

2006 CITY OF SAC CITY ZONING ORDINANCE

ADDENDUM

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**ENACTING ORDINANCE &
DOCUMENTATION**

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ORDINANCE NO. 2006-183

AN ORDINANCE ENACTING NEW DEFINITIONS OF NUISANCES

BE IT ORDAINED by the City Council of the City of Sac City, Iowa, that:

Section 1. That Title VI, COMMUNITY DEVELOPMENT AND ENVIRONMENT; Chapter 3-ABANDONED AND JUNKED VEHICLES AND MACHINERY; Section 6-3.0101 DEFINITIONS; paragraph 6 is hereby removed and in its place the following:

6. Inoperable. Any motor vehicle, recreation vehicle, boat, trailer or semi-trailer which lacks a current registration or component part which renders the vehicle unfit for legal use, or any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more. Recreation Vehicles are hereby exempt from the thirty (30) days usage period.

Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

Section 2. This Ordinance shall be in full force and effect from and after its final passage, approval and publications as provided by law.

Section 3. All Ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. If any sections, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Passed and adopted this 28th day of August, 2006.

First Consideration: July 24, 2006

Second Consideration: August 14, 2006

Third Consideration: August 28, 2006

Mayor

Attest:

City Clerk

I, Sandy Tellinghuisen, City Clerk for the City of Sac City, Iowa, certify that the above ordinance is part of the minutes of August 28, 2006.

City Clerk

**ORDINANCE ADOPTING THE
REVISED SAC CITY, IOWA ZONING ORDINANCE**

WHEREAS, The City of Sac City, Iowa has developed a comprehensive plan for its physical development in consideration of Section 414.3 of the Code of Iowa; and,

WHEREAS, The Sac City Planning and Zoning Commission has undertaken a thorough and complete review of the City of Sac City's Zoning Ordinance that was originally adopted and put into effect in 1972 in order to ensure that the provisions of said Ordinance and regulations are in conformity with the City's comprehensive plan and other ongoing efforts and projects of the City; and,

WHEREAS, The Planning and Zoning Commission has held public hearings and submitted a report to the City Council recommending the adoption of a revised Zoning Ordinance per Section 414.6 of the Code of Iowa; and,

WHEREAS, The City Council has had a public hearing and heard comments as required by Section 414.4 of the Code of Iowa on the proposed revision of the Zoning Ordinance.

NOW THEREFORE BE IT RESOLVED, The City Council of the City of Sac City hereby adopts the following:

Section I. PURPOSE. The purpose of this Ordinance is to enable the City of Sac City, Iowa, to preserve the health, safety, and general welfare and development of the community in an orderly and efficient manner.

Section II. ADOPTION. The City of Sac City, Iowa hereby adopts the "Sac City Zoning Ordinance, Adopted, 1972 & Revised, 2006," hereafter referred to as the "Sac City Zoning Ordinance" for the City of Sac City, Iowa pursuant to published notice and following a public hearing on Monday April 24th at 5:00pm at the city offices, as provided for in Chapter 414 of the Iowa Code.

Section III. CONTENT. The Sac City Zoning Ordinance contains provisions regulating height, number of stories, and size of buildings and other structures, area of lots that can be occupied, the size of yards, the density of population, and the location and use of buildings, structures, and land for trade, industry, and residential purposes. All parts and provisions of the previous Zoning Ordinance in force on the date of publication of this Ordinance are hereby repealed except as herein provided.

The repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Ordinance; nor shall any repeal affect any permit or restriction already approved.

Nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any prosecution, suit, or other proceedings pending or any judgment rendered on or before or prior to the effective date of this Ordinance.



The Sac City Zoning Ordinance shall include this adopting Ordinance and the City Administrator's certification of its adoption and passage.

If the Sac City Zoning Ordinance includes any section which has adopted by reference the provisions of any statewide or nationally recognized standard code pursuant to the provisions of Section 380.10 of the Iowa Code, the City Administrator shall keep on file, with the official copy of the City Code, a copy of such standard code.

Section 4. FORMAT. The Sac City Zoning Ordinance shall be compiled in a bound format.

Section 5. OFFICIAL COPY. The City Administrator shall be responsible for the compilation, organization, and maintenance of the official Sac City Zoning Ordinance and shall be keep the official copy on file in the office of the City Clerk.

Section 6. PUBLIC COPIES. Additional copies of the Sac City Zoning Ordinance shall be kept in the office of the City Clerk and shall be available for public inspection and for sale for cost to the public. A copy of the Sac City Zoning Ordinance shall be kept on file in the City Clerk's office for public inspection.

Section 7. ADDITIONAL ORDINANCES. All ordinances regulating zoning, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to the Sac City Zoning Ordinance.

Section 8. EFFECTIVE DATE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

April 24, 2006

Date: Introduction & First Reading

May 8, 2006

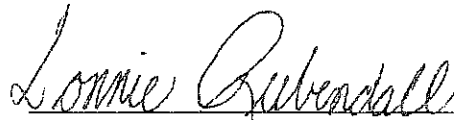
Date: Second Reading

May 22, 2006

Date: Third & Final Reading

May 30, 2006

Date of Publication



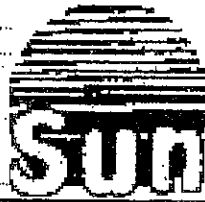
Mayor

attest:

City Clerk

seal





City of Sac City

**ORDINANCE NO. 2006-179
ORDINANCE ADOPTING THE REVISED
SAC CITY, IOWA ZONING ORDINANCE**

WHEREAS, the City of Sac City, Iowa has developed a comprehensive plan for its physical development in consideration of Section 414.3 of the Code of Iowa; and

WHEREAS, the Sac City Planning and Zoning Commission has undertaken a thorough and complete review of the City of Sac City's Zoning Ordinance that was originally adopted and put into effect in 1972 in order to ensure that the provisions of said Ordinance and regulations are in conformity with the City's comprehensive plan and other ongoing efforts and projects of the City; and

WHEREAS, the Planning and Zoning Commission has held public hearings and submitted a report to the City Council recommending the adoption of a revised Zoning Ordinance per Section 414.6 of the Code of Iowa; and

WHEREAS, the City Council has had a public hearing and heard comments as required by Section 414.4 of the Code of Iowa on the proposed revision of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sac City, Iowa that the following be adopted:

Section 1. **PURPOSE.** The purpose of this Ordinance is to enable the City of Sac City, Iowa to preserve the health, safety, and general welfare and development of the community in an orderly and efficient manner.

