so long as they are harmonious with the overall design.
9. Incongruous features, including, but not limited to, air conditioners, radio or telephone antennas, are not permitted in any facade treatment or other area visible from the street, unless specifically recommended by the Board.
10. Facades shall be constructed of materials used in existing structures through the TC zoning district in order to maintain visual compatibility. Such materials include, but are not limited to, brick, wood siding, slate and terra cotta. Metal facades shall not be considered an approved material.
11. In doing repairs or renovations, original materials shall be retained wherever possible. In the event that replacement is necessary, the new materials shall match the material being replaced in arrangement, design, color, texture and other visual qualities.

12. Storage of materials, stock or inventory shall not be permitted in any window display area ordinarily exposed to public view. All screening of windows shall be maintained in a clean and attractive manner. Refuse containers must be enclosed within a wooden or masonry structure.
13. No person shall erect or alter, including for routine maintenance, any structure or sign, facade or awning in the Town Center zoning district until and unless an application for same shall have been submitted to the Board for review and approval. The process utilized shall be similar to the Site Plan Review Process.

K. Signage Regulations. The following regulations shall apply to apply to all signage within the City.

1. **District Regulations.** Signage regulations shall be based upon district as applied below in Table 5.
2. **Sign Permits.** Signs shall be properly erected or attached to a structure and kept in good repair. Any lettering, logo, design, and other markings placed upon the sign shall be clear, distinct, readable, and maintained in that condition.
 - a. It is the duty of the Administrator to examine each application for sign permit. If the applicant has complied with the requirements of this section, and any other laws and ordinances of the City, the Clerk shall issue a sign permit to the applicant. In the event that none of the authorized work has been completed within six (6) months after the date of issuance of the permit, the permit shall become null and void.
 - b. Sign area shall only be calculated using the dimensions of one side of the sign.
 - c. No sign other than directional signs shall be placed within any bufferyard required by this section.
 - d. The Administrator has the authority to require any owner to remove any sign that is in violation of the provisions of this section, except legally nonconforming signs.
3. **Prohibited Signs.** The following signs are prohibited in all districts.
 - a. Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
 - b. Signs on public property or public right-of-way, unless specifically authorized by the City.
 - c. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
 - d. Discontinued signs.
 - e. Any sign or sign structure which is unsafe, constitutes a hazard to safety or health by reason of inadequate maintenance, support structure, dilapidation, or abandonment, is not kept in good repair, or is capable of causing electrical shocks to persons likely to come in contact with it.

- f. Signs that are not constructed in a workmanlike manner or that are not constructed to the standards of sections of 8.3 and 8.5 of this Chapter.
- g. Signs advertising activities that are illegal under Federal, state, or local laws and regulations.
- h. Signs containing obscene, lewd, or indecent content.
- i. Signs creating a nuisance due to manner or intensity of illumination or presence of blinking, flashing, or fluttering lights or other illuminating device that has a changing light intensity, brightness, or color.

4. Exempt Signs. The following exemptions shall apply:

- a. Signs for organizations recognized as exempt from taxation under 26 U.S.C §501(c), also known as the Internal Revenue Code are exempt from the permit and fee regulations of this section.
- b. One non-illuminated real estate sign per premises with a maximum size of twenty (20) square feet per premises are exempt from the permit and fee regulations of this section. Such signs shall have a maximum sign height of six feet and shall be located within the property advertised for sale or rent.
- c. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information are exempt from the sign regulations of this section.
- d. Non-illuminated construction signs with a maximum size of 32 square feet per site and located on a construction site are exempt from the permit and fee regulations of this section.
- e. Political signs compliant with the regulations of the Iowa Ethics and Campaign Disclosure board are exempt from the sign regulations of this section.
- f. Building numbers are exempt from the sign regulations of this section.
- g. Incidental signs are exempt from the sign regulations of this section.
- h. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed are exempt from the sign regulations of this section.