Section 2. **ADOPTION.** The City of Sac City, Iowa hereby adopts the "Sac City Zoning Ordinance, Adopted, 1972 & Revised; 2006" hereafter referred to as the "Sac City Zoning Ordinance" for the City of Sac City, Iowa pursuant to published notice and following a public hearing on April 24, 2006, as provided for in Chapter 414 of the Iowa Code.

Section 3. **CONTENT.** The Sac City Zoning Ordinance contains provisions regulating height, number of stories, and size of buildings and other structures, area of lots that can be occupied, the size of yards, the density of population, and the location and use of buildings, structures, and land for trade, industry, and residential purposes. All parts and provisions of the previous Zoning Ordinance in force on the date of publication of this Ordinance are hereby repealed except as herein provided.

The repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Ordinance; nor shall any repeal affect any permit or restriction already approved.

Nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any prosecution, suit, or other proceedings pending or any judgment rendered on or before or prior to the effective date of this Ordinance.

The Sac City Zoning Ordinance shall include this adopting Ordinance and the City Administrator's certification of its adoption and passage.

If the Sac City Zoning Ordinance includes any section which has adopted by reference the provisions of any statewide or nationally recognized standard code pursuant to the provisions of Section 380.10 of the Iowa Code, the City Administrator shall keep on file with the official copy of the City Code, a copy of such standard code.

Section 4. **FORMAT.** The Sac City Zoning Ordinance shall be compiled in a bound format.

Section 5. **OFFICIAL COPY.** The City Administrator shall be responsible for the compilation, organization, and maintenance of the official Sac City Zoning Ordinance and shall keep the official copy on file in the office of the City Clerk.

Section 6. **PUBLIC COPIES.** Additional copies of the Sac City Zoning Ordinance shall be kept in the office of the City Clerk and shall be available for public inspection and for sale for cost to the public. A copy of the Sac City Zoning Ordinance shall be kept on file in the City Clerk's office for public inspection.

Section 7. **ADDITIONAL ORDINANCES.** All ordinances regulating zoning, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to the Sac City Zoning Ordinance.

Section 8. **EFFECTIVE DATE.** This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Section 9. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 10. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Passed and approved this 22nd day of May 2006.

First Consideration: April 24, 2006

Second Consideration: May 8, 2006

Third Consideration: May 22, 2006

/s/Lonnie Rubendall
Mayor

Attest:
/s/ Sandy Tellinghulsen
City Clerk



Notice of Public Hearing

The Sac City City Council will hold a public hearing on Monday, April 24, 2005 at 6:00 p.m. during the city's regularly scheduled Council Meeting at the Sac City City Hall to provide local residents with the opportunity to be heard and have their opinions made known on the proposed adoption of the revised Sac City Zoning Ordinance. Copies of the complete revised Zoning Ordinance are available for review during the regularly scheduled City Hall office hours and copies may be purchased for personal use for \$.25 per page. Written comments will be accepted until Noon on the day of the hearing. Any questions or comments may be directed to City Hall at (712) 662-7593.



Notice of Public Hearing

The Sac City Planning & Zoning Commission will hold a public hearing on Monday, March 6, 2006 at 5:45 p.m. at City Hall on a proposed revision and update of the Sac City Zoning Ordinance. The Commission will be considering a recommendation to the City Council to adopt the revised Ordinance. Persons with comments or questions are encouraged to attend. Copies of a draft of the updated Zoning Ordinance will be available for review by the public at City Hall beginning on February 1st. Persons with questions or comments prior to the hearing can contact Shirley Phillips, P & Z Chairperson, at (712) 662-7383.



2006 CITY OF SAC CITY ZONING ORDINANCE

**ADDENDUM
A2**

IOWA CODE CHAPTER 414: CITY ZONING

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CHAPTER 414 OF THE CODE OF IOWA (WITH MERGED SUPPLEMENT)

***NOTE: This section of the Iowa Code is being provided for information purposes as an addendum to this zoning ordinance.*

414.1	Building restrictions--powers granted.	414.18	Trial--judgment--costs.
414.2	Districts.	414.19	Preference in trial.
414.3	Basis of regulations.	414.20	Actions to correct violations.
414.4	Zoning regulations, district boundaries, amendments.	414.21	Conflicting rules, ordinances, and statutes.
414.5	Changes--protest.	414.22	Zoning for family homes.
414.6	Zoning commission.	414.23	Extending beyond city limits.
414.7	Board of adjustment--review by council.	414.24	Restricted residence districts.
414.8	Membership.	414.25	Transitional provisions.
414.9	Rules--meetings--general procedure.	414.26	Reserved
414.10	Appeals.	414.27	Reserved.
414.11	Effect of appeal.	414.28	Manufactured home.
414.12	Powers.	414.28A	Land-leased communities.
414.13	Decision on appeal.	414.29	Elder family homes.
414.14	Vote required.	414.30	Homes for persons with physical disabilities.
414.15	Petition for certiorari.	414.31	Elder group homes.
414.16	Writ--restraining order.		
414.17	Return.		

414.1 Building restrictions--powers granted.

1. For the purpose of promoting the health, safety, morals, or the general welfare of the community or for the purpose of preserving historically significant areas of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.
2. The city of Des Moines may, for the purpose of preserving the dominance of the dome of the state capitol building and the view of the state capitol building from prominent public viewing points, regulate and restrict the height and size of buildings and other structures in the city of Des Moines. Any regulations pertaining to such matters shall be made in accordance with a comprehensive plan and in consultation with the capitol planning commission.

414.2 Districts.

For any or all of said purposes the local legislative body, hereinafter referred to as the council, may divide the city into districts, including historical preservation districts but only as provided in section 303.34, of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations and restrictions shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

414.3 Basis of regulations.

The regulations shall be made in accordance with a comprehensive plan and designed to preserve the availability of agricultural land; to consider the protection of soil from wind and water erosion; to encourage efficient urban

development patterns; to lessen congestion in the street; to secure safety from fire, flood, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to promote the conservation of energy resources; to promote reasonable access to solar energy; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. However, provisions of this section relating to the objectives of energy conservation and access to solar energy do not void any zoning regulation existing on July 1, 1981, or require zoning in a city that did not have zoning prior to July 1, 1981. Such regulations shall be made with reasonable consideration, among other things, as to the character of the area of the district and the peculiar suitability of such area for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such city.