Table 5: Signage Rules

Type of Sign	Permitted Use Districts	Conditional Use Districts	Maximum Area/Height or Width Allowed	Setbacks	Number Allowed Per Use	Number Allowed Per Site
Awning Sign	MU, TC, HC, GCI, PUD	None	80% of valance area	Same as Table 3 requires	1	1
Detached	FMU, HC, GCI, PUD	TC	250 sq. ft., 35 ft. high max	Same as Table 3 requires	1	1 per 200 feet of frontage
Directional Sign	FMU, TC, HC, GCI, PUD	None	2 sq. ft.	5 ft. front and side		1 per 150 feet of frontage
Electronic Sign	HC, PUD	FMU, TC, GCI, PUD	250 sq. ft. or subject to CU Permit	Same as Table 3 requires	1	1 per 200 feet of frontage
Incidental Sign	All	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Off-Premises Sign	Not permitted in any zoning district					
Monument Sign	FMU, TC, HC, GCI, PUD	All others	125 sq. f.t., 15 ft. high	5 ft. front and side	1	1 per 150 feet of frontage
Political Sign	All political signs must conform to the rules and regulations of the Iowa Ethics and Campaign Disclosure Board or any successor body.					
Portable Sign	TC	None	Max height 4 ft., max width 4 ft.	May be placed in right-of-way	1	1
Projecting Sign	TC, PUD	FMU,	48 sq. ft.	Same as for an awning, may project into right-of-way	1	1
Residential Sign	SFR, UDR, FMU, PUD	HC	6 sq. ft., 3 ft. high max	5 ft. front and side	1	1
Roof Sign	HC, GCI, PUD	FMU	150 sq. ft.	Same as Table 3 requires	1	1
Temporary Sign	All	Not applicable	10 sq. ft. in UDR & SFR; 100 sw. ft. in other districts	5 ft. front and side	Not applicable	Not applicable
Wall Sign	FMU, TC, HC, GCI, PUD	None	20% of Wall Total	Same as Table 3 requires	1 per wall having street frontage	Not to exceed 20% of total wall area for each wall having street frontage for all uses.

8.9 Floodplain Management Ordinance. The purpose of this section minimize flood losses within the City by the following regulations: 1) Restricting or prohibiting uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities, 2) requiring that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement, 3) protecting individuals from buying lands which may not be suited for intended purposes because of flood hazard, 4) Assuring that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

A. General Provisions. The following shall apply:

- 1. Lands to Which Ordinance Apply.** The provisions of this Ordinance shall apply to all lands and uses which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Pottawattamie County and Incorporated Areas, City of Avoca, Panels 19155C0150F, 0326F, 0327F, 0350F dated April 16, 2013, which were prepared as part of the Pottawattamie County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Pottawattamie County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.
- 2. Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this section and other applicable regulations which apply to uses within the jurisdiction of this section.
- 3. Abrogation and Greater Restrictions.** It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provision of this section shall prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.
- 4. Interpretation.** In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
- 5. Warning and Disclaimer of Liability.** The standards required by this Section are considered reasonable for regulatory purposes. This Section does not imply that areas outside the designated areas of significant flood hazard will be free from flooding or flood damages. This Section shall not create liability on the part of the City, or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made there under.
- 6. Severability.** If any section, clause, provision or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

B. Floodplain Management Standards

1. **General Floodplain Standards.** All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the 100 year flood level. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.
 - a. All development within the areas of significant flood hazard shall:
 - i. Be consistent with the need to minimize flood damage.
 - ii. Use construction methods and practices that will minimize flood damage.
 - iii. Use construction materials and utility equipment that are resistant to flood damage.
 - iv. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. **Residential buildings.** All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. **Non-residential buildings.** All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.
4. All new and substantially improved structures:

- a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
 - iv. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.
- b. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

- a. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
- b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

- c. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
 - d. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
- 7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
- 8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
- 9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- 10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this Section. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the area of significant flood hazard.
- 11. **Accessory Structures.**
 - a. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:
 - i. The structure shall not be used for human habitation.
 - ii. The structure shall be designed to have low flood damage potential.
 - iii. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
 - iv. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
 - v. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

- b. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

- a. Recreational vehicles are subject to the requirements regarding anchoring and elevation of factory-built homes unless the following criteria are satisfied:
 - i. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
 - ii. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

- 13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

C. Special Floodway Provisions. In addition to the General Floodplain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

- 1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
- 2. All uses within the floodway shall:
 - a. Be consistent with the need to minimize flood damage.
 - b. Use construction methods and practices that will minimize flood damage.
 - c. Use construction materials and utility equipment that are resistant to flood damage.
- 3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
- 4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable General Floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited, Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

D. Special Provisions for Shallow Flooding Areas. In addition to the General Floodplain Standards, uses within shallow flooding areas must meet the following applicable standards.