414.4 Zoning regulations, district boundaries, amendments.

The council of the city shall provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, the regulation, restriction, or boundary shall not become effective until after a public hearing at which parties in interest and citizens shall have an opportunity to be heard. The notice of the time and place of the hearing shall be published as provided in section 362.3, except that at least seven days notice must be given and in no case shall the public hearing be held earlier than the next regularly scheduled city council meeting following the published notice.

414.5 Changes--protest.

The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed. Notwithstanding section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, a council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the city clerk and signed by the owners of twenty percent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent or more of the property which is located within two hundred feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the council. The protest, if filed, must be filed before or at the public hearing. The provisions of section 414.4 relative to public hearings and official notice apply equally to all changes or amendments.

414.6 Zoning commission.

In order to avail itself of the powers conferred by this chapter, the council shall appoint a commission, to be known as the zoning commission, to recommend the boundaries of the various original districts, and appropriate regulations and restrictions to be enforced therein. Where a city plan commission already exists, it may be appointed as the zoning commission. Such commission shall, with due diligence, prepare a preliminary report and hold public hearings thereon before submitting its final report; and such council shall not hold its public hearings or take action until it has received the final report of such commission. After the adoption of such regulations, restrictions, and boundaries of districts, the zoning commission may, from time to time, recommend to the council amendments, supplements, changes, or modifications.

414.7 Board of adjustment--review by council.

The council shall provide for the appointment of a board of adjustment and in the regulations and restrictions adopted pursuant to the authority of this chapter shall provide that the said board of adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent and in accordance with general or specific rules therein contained and provide that any property owner aggrieved by the action of the council in the adoption of such regulations and restrictions may petition the said board of adjustment direct to modify regulations and restrictions as applied to such property owners.

The council may provide for its review of variances granted by the board of adjustment before their effective date. The council may remand a decision to grant a variance to the board of adjustment for further study. The effective date of the variance is delayed for thirty days from the date of the remand.

414.8 Membership.

The board of adjustment shall consist of five or seven members as determined by the council. Members of a five-member board shall be appointed for a term of five years, excepting that when the board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members of a seven-member board shall be appointed for a term of five years, except when the board shall first be created two members shall be appointed for a term of five years, two members for a term of four years, one for a term of three years, one for a term of two years, and one for a one-year term. A five-member board shall not carry out its business without having three members present and a seven-member board shall not carry out its business without having four members present. A majority of the members of the board of adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

414.9 Rules--meetings--general procedure.

The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this chapter. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in the chairperson's absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

414.10 Appeals.

Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time as provided by the rules of the board by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

414.11 Effect of appeal.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with the officer that by reason of facts stated in the certificate a stay would in the officer's opinion cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

414.12 Powers.

The board of adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant thereto.
2. To hear and decide special exceptions to the terms of the ordinance upon which such board is required to pass under such ordinance.
3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

414.13 Decision on appeal.

In exercising the above-mentioned powers such board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

414.14 Vote required.

The concurring vote of three members of the board in the case of a five-member board, and four members in the case of a seven-member board, shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance or to effect any variation in such ordinance.

414.15 Petition for certiorari.

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment under the provisions of this chapter, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

414.16 Writ--restraining order.

Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed

from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

414.17 Return.

The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

414.18 Trial--judgment--costs.

If upon the hearing which shall be tried de novo it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

414.19 Preference in trial.

All issues in any proceedings under the foregoing sections shall have preference over all other civil actions and proceedings.

414.20 Actions to correct violations.

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 chapter or of any ordinance or other regulation made under authority conferred thereby, the council, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

414.21 Conflicting rules, ordinances, and statutes.

If the regulations made under this chapter require a greater width or size of yards, courts or other open spaces, or a lower height of building or less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this chapter govern. If any other statute or local ordinance or regulation requires a greater width or size of yards, courts or other open spaces, or a lower height of building or a less number of stories, or a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under this chapter, the other statute or local ordinance or regulation governs. If a regulation proposed or made under this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the department of natural resources is required to establish, amend, supplement, change or modify the regulation or to grant any variation or exception from the regulation.

414.22 Zoning for family homes.

1. It is the intent of this section to assist in improving the quality of life of persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "*Brain injury*" means brain injury as defined in section 135.22.

b. "*Developmental disability*" means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

c. "*Family home*" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237.

d. "*Permitted use*" means a use by right which is authorized in all residential zoning districts.

e. "*Residential*" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding any provision of this chapter to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city. A city, city council, or city zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, new family homes owned and operated by public or private agencies shall be dispersed throughout the residential zones and districts and shall not be located within contiguous city block areas. Section 135C.23, subsection 2, shall apply to all residents of a family home.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

414.23 Extending beyond city limits.

The powers granted by this chapter may be extended by ordinance by any city to the unincorporated area up to two miles beyond the limits of such city, except for those areas within a county where a county zoning ordinance exists. The ordinance shall describe in general terms the area to be included. The exemption from regulation granted by section 335.2 to property used for agricultural purposes shall apply to such unincorporated area. If the limits of any such city are at any place less than four miles distant from the limits of any other city which has extended or thereafter extends its zoning jurisdiction under this section, then at such time the powers herein granted shall extend to a line equidistant between the limits of said cities.

A municipality, during the time its zoning jurisdiction is extended under this section, shall increase the size of its planning and zoning commission and its board of adjustment each by two members. The additional members shall be residents of the area outside the city limits over which the zoning jurisdiction is extended. They shall be

appointed by the board of supervisors of the county in which such extended area is located and for the same terms of office and have the same rights, privileges, and duties as other members of each of said bodies.

Property owners affected by such zoning regulations shall have the same rights of hearing, protest, and appeal as those within the municipality exercising this power.

Whenever a county in which this power is being exercised by a municipality adopts a county zoning ordinance the power exercised by the municipality and the specific regulations and districts thereunder shall be terminated within three months of the establishment of the administrative authority for county zoning, or at such date as mutually agreed upon by the municipality and county.