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map (FIRM), the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of 2.0 ft. if no number is specified) above the highest natural grade adjacent to the structure.
2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.

E. Administration. The Zoning Administrator (hereafter Administrator) is hereby appointed to implement and administer the floodplain regulations. Duties of the Administrator shall include, but not necessarily be limited to the following:

1. Review all floodplain development permit applications to assure that the provisions of this Section will be satisfied.
2. Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
3. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures.
4. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.
5. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

6. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Section.

F. Floodplain Development Permit. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

1. The permit application shall be made on forms furnished by the Administrator and shall include the following:
 - a. Description of the work to be covered by the permit for which application is to be made.
 - b. Description of the land on which the proposed work is to be done (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
 - c. Indication of the use or occupancy for which the proposed work is intended.
 - d. Elevation of the 100-year flood.
 - e. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.
 - f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
 - g. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this section.
2. **Action on Permit Application.** The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Section and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Appeals (hereafter the Board), which shall be the Board of Zoning Appeals created in Chapter 8.8(A)(2).
3. **Construction and Use to be as Provided in Application and Plans.** Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Section. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Section, prior to the use or occupancy of any structure.

- G. Variances.** The Board may authorize upon request in specific cases such variances from the terms of this Section that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Section will result in unnecessary hardship. Variances granted must meet the following applicable standards.
1. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or sections.
 2. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 3. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 4. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Section, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
 5. All variances granted shall have the concurrence or approval of the Department of Natural Resources.
 6. The Board shall consider the following factors in passing upon applications:
 - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - b. The danger that materials may be swept on to other land or downstream to the injury of others.
 - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
 - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - e. The importance of the services provided by the proposed facility to the City.
 - f. The requirements of the facility for a floodplain location.
 - g. The availability of alternative locations not subject to flooding for the proposed use.
 - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
- m. Such other factors which are relevant to the purpose of this Section.

7. **Conditions Attached to Variances.** Upon consideration of the factors listed in Chapter 8.9(G)(6), the Board may attach such conditions to the granting of variances as it deems necessary to further the purpose of this section. Such conditions may include, but not necessarily be limited to:

- a. Modification of waste disposal and water supply facilities.
- b. Limitation of periods of use and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Section.
- e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

H. **Nonconforming Uses.** A structure or the use of a structure or premises which was lawful before the passage or amendment of this Section, but which is not in conformity with the provisions of this Section, may be continued subject to the following conditions:

- 1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Section.
- 2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- 3. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this Section. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

- I. **Amendments.** The regulations and standards set forth in this Section may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

- J. **Enforcement.** The Administrator shall issue enforcement orders in writing. An enforcement order shall provide notice to the property owner or occupant of any violation by indicating the nature of the violation and the action necessary to correct it. The Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions. The following shall apply:
 - 1. **Civil Action for Violations.** If a person is in violation of this regulation, the Manager or other designated official shall seek any remedy provided for by Chapters 4.2, 4.5, or by civil action.

 - 2. **Separate Offenses.** The owners or tenant of any building, structure, land or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation may each be charged with a separate offense and upon conviction suffer the penalties herein provided.

 - 3. **Other Remedies.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this ordinance, nothing herein contained shall prevent the City from taking other lawful action as is necessary to prevent or remedy any violation.

8.10 Subdivision Regulations. This section provides minimum standards for the design, development, and improvement of all plats, subdivisions, and re-subdivisions of land, so that existing developments will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan.

- A. The regulations of this section are in accordance with the provisions of Chapter 354 of the Code of Iowa, and amendatory acts thereto, governing all plats and subdivisions in the City or within two (2) miles thereof. The following shall apply:
 - 1. No plat or subdivision shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this Chapter and has been approved as prescribed herein.