414.24 Restricted residence districts.

A city may, and upon petition of sixty percent of the owners of the real estate in the district sought to be affected who are residents of the city shall, designate and establish, after notice and hearing as provided in section 414.4, restricted residence districts within the city limits.

In the ordinance designating and establishing a restricted residence district, the city may establish reasonable rules for the use and occupancy of buildings of all kinds within the district, and provide that no building or other structure, except residences, schoolhouses, churches and other similar structures, shall be erected, altered, repaired or occupied without first securing from the city council a permit to be issued under reasonable rules as may be provided in the ordinance. An ordinance and rules passed under this section shall not conflict with applicable building and housing codes.

A building or structure erected, altered, repaired, or used in violation of an ordinance passed under this section shall be deemed a nuisance.

When a city has proceeded under the other provisions of this chapter, this section shall no longer be in effect for the city.

414.25 Transitional provisions.

Of the two additional members which may be appointed to increase a five-member board of adjustment to a seven-member board after January 1, 1980, one member shall be appointed to an initial term of five years and one member shall be appointed to an initial term of four years. The terms of office of members of a board of adjustment serving unexpired terms of office on January 1, 1980, shall expire according to their original appointments.

414.26 and 414.27

Reserved.

414.28 Manufactured home.

A city shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot, and shall require that the home is assessed and taxed as a site-built dwelling. A zoning ordinance or other regulation shall not require a perimeter foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. A city shall not require more than one permanent foundation system for a manufactured home. For purposes of this section, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. When units are located outside a manufactured home community or mobile home park, requirements may be imposed which ensure visual compatibility of the permanent foundation system with surrounding residential structures. As used

in this section, "*manufactured home*" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. § 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. This section shall not be construed as abrogating a recorded restrictive covenant.

A city shall not adopt or enforce construction, building, or design ordinances, regulations, requirements, or restrictions which would mandate width standards greater than twenty-four feet, roof pitch, or other design standards for manufactured housing if the housing otherwise complies with 42 U.S.C. § 5403. However, this paragraph shall not prohibit a city from adopting and enforcing zoning regulations related to transportation, water, sewerage, or other land development.

414.28A Land-leased communities.

A city shall not adopt or enforce zoning or subdivision regulations or other ordinances which disallow or make infeasible the plans and specifications of land-leased communities because the housing within the land-leased community will be manufactured housing.

"*Land-leased community*" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. The term "*land-leased community*" shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. A manufactured home located in a land-leased community shall be taxed under section 435.22 as if the manufactured home were located in a mobile home park.

414.29 Elder family homes.

A city council or city zoning commission shall consider an elder family home a family home, as defined in section 414.22, for purposes of zoning, in accordance with section 231A.2, and may identify limitations regarding the proximity of one proposed elder family home to another.

414.30 Homes for persons with physical disabilities.

A city council or city zoning commission shall consider a home for persons with physical disabilities a family home, as defined in section 414.22, for purposes of zoning in accordance with chapter 504C.

414.31 Elder group homes.

A city council or city zoning commission shall consider an elder family home a family home, as defined in section 414.22, for purposes of zoning, in accordance with section 231B.2, and may establish limitations regarding the proximity of one proposed elder group home to another.

2006 CITY OF SAC CITY ZONING ORDINANCE

**ADDENDUM
A3**

**ISU EXTENSION
REFERENCE/INFORMATION GUIDES:
ZONING & LAND USE**

3

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Rights in Property and Land-use Regulation: Tradition and Tensions in a Changing World

*Extension to Communities
College of Design*

One of the most distinctive features of the American experience is our national concept of personal rights in property guaranteed by basic governmental doctrines. Our colonial forebears and the framers of the Constitution held strong convictions about the relationship between private property and government necessity born of their experience at the hands of the English Crown.

Constitutional Protection of Property Rights

At the core of this concept is the Fifth Amendment to the United States Constitution (and in Iowa, Section 18 of the Iowa Constitution of 1857). Part of the Bill of Rights, the Fifth Amendment contains a veritable laundry list of rights, including due process and protection from self-incrimination. The section that protects basic property rights states that "private property shall not be taken for public use without just compensation." This section clearly prohibits the government from physically taking private property for public purposes without the payment of just compensation.

A classic example of physical taking for public use is when a government agency wishes to build a public road through private property. The public use is clear, and so is the physical occupation of the land. The government has the right to take the land but must compensate the owner. This type of "physical taking" is clearly what the framers were addressing when they drafted the Fifth Amendment. In Iowa, which boasts one of the most highly developed road systems in the country, evidence of the historic need for this type of government power is visible around us every day.

Types of Property Interests

Although the Fifth Amendment refers to "property" and makes no distinction as to types, there is a long tradition of distinguishing between "real" property (land) and all other kinds ("personal" property). This distinction reflects the enormous importance attached to land by late 18th-century society, resulting in a legal system that shields interests in real property with more elaborate procedural protection than personal property. In addition, we have inherited the real property system of English common law, which treats land ownership as a

"bundle of rights (interests)." Thus, what may seem a simple legal fact—land ownership—is actually a complex set of relationships involving a sometimes bewildering assemblage of rights: nonexclusive possession, present use, rights to future use, extraction, mortgage and encumbrance, lateral support, and so on.

The Police Power and Regulation

All these rights, however, have reciprocal obligations, and these obligations, when codified and enforced by government, become regulations. Governmental regulations may have real impact on property even though there is no physical occupation or direct use by government. Such regulations are based upon the "police power," generally defined as the right of government to interfere with private activity (or private property uses) for the protection of the public health, safety, and general welfare.

One of the most common examples of the police power with respect to property ownership is zoning. It is also the power that gives government the authority to regulate sewage disposal, operation of dump sites, noisy industries, and so forth.

It is fact that our society is more complex and crowded now than it was 220 years ago when the Constitution was written. Thus, it is natural that the exercise of the police power has become more important, as well as more complex and varied, in modern society.