 - 2. The Council shall not permit any public improvements over which it has any control to be made, nor shall any City funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after October 6, 1970, unless such subdivision and streets have been approved in accordance with the provisions of this Chapter and the street accepted by the Council as a public street.

 - 3. No building permit and no certificate of occupancy shall be issued for any division unless such division has been approved.

- B. Approval Prior to Effectiveness of Recording.** No subdivision plat, re-subdivision plat or street dedication within the City of Avoca, Iowa, or within two (2) miles of the corporate limits of the City as recorded in the appropriate office of the County Recorder and filed with the appropriate County Auditor, as provided in Section 354.9, Code of Iowa, shall be filed for record with the appropriate County Recorder, or recorded by the appropriate County Recorder, until the plat of such subdivision, re-subdivision, or street dedication has been reviewed and approved in accordance with the subdivision regulations of the City.
- C. Plat of Survey Review and Approval** Any division or combination of a tract, lot or parcel, not constituting a formal subdivision, shall be administratively reviewed and approved by the Administrator for compliance with zoning and subdivision regulations. A Plat of Survey shall be required. Prior to recording with the County Recorder, a division shall be certified as approved by the Zoning Administrator (hereafter Administrator).
- D. Professional Survey.** A licensed land surveyor and engineer shall make all plats required by this section.
- E. Pre-Application Conference.** The subdivider may present a sketch plan of a division or combination to the Administrator and Commission or Council for review, prior to incurring significant costs preparing the preliminary or final plat.
- F. Minor Plat Process.** The Administrator shall review a Minor Plat to assure that it is in full conformance with all applicable ordinances, rules, and regulations, and shall approve or disapprove the final plat accordingly.
- G. Conformance with Comprehensive Plan and Zoning Regulations.** The arrangement, character, extent, width, grade and location of all improvements, the general nature and extent of the lots, and uses proposed shall conform to the Comprehensive Plan and zoning regulations of the City and shall conform to such other plans, including but not limited to a Major Street Plan, a Sanitary Sewer System Plan, or a Parks and Open Space Plan, provided such plan has been adopted by the City.
- H. Major Plat Process.** In order to secure approval of a Major Plat, the subdivider shall comply with the requirements for a preliminary plat and the requirements for a final plat.
- 1. Preliminary Plat Requirements.** The subdivider of any tract of land to be subdivided as a "Major Plat" shall cause a preliminary plat to be prepared of the subdivision containing the information specified herein and shall file three (3) copies of the plat with the Clerk. The preliminary plat shall contain the following information:
 - a.** A location map showing:
 - i.** The subdivision name.
 - ii.** An outline of the area to be subdivided.
 - iii.** The existing streets and town utilities on adjoining property.
 - iv.** North point and scale.
 - 2.** A preliminary plat of the subdivision drawn to the scale of one hundred feet (100') to one inch (1"), said preliminary plat to show:
 - a.** Legal description, acreage and name of proposed subdivision.

- b. Name and address of the owner.
 - c. Name of person who prepared the plat, and date thereof.
 - d. North point and graphic scale.
 - e. Contours at two foot (2') intervals, based on City datum.
 - f. Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, watercourses, bridges, railroad and buildings in the proposed subdivision.
 - g. Layout of proposed blocks, if used, and lots including the dimensions of each, and the lot and block number in numerical order.
 - h. Location and widths, other dimensions and names of the proposed streets, alleys, roads, utility and other easements, parks and other open spaces or reserved areas.
 - i. Names of adjacent property owners.
 - j. Grades of proposed streets and alleys.
 - k. A cross-section of the proposed streets showing the roadway location, the type of curb and gutter, the paving and sidewalks to be installed.
 - l. The layout of proposed water mains and sanitary sewers.
 - m. The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures.
 - n. Proposed building lines, if different than the yard requirements established in the Zoning Regulations.
3. **Preliminary Plat Review by Commission.** The Clerk shall immediately transmit two (2) copies of the preliminary plat to the Planning Commission for study and recommendation. The Commission shall examine the preliminary plat as to its compliance with this Chapter, and the comprehensive plan of the City and shall have forty-five (45) days within which to submit a recommendation to the Council, provided that the owner or developer may agree to an extension of time not to exceed sixty (60) days.
 4. **Preliminary Plat Review by Council.** The Council, upon receipt of the Commission's recommendation, or after the forty-five (45) days, or any extension thereof shall have passed, shall by resolution grant approval to or reject the preliminary plat, and such action shall be noted on all copies and tracings of the plat on file with the City. Approval of preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat but shall not be deemed approval of the subdivision.
 5. **Final Plat Process.** The subdivider shall submit to the City four (4) copies of a final plat containing the necessary information for approval. The final plat shall conform to the preliminary plat approval and to this Code and the required public improvements shall be completed or assurance provided for their completion. The following shall also apply:

- a. Requirements of the Final Plat.** The final plat shall conform to the requirements of Chapter 355 of the Code of Iowa, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch with permanent ink on a reproducible tracing material. It shall show:
- i.** The title under which the subdivision is to be recorded.
 - ii.** The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
 - iii.** Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive.
 - iv.** Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.
 - v.** The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.
 - vi.** A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the Code of Iowa by the professional engineer or land surveyor who drew the final plat.
- b. Final Plat Attachments.** The final plat shall have the following attached to it:
- i.** A correct description of the subdivision land.
 - ii.** A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.
 - iii.** A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.
 - iv.** A certificate from the County Treasurer that the subdivision land is free from outstanding property tax liens and obligations.
 - v.** A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.
 - vi.** A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.
 - vii.** A certificate of dedication of streets and other public property.

- viii. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
 - ix. Resolution and certificate for approval by the Council and for signatures of the Mayor and the Clerk.
 - x. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.
 - xi. A certificate by the City Engineer that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk.
 - xii. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.
- c. **Improvements Required.** The subdivider shall, at subdivider's expense, install and construct all improvements required by this Chapter. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat. All improvements shall be inspected by the City Engineer to insure compliance with the requirements of this Chapter. Laboratory and field tests shall be taken when necessary. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare:
- i. **Streets.** The subdivider shall grade and improve all new streets between the right-of-way lines within the subdivided area. The paving of such new streets shall be built according to the City's adopted standards and specifications. Minimum pavement widths shall be in accordance with adopted City standards.
 - ii. **Improvement to Adjacent Streets.** The subdivider shall be responsible for improvements to any adjacent street(s) made necessary by the proposed subdivision.
 - iii. **Sanitary Sewers.** The subdivider shall construct sanitary sewers according to the standards and specifications of the City, and provide a connection for each lot to the sanitary sewer. Where existing sewer outlets are not within reasonable distance, installation of private sewer facilities or septic tanks may be permissible as a temporary measure pending future sewer service. In situations of on-site sewage disposal the subdivider shall provide to the City appropriate permits issued by Pottawattamie County or the Iowa Department of Natural Resources.
 - iv. **Storm Sewers and Drainageways.** All storm drainage flowing through the site and from within the site shall be conveyed through storm drains and appurtenant facilities. The facilities shall be constructed in accordance with the City's standards and specifications for storm drains.