Regulatory Takings

Up until about seventy-five years ago, the distinction between physical takings by government and the regulatory exercise of police power occupied little importance in the law. In 1922, however, the U.S. Supreme Court held that "the general rule at least is that, while property may be regulated to a certain extent, if regulation goes too far, it will be recognized as a 'taking'" (*Pennsylvania Coal Co. vs. Mahon*, 260 US 393, 413, 415). From that point on, the interest of the courts and landowners has been focused on the interplay between traditional takings law and the new judicial interest in addressing alleged regulatory excess.

Over the years the courts defined four basic situations where a "regulatory taking" will be found to have exceeded the police power by government. These are:

1. Where regulation has denied the landowner all "economically viable use" of the land (*Lucas vs. South Carolina Coastal Council*, 505 US 1003 (1992));
2. Where the proposed regulation of property places burdens on the landowner that do not bear a reasonable relationship to the impact of the project on the general health, safety, and welfare of the community (*Nollan vs. California Coastal Commission*, 483 US 825 (1987));
3. Where the regulation forces a landowner to physically accommodate a nongovernmental institution on his private land (*Loretto vs. Teleprompter Manhattan CATV Corporation*, 458 US 419 (1982)); and
4. Where government has acted to regulate land use, employing a more intrusive and burdensome means rather than the less intrusive and burdensome alternative. A classic example is when government requires a dedication of floodplain property from an owner rather than simply prohibiting certain types of development in the floodplain (*Doan vs. City of Tigard*, 512 US 374 (1992)).

As the Supreme Court has over time elaborated the "takings" law, it has also elaborated the law of permissible exercise of police power. This body of case law has tended to mirror the growing complexity of society and the greater need for all kinds of regulation. In the process, all sorts of nontraditional regulations have been approved. Examples of less traditional uses of police power include billboard regulations, open space requirements, and development impact fees such as school and park exactions.

In a sense, the law of regulatory "takings" can be seen as an attempt by the Supreme Court to define the outer limit of permissible regulation, even as it deals with specific fact situations that defy easy categorization. The result is an area of the law that is difficult to analyze and even harder to predict.

The Property Rights Movement

The past 35 years in particular have seen tremendous growth in technology, development, and population across the United States. With this growth has come more and more regulation, and thus greater opportunity for conflict between landowners and governmental policymakers. So it should come as no surprise that over the same period, a number of local landowners have banded together in a property rights movement to oppose government regulation of their land. The relatively unsettled and complex condition of the law

provided a perfect impetus for disaffected landowners to seek a solution in legislatures rather than the courts.

The property rights movement itself is quite diverse. Its membership ranges from the more mainstream advocates of limited government to people who advocate the abolition of all government power over land use.

Despite a lack of cohesiveness, the movement has managed to focus attention on the issue of government regulation. In the past several years almost every state in the Union has had property rights legislation introduced that is designed to severely limit government regulation of land use. The property rights movement has been aided by an anti-government mood and the fact that most people are naturally very protective of their own property rights; however, the growth of the movement has been stimulated by high-visibility publicity surrounding intractable conflicts over land use, inevitable in a nation of 250 million people. Organizers of the property rights movement have been able to showcase a number of situations in which governmental regulation has apparently wrought injustice on individual property owners.

Property Rights Legislation

Even so, property rights advocates have succeeded in putting property rights legislation on the books in fewer than half the states. Such enactments typically appear in three basic forms (although some combine two or more features):

1. **Economic assessment statutes.** This type of statute seeks to subject proposed government regulations to extensive and protracted analysis before they may be approved. It typically requires agencies to inquire into a broad range of potential economic and social effects that the proposed regulation might have on members of the community. The obligation to assess and analyze can fall on the agencies themselves, or it can be required of the state attorney general's office. (Arizona, Delaware, Maine, Indiana, Idaho, Kansas, Louisiana, Montana, Michigan, Missouri, North Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming all have some variant of this type of provision.)
2. **Compensation statutes.** This type of legislation seeks to compensate a landowner directly for any reduction in value caused (even indirectly) by government regulation. Typically, there is a threshold level of economic loss, set in the range of 20 to 40 percent, that triggers the requirement for compensation. Sometimes such legislation provides that agencies may avoid the payment of compensation by reducing the impact of the regulation below the threshold amount. (Mississippi, Louisiana, and Texas have such statutory provisions.)

3. **Dispute resolution statutes.** These statutes provide for a mandated process of dispute resolution between property owners and state and local agencies. (Florida and Maine have such provisions.)

Problems with Property Rights Legislation

Although the aim of property rights legislation is fair treatment for landowners, problems and costs can result from this approach to "regulating the regulators."

For one, enacted economic assessment statutes require intense scrutiny and analysis of all proposed regulations. The costs involved in administering expanded local mechanisms to perform analysis could be overwhelming, particularly to small cities and counties. Therefore, it is likely that legislative bodies in small cities and counties would tend to avoid engaging even in necessary regulation out of fear of immediate financial loss. Where a compensation statute is involved, it is obvious that the potential for requiring costly and unforeseen property acquisitions and payments could easily lead to the same result.

In addition to these probable results, increased litigation is likely to be inspired by arguable standards of "economic loss" and "potential economic impact." This litigation would tend to be dominated by battles among economic consultants over the definitions of correct standards of comparison. Ironically, the debate over the essential makeup of a community would, as a result, take place initially in the courts rather than in the local legislative arena.

None of these "property rights" statutes have been in effect long enough to determine exactly what impact they will have in practice. Without a doubt, however, they have injected even more complexity and risk into an already dynamic area of great economic and social importance.

How To Achieve a Balance

Regardless of the approach taken—traditional (judicially monitored) or "property rights legislation"—the burden of achieving a balance between the rights of property owners and the needs of government regulation falls mainly on government officials. They are obliged to propose new regulations that, to the greatest extent possible, avoid either corrective legislation or judicial oversight. It is also in their interest to help their constituents understand that no system is perfect, and that an ongoing dialogue among officials and property owners is the best way to avoid strife and litigation.

The American Planning Association has outlined a number of techniques and policies that are intended to reduce or eliminate conflict over land-use regulatory actions. Some of these follow.

- All government entities imposing regulations under police power should include in those regulations procedures for fast, inexpensive, and

effective review of hardship situations by a body with the authority to grant appropriate relief, including the approval of development and the issuance of necessary permits and variances.