- v. **Water Mains.** The subdivider shall provide for the installation of water mains and fire hydrants in the subdivided area, and such installation shall be made prior to the street pavement construction and shall be in accordance with the standards and specifications of the City.
 - vi. **Sidewalks.** The subdivider shall provide for the installation of sidewalks along all newly created lots, including sidewalks on adjacent existing streets. The sidewalks shall be built according to the standards and specifications of the City. The subdivider shall indicate in the application for approval of a preliminary or final plat those sidewalks that will be constructed at the time of installation of public improvements, and those that the subdivider would like the Council to defer until a later date. If the Council agrees to defer construction of the sidewalks, sidewalks shall be constructed at the time a principal structure is build upon the adjacent lot or lots or within five (5) years of plat approval, whichever is earlier. Notwithstanding the above, the Council may require the sidewalk's construction at the time adjacent roadway construction takes place or at any other time as noted in the final plat approval. At the time sidewalk construction is required as provided above, such construction shall be completed at the sole cost and expense of the person or entity that owns the property or lot at the time of construction.
 - vii. **Street Signs.** The City shall furnish and cause to be erected at all intersections, street identification signs, and posts in accordance with standards approved by the Council. The subdivider shall reimburse the City for all costs associated with the purchase and installation of the required street signs.
 - viii. **Streetlights.** Installation of streetlights shall be required in accordance with design and specification standards approved by the City. Plans for steel pole streetlights with underground distribution shall be submitted by the subdivider to the City for approval. The subdivider shall pay the cost of streetlights with underground distribution lines.
 - ix. **Private Utilities.** All private utilities, including but not limited to, gas, electric power, telephone, and cable TV lines shall be located underground throughout all residential zoning districts. The availability of these facilities and their existing location shall be shown on the preliminary plat. The subdivider shall be responsible for complying with the utility requirements of this Code. The subdivider shall also be responsible for making the necessary arrangements including any construction or installation charges with each of the serving utilities. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, and other facilities necessarily appurtenant to such underground utilities shall be underground if possible. Such facilities shall be placed within easements or public rights-of-way provided for each particular facility. Overhead utilities with underground service lines may be permitted in commercial and industrial zoning districts.
 - x. **Fencing and Screening.** The subdivider shall furnish and install fences and screening required by zoning regulations or otherwise required by the Council.
- d. **Easements.** The subdivider shall provide the following easements:

- i. Utilities.** Where alleys are not provided, or where otherwise required by the present or future placement of public utilities, easements of not less than ten (10) feet in width shall be granted by the owner along rear, and where necessary, along side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across, lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.
 - ii. Watercourses.** Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at said subdivider's expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement along said stream or watercourse as necessary for the proper maintenance of the watercourse, and as approved by the City.
- e. Performance Bond In Lieu of Improvements.** The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.
- f. Maintenance Bond.** The subdivider shall warrant the design, material, workmanship, installation, and/or construction of required improvements for a period of two (2) years from and after acceptance of the roadway paving, and two (2) years for sanitary sewers, storm sewers and water mains. Such warranty shall be by bond or other acceptable collateral, shall be subject to review by the City Attorney, and shall specifically assure the expedient repair or replacement of defective improvements under warranty; and shall indemnify the City from any and all costs or losses resulting from, attributed to, or otherwise arising from such defective improvements. The contractor may post the required maintenance bond in lieu of the subdivider.
- g. Review and Recommendation by Planning Commission.** The Planning Commission shall examine the final plat and accompanying material for conformity with these regulations and the approved preliminary plat. The Planning Commission may confer with the subdivider on changes deemed advisable and the extent of such improvements to be made by the subdivider. The Planning Commission shall make a recommendation to approve, conditionally approve, or reject such plat within sixty (60) days after the date of receipt by the Commission.

- h. Consideration by Council.** The Council shall not consider a final plat until receipt from the subdivider of a title opinion, tax certificate, easements, deeds, lender's certificates, and other information to the satisfaction of the City Attorney. If the Commission does not recommend approval of the final plat, the Council may approve said plat only by a four-fifths majority of the membership of the Council. The Council will approve the plat via a resolution that shall be recorded with the plat. The Clerk shall seal the approved final plat.
 - i. Duty to Record.** Upon approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be null and void after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the Clerk within such thirty (30) days.
- 6. Acceptance of Public Improvements.** Approval of the final plat by the City does not constitute final acceptance by the City of any improvements to be constructed, unless specifically stated in the resolution approving the final plat. Improvements will be accepted only after their construction has been completed and inspected by appropriate City personnel certifying the improvements have been completed in conformance with standards and specifications and all other requirements of the City. The City Council may accept all streets, utilities, alleys, easements, parks or other areas reserved for or dedicated to the public. Upon completion of the improvements as required in this Chapter, the City Council may accept the improvements by resolution, at which time the City will assume maintenance of the improvements.
- 7. Variances.** Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. The Council may also vary, modify or waive the requirements so that natural resources and drainage ways located within a proposed subdivision may be preserved. Under no circumstances shall such variance, modification or waiver have the effect of nullifying the intent and purpose of this Chapter. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Council.
- 8. Fees.** All plat applications shall be accompanied by the appropriate fee as established in Chapter 10.
- 9. Civil Action for Violations.** If a person is in violation of this regulation, the Manager or other designated official shall seek any remedy provided for by Chapters 4.2, 4.5, or by civil action.
- 10. Denial of Building Permit.** No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this section, unless and until a final plat of such subdivision has been approved and recorded in accordance with this section, and until the improvements required by this Chapter have been accepted by the City.