- States should assign to existing state agencies the authority to review and grant relief from hardships created for property owners by conflicts among the regulations of multiple entities. Such agencies should have the authority to grant relief that may include the approval of development with the issuance of necessary permits.
- Regulations should make explicit reference to the law or statute from which they derive their authority and should be applied in accordance with the statutes.
- Regulations affecting use and development of land will and should be limited in scope, except as necessary to carry out the public purpose on regulations, to avoid unintended effects on land values.
- Regulations affecting use and development of land should permit reasonable flexibility to minimize hardship. In particular, regulations should permit alternative methods of compliance that may reduce or eliminate the economic costs of compliance while preserving the intent of the regulations.
- Regulations affecting use and development of land should be adopted only after a review process that includes significant participation by affected governmental entities and persons, including property owners.
- Economic analyses of regulations developed in the comprehensive planning process should recognize and articulate the potential economic benefits of the proposed regulations to the community and individual landowners as well as the potential economic burdens to individual property owners.
- The importance of a thoughtful and sound comprehensive plan that sets forth overall community goals and objectives and establishes a sound and rational basis for land-use regulations cannot be overemphasized.
- Care should be taken to avoid approval of land subdivision or zoning schemes that may result in the creation of parcels or development zones that are intrinsically undevelopable.
- Government incentives, subsidies, and programs should carefully avoid encouraging development in environmentally sensitive areas such as steep slopes, floodplains, and other high hazard areas, where disputes over ultimate development may reasonably be expected to lead to takings claims.

Iowa Takings Procedures and Issues

Iowa is one of the many states that have not adopted (as of the 2000 legislative session) "property rights" legislation in typical form. In 1999, the Legislature did adopt a provision that makes the direct taking of agricultural land for certain purposes more difficult. Otherwise, the takings issue in Iowa has not surfaced as a significant legislative priority.

The Iowa Constitution, Section 18, authorizes the taking of property for public use with the payment of just compensation consistent with the U.S. Constitution.

Chapters 6A and 6B of the *Iowa Code* provide the basis for the exercise of eminent domain by Iowa public agencies to obtain property for public use. In 1997, changes were adopted that provide for an expanded requirement of notice to potentially affected property owners when new projects that might require their land first are considered.

Taken together, the Iowa Constitution and Iowa Code provisions governing the direct taking of private property through eminent domain (condemnation) give Iowa public agencies the authority to take private property for a number of public purposes. Using a carefully prescribed procedural framework, public agencies must, during the planning of a public project, give notice several times to the property owner whose property is needed for the project. The formal process begins when a given public agency files an application to acquire property with the chief judge of the district court. A compensation commission is then convened to determine the amount of damages for the taking of the property. The decision of the commission is subject to appeal to the district court. The condemning agency is required to provide the landowner with information on its determination of the appraised market value at the outset of negotiations.

Typically, a public agency notifying a landowner of the need for his/her land for a project will try to negotiate informally to establish a mutually agreeable price. If this is the case, the matter is resolved as a simple land sale transaction. However, if a government agency and a landowner cannot agree, then the formal eminent domain process must be invoked. The proceeding is a judicial action, initiated by the district court. The landowner should consult an attorney of his/her choice at the earliest opportunity.

It may be desirable to seek legal consultation earlier, during the initial contacts with the government agency, or during the governmental proceedings that authorize the project requiring the land. Generally, it is advisable to consult an attorney as early as feasible in the process, particularly if there is any likelihood the matter will proceed to formal condemnation proceedings.

The same considerations apply when the landowner feels that a regulatory taking has occurred. In this situation, early consultation is probably more important, as the formal procedures required in a direct condemnation procedure will not have been invoked. (Remember, a regulatory taking typically is not the most attractive option for the government agency engaging in the action.)

Summary

The law of property rights and government regulation is a complex, technical area that has developed a huge body of legal precedent. Contact between private and public spheres in a rapidly changing and ever more crowded world will likely result in increased conflict if key issues are not openly debated and understood. Yet, the solutions to many problems are surprisingly simple (although not easy).

Both government and private entities need to be increasingly clear about their real needs and expectations when it comes to land use. Planning processes need to start early and be informed, open, and clear, so that unreasonable expectations are not created and conflict does not thrive. In Iowa, we have the opportunity to learn from the experiences of others and to act on the lessons before land-use conflicts become critical. If we can do this, we will have saved our society much pain.


Prepared by Susan Cosner for Extension to Communities, with support from the Institute for Design Research and Outreach, College of Design, Iowa State University.

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The Zoning Ordinance

Extension to Communities
College of Design

Mention community planning, land-use planning, or the comprehensive plan, and watch people's eyes glaze over. But mention the term "zoning," and everyone has a story to tell about something that happened to him or her, to a friend, or to his or her neighborhood. Despite the plentiful supply of anecdotes and opinions, much about community zoning is not well understood.

What Is Zoning?

As the term implies, zoning divides the city or county into a number of different districts or zones. Different land uses are allowed in each area, and the goal is to separate those that are not compatible. Few people, for example, would like to have their home near a heavy industrial site. While both residential areas and industrial districts are important to the community, it is better to find a way to separate these incompatible land uses.

Thus, zoning is a set of regulations adopted by the city or county to guide development. These regulations, however, do not stand alone. Zoning must be based on a comprehensive plan for the community and is one of the primary ways in which the community's comprehensive plan is implemented. (The comprehensive plan is discussed in another publication in this land-use series.)

Traditionally, zoning involves the regulation of land in three areas. First, zoning controls how the land will be used. The use of a particular lot or piece of land—such as agricultural, commercial, industrial, or residential—is stipulated in the zoning ordinance. Second, zoning usually includes height regulations. The maximum height of buildings will be specified. Finally, there will normally be area regulations. The minimum lot size and the minimum open space around a structure will be set forth. Usually this is done through the specification of minimum front, side, and rear yards (see Figure 1).