11. **Plats Outside Corporate Limits.** Procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as set out in this Chapter, except that five (5) copies of the plat shall be filed with the Clerk. The Clerk shall refer two copies to the County and request the County recommendations to be submitted to the Commission. The Commission shall not take action on the plat prior to receiving the recommendations of the County, provided that the County shall submit its recommendations within thirty (30) days after the referral of the plat to the County.

12. **Public Parkland Requirement.** Any developer who seeks to develop land for residential purposes within the City may be required to dedicate public parkland.

8.11 **Tree Regulations.** The purpose of this section is to regulate the planting and maintenance of trees within the City.

A. **Authority of City Generally.** The City shall have jurisdiction over all trees and other planting on City property and public right-of-way within the City.

B. **Trimming and Removal.** The following shall apply

1. **City Rights Reserved.** The City expressly reserves and asserts its rights to at any time trim or remove, or cause to be trimmed or removed, any tree now or hereafter planted along any publicly owned property or right-of-way whenever the City deems such trimming or removal necessary. An abutting property owner shall not be paid compensation for claimed damages resulting from loss of view, ambiance, shade, or aesthetic appearance which is related to the City tree trimming or removal or trees located along any street or public way.

2. **Abutting Owner Responsibilities.** The City may require an abutting property owner to maintain and trim trees located along on publicly owned property or right-of-way, but the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way.

C. **Planting Restrictions.** No tree shall be planted in any parking or public right-of-way except in accordance with the following:

1. **Permit Required.** No person shall plant a tree within the parking or public right-of-way without first obtaining a permit therefore, which shall show the type of tree to be planted and the placement of the tree. The application for a permit shall not be considered until the applicant has staked the exact location for the proposed street tree and has obtained permission to dig in such exact location from all concerned utilities. The approval of the permit shall be based upon the existing number, location in relation to other trees and utilities, and species of other street trees.

2. **Approved Tree and Shrub Species List.** The Council shall approve an Approved Trees and Shrub Species List. All plantings must be of a species included on the Approved Trees and Shrub Species List.

- D. Trees on Private Property.** The property owner is responsible for the maintenance and care of any tree located on private property. Whenever the City is notified or becomes aware of a dead tree or broken or dead branch or limb in any private tree, the Manager or other authorized official may declare the tree, branch or limb a nuisance and order the property owner to remove the hazard in an expedient manner.
1. **Notice.** The notice to remove trees on private property shall contain:
 - a. **Description of Nuisance.** A description of the nuisance tree; and
 - b. **Location of Nuisance.** The location of the nuisance tree; and
 - c. **Acts Necessary to Abate.** A statement of the act or acts necessary to abate the nuisance; and
 - d. **Reasonable Time.** A reasonable time within which to complete the removal; and
 2. **Right to Hearing.** A statement that the owner has a right to a hearing before the Manager, or his or her designee, by filing a written request therefore with such officer within a reasonable time; and
 - a. **Assessment of City Costs.** A statement that if the tree is not removed as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.
 3. **Method of Service.** The notice may be served upon a property owner by any of the following methods:
 - a. Personal service of the notice to the property owner by an employee or other contracted agent of the City; or
 - b. Certified mail to the property owner. If a certified mailing has not been signed for by the property owner within (ten) 10 days of mailing, reasonable notice will be considered to have been given; or
 - c. Posting a sign containing the notice in a conspicuous place on or near the property upon which action is pending. Such posted notice shall be of sufficient size and so placed upon the property that is easily visible from the street. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice; or
 - d. Publication in a newspaper having a general circulation in the City.
 4. **Request for Hearing.** Any person ordered to remove a nuisance tree may have a hearing with the Manager, or his or her designee, as to whether a nuisance exists. The following shall apply.
 - a. A request for a hearing must be made in writing and delivered to the Clerk, within the reasonable time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered.
 - b. The Manager, or his or her designee, shall serve as the hearing officer and the Clerk shall serve as secretary for the hearing.