Purposes Served By Zoning

A good planning and zoning program should help create a public dialogue about the future of the community. Citizen participation should be encouraged to allow

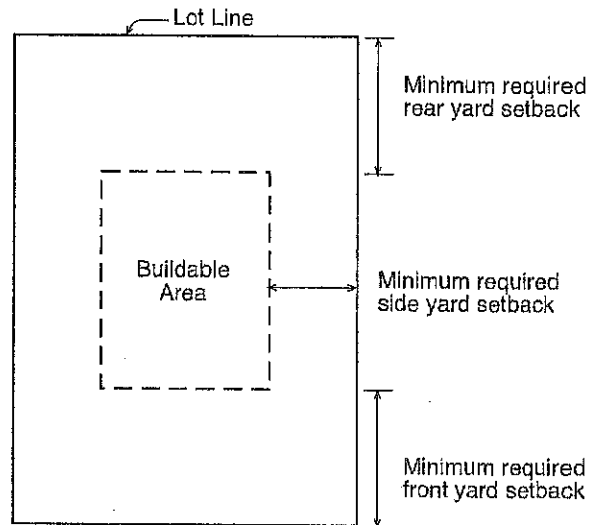


Figure 1. Maximum buildable area after allowing for all required setbacks. Most zoning ordinances also stipulate a maximum building height.

input at every stage. While local officials diligently seek review and comment on proposed plans, often citizens do not become engaged until some issue, such as a zoning change, affects them directly.

Zoning helps establish land-use patterns that are logical and convenient. A good zoning ordinance, carefully administered, can—over time—help make the community more attractive. Cities and counties that have been well planned invariably make a better first impression than those that have not.

Zoning regulations help communities use public resources efficiently. Cities and counties that direct growth can provide expensive infrastructure improvements only to those parts of the community that have been identified as growth areas. In this way, roads, sewers, water, and other services can be supplied on an as-needed basis.

Zoning also helps protect private investment by providing those who purchase property with a sense of certainty about future development. Not only does a property buyer know what he or she can do with his or her land, but that buyer also knows what land uses will be allowed on adjoining parcels.

To summarize, zoning can:

- serve as a planning and development tool to keep down future costs of public services;
- group together those land uses that are compatible and separate those that are likely to conflict with one another;
- provide adequate space for each type of land use in the city or county;
- help protect agricultural land by directing other types of development, residences, and businesses away from rural areas; and
- prevent congestion on roads and highways and help cities and counties minimize the costs associated with the construction and maintenance of roads and other infrastructure.

Zoning cannot:

- cure all of the city's or county's problems;
- correct past mistakes in land use. Structures and land uses that are in place when the zoning ordinance is established are called nonconforming pre-existing uses and are "grandfathered in." Hence, objectionable or incompatible land uses from the past will not be corrected; or
- guarantee the soundness nor regulate the physical appearance of structures built in a zoned district.

What Is a Zoning Ordinance?

Appointed by the city council or the county board of supervisors, the zoning commission prepares—or oversees the preparation of—both the zoning ordinance and the comprehensive plan on which it is based. The zoning ordinance consists of two parts: the zoning map and the text.

The zoning map depicts the entire city or county. It clearly indicates the boundaries of all of the zoning districts within the jurisdiction. The zoning map may be in one large piece, or it may consist of numerous pages arranged as an atlas. In any case, it should be readily available for inspection by any interested person. It should also be kept up to date, reflecting any zoning changes that may have taken place. Many cities and counties now have their zoning map computerized, making the task of updating much easier.

The texts of different zoning ordinances may vary in terms of length and format; however, certain elements undoubtedly will be present. Some reference will be made to the legal authority for zoning. In Iowa, this is Chapter 414 of the *Code of Iowa* for cities and Chapter 335 for counties. Similarly, there will be a statement of the public purpose to be achieved by the zoning regulations.

The zoning ordinance should contain definitions of terms used as well as a description of the jurisdiction, the establishment of zoning districts, and the authorization for the official zoning map. Specific regulations for each of the designated zoning districts also should be indicated. These should include a statement of the district's purpose along with the types of land uses allowed in the district. These are the so-called "permitted uses" that a landowner may implement with no zoning permit or special authorization.

For each zoning district, most ordinances also provide a list of "conditional" or "special exception" uses. These land uses are allowed only if certain conditions are met. Normally, landowners wishing to implement this type of use will need to apply to the zoning board of adjustment or some other body as stipulated in the ordinance.

Next, dimensional standards for the district will be set forth. These will include such things as minimum setbacks from roads and lot lines, minimum lot sizes, maximum building heights, and so on.

Finally, the ordinance will include information on administration and enforcement. This section will explain how the city or county will administer and enforce zoning regulations and the responsibilities of officials and departments. Residents who seek a zoning change or wish to appeal a decision should refer to this section of the ordinance to determine how to proceed.

Are There Limits to Zoning Authority?

The authority to zone is strictly limited. The Fifth and 14th Amendments to the United States Constitution contain language that prohibits any level of government from taking land without due process and just compensation. If zoning goes too far, the courts are likely to see it as a regulatory taking of land (see Extension publication on property rights and land-use regulation).

Cities and counties that have planning and zoning programs try to achieve a balance between the rights of the individual property owner and the needs of the community. Zoning regulations aim to allow individuals to use of their property; however, they must do so in ways that will not have a negative impact on their neighbors or their community.

Criticisms of Zoning

Although zoning has become increasingly common since it was authorized in the 1920s, it is not without critics. While surveys show that most people support zoning as a way to implement community planning, some still oppose it as being too restrictive.

Others have attacked zoning as exclusionary. These critics believe that zoning can be implemented in ways that exclude people of moderate income—because, they argue, zoning regulations make it more difficult to build affordable housing. In this view, large lot sizes, restrictions on manufactured housing units, prohibition of multi-family dwellings, and excessively large minimum floor-area requirements are all examples of zoning regulations that have the intended or unintended effect of being exclusionary.

Finally, zoning has been criticized as too bureaucratic and parochial. An excessive emphasis may be placed on minutia at the expense of the larger picture. The approval process may become sluggish and unresponsive. Local officials may, at times, make zoning decisions based solely on local considerations without considering regional effects or implications.

Innovative Zoning Techniques

To answer at least some of these criticisms, innovative techniques have been developed to introduce more flexibility into the zoning process. Traditional zoning can be rather rigid and result in a "sameness" to the look of neighborhoods. In some situations, an intermixing of land uses may make a community or neighborhood more appealing.

Planned Unit Development (PUD)

Probably the best known of the innovative zoning techniques is the Planned Unit Development (PUD). Under this approach, the zoning ordinance allows flexibility in the development of large areas, usually several contiguous acres at a minimum. In addition to homes, which are often clustered together, there may be appropriate commercial, public or quasi-public, or even industrial facilities. In addition to allowing this mixing of land uses, PUD regulations are usually much more flexible than conventional zoning requirements in terms of building placement and development standards. A

PUD can improve site design, preserve and protect amenities such as wetlands or other open space by clustering residential and other development, and lower infrastructure costs by reducing street lengths. Features included in a planned unit development may include such varied items as commercial buildings, community centers, open space, water features, and agricultural land.

In creating a PUD, local officials and developers work together to arrive at an approved plan. Planned unit developments, also referred to as planned residential developments or simply as planned developments, have been well accepted because they offer such a livable environment. In recent years, one popular variation on the PUD concept has been the Planned Industrial Development (PID). Many PIDs include retail services and recreational facilities for the convenience of employees.

Overlay Zone

Another innovative zoning technique involves the use of a zone of indeterminate size that can be applied to an area of the community in special circumstances. Termed an overlay zone, such a district is often used to protect historic areas. Overlay zones are imposed on top of the existing zoning and may cover all or part of several districts. They provide an additional layer of development standards so that unusual land-use needs may be addressed. Again, using the historic district example, new buildings or building additions can be subject to design standards through the use of the overlay zone. In this way, the design compatibility and appearance of the historic area can be maintained.

Conclusion

Zoning is simply a system for dividing a jurisdiction into a series of districts to lessen land-use-based conflicts. The zoning ordinance sets forth such regulations in detail so that every owner of land may know what is permitted and required not only of the uses of the land, but also setbacks, building heights, and so forth.


While zoning certainly can be criticized, the careful and evenhanded administration of a thoughtfully drafted zoning ordinance remains one of the best ways to implement the community comprehensive plan. Zoning makes an important contribution to the livability, efficiency, and attractiveness of a city or county.

Prepared by Stuart Huntington, extension community development specialist, with support from the Institute for Design Research and Outreach, College of Design, Iowa State University.

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The Local Planning Commission: Roles and Responsibilities

*Extension to Communities
College of Design*

While Iowa law prescribes the statutory duties of the "zoning" commission, this publication summarizes the roles, responsibilities, and specific practices of what is commonly known as the planning and zoning commission. This commission typically is appointed by local government legislative bodies, city councils, and county boards of supervisors.

What Is the Planning Commission?

The planning commission is a citizen volunteer agency with its origin in the earliest days of modern land-use planning, when many believed that a group separate and distinct from members of the local legislative body must be created to keep planning proposals and decisions from becoming politicized, particularly on large civic projects.

Developed in the early 1900s, the concept of the planning commission remains with us today. It is based on the belief that a group of citizens is able to objectively review and recommend sound and efficient planning regulations to the governing body of a community that makes the final decision.

Cities and counties in Iowa often create a body known as the planning and zoning commission. No matter what it is called, however, this local government unit makes all zoning and planning recommendations to the local legislative authority. City councils and county boards of supervisors are responsible for appointing citizens to this volunteer commission.

The commission is granted the authority to recommend the establishment of zoning ordinance regulations, to designate specific zoning districts for a city or county, and to recommend a comprehensive plan for the development of the community. It also recommends amendments to the planning regulations once adopted.

State law governs the general structure of the planning commission. Chapter 392 of the *Iowa Code* provides the general authority of a city council to create administrative agencies, such as the planning commission. Chapter 414 specifically allows the creation of the planning commission by the council and prescribes

certain duties of the commission. These duties will be reviewed later in this publication.

Counties have specific authority to create a planning commission (*Code of Iowa 335.8*). Additionally, where airport zoning is designated in a county, the board of supervisors must appoint an airport zoning commission (*Code of Iowa 331.321.n*).

Some smaller cities and counties in Iowa do not appoint a planning commission. If the governing body of such a city wishes to exercise the zoning and planning powers authorized in state code, such as the adoption of a zoning ordinance, a special commission must be appointed to provide the necessary study, review, and recommendations related to matters resulting from these conferred powers.

The law is clear that only a planning commission may conduct planning and zoning studies, and the legislative authority holds the legal responsibility for adopting all final ordinances, plans, and regulations. To assist in understanding its role and carrying out its responsibilities, the commission may work with professional planning staff, planning consultants, university experts, and council of government personnel.

The fact that not all Iowa cities appoint planning commissions is not surprising, considering that not all cities and counties adopt zoning powers. It should be remembered that of the 953 cities in the state, about 500 have populations under 500. Land use decisions in such small communities are rarely complex, and therefore, many small cities in Iowa do not have an adopted zoning ordinance. Slightly fewer than a third of the counties also have not adopted zoning ordinances.

Zoning Board of Adjustment

The board of adjustment frequently is confused with the planning commission. Under Iowa law, the board of adjustment is responsible for the review of a planning commission's actions based on its interpretation of relevant zoning ordinances and planning regulations. Appeals by applicants may be made to the board of adjustment for review of a commission's action or

decision. The board may grant exceptions and variances for a specific piece of property.

If the board of adjustment's decision reverses the original decision by the planning commission, the matter is submitted to the governing body (city council or board of supervisors) of the local agency. A council or board of supervisors may either accept the decision of the board of adjustment, or remand it back for further study. The only other recourse for an unsuccessful applicant is to take the matter to district court.

State law prescribes certain basic duties of the commission. However, cities and counties often use their commissions for a number of different functions and assign various other planning and advisory matters to them. A list of responsibilities and delegated activities is provided in a later section of this publication.

Who Should Serve on the Planning Commission?

Obviously, an individual must have the interest and inclination to devote the time necessary to serve on the commission. Most commissions in communities with active planning needs meet monthly and are asked to perform a fair amount of study and reading of plan proposals. People of diverse backgrounds should comprise a fair and objective commission. These may include citizen volunteers with no connection to the planning profession, architects, university professors, business and civic leaders, and neighborhood activists.

The size of the planning commission depends on the size of the community; there is no state mandate for the number of appointments that must be made or the term that a volunteer must serve. Smaller cities typically have smaller commissions of five to seven members, while large cities may have as many as fifteen appointments to a commission. Typically, commissioners are not paid, as are members of city councils