- c. The hearing will be conducted according to the provisions of Chapter 1.8 of this Code.
- d. The findings of the hearing officer shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances. Any person requesting a hearing will have the right to appeal for further review and decision to the Iowa District Court of Pottawattamie County, Iowa within fourteen (14) days of the final orders of the hearing officer.

5. **Emergency Abatement.** If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance tree, the City may perform any action which may be required under this Chapter without prior notice.

8.12 Peddlers, Solicitors, and Transient Merchant Regulations. The purpose of this section is to regulate peddlers, solicitors, and transient merchants within the City. The following shall apply:

A. **License Required.** Peddlers, solicitors, and transient merchants shall obtain a license as herein provided and any person who engages in any such conduct without obtaining a license shall be in violation of this Chapter. The following shall apply:

1. **Form of License.** An application in writing shall be filed with the Clerk for a license under this Chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, and a right thumb print. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business, and the length of time sought to be covered by the license.
2. **License Fee.** A license fee shall be established in Chapter 10 of this Code.
3. **Bond Required.** At the time of filing of the application and as a part thereof, the applicant shall file with the Clerk a bond, with sureties to be approved by the Clerk, in a penal sum of Five Thousand Dollars (\$5,000.00) running to the City, for the use and benefit of any purchaser of any merchandise from such transient merchant who might have a cause of action of any nature arising from or out of such sale against the applicant or his employer. The bond is to be further conditioned for the payment of any fines that may be assessed by any court against the applicant for a violation of this Chapter, and further conditioned for the payment and satisfaction of any and all causes of action against the applicant commenced within one year from the date of sale of any merchandise. The aggregate liability of the surety for all fines and causes of action shall not exceed the principal sum of the bond.
4. **Display of License.** Each licensee shall at all times while doing business in this City keep in his or her possession the license, and shall, upon the request of prospective customers, exhibit the license as evidence that he or she has complied with all requirements of this Chapter.
5. **Not Transferable.** Licenses issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.
6. **Hours of Operation.** All licenses shall provide that said licenses shall be in force and effect only between the hours of nine (9) o'clock a.m. and five (5) o'clock p.m.

7. **Revocation of License.** After notice and hearing under Chapter 1.8 of this Code, the Manager or other authorized officer may revoke any license for fraudulent practices, violation of law, or as is reasonable to protect public safety, health, and welfare.
8. **Rebates.** No licensee shall be entitled to a rebate of any part of the fee he or she has paid if the licensee surrenders his or her license before it expires.

B. Exemptions. The following are excluded from the application of this Chapter, although the Clerk may request information from the organizations sufficient to verify applicability of this section and to identify representatives of the organization:

1. **Newspapers.** Individuals delivering newspapers.
2. **Club Members.** Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.
3. **Farmers.** Farmers who offer for sale products of their own raising.
4. **Students.** Students representing area schools or school districts conducting projects sponsored by organizations recognized by the schools.
5. **Milk and Food Delivery.** Milk and food delivery persons who only incidentally solicit additional business or make special sales.
6. **Resale or Institutional Use.** Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. **Nonprofit Organizations.** Religious organizations or charitable organizations which recognized as exempt from taxation under 26 U.S.C §501(c), also known as the Internal Revenue Code are exempt from the permit and fee regulations of this section.

8.13 Vacant Building Registration. All qualifying vacant buildings must register with the Vacant Building Program.

- A.** All classes of buildings that have one or more of the following conditions are vacant for the purposes of the Vacant Building Program:
 1. Any property unoccupied and subject to a mortgage which is in default or that has been foreclosed by and is owned by a mortgage lender; or
 2. Any property unoccupied for ninety (90) days or more; or
 3. Any property with any housing maintenance, fire, or building code violations which require the property to be unoccupied for safety purposes.
- B.** The registrant must provide contact information related to the building owner or property manager, disclose all lienholders on the property, provide a Vacant Building Plan indicating how the property will be reoccupied and kept in compliance with various codes, or demolished, and pay any fees required by Chapter 10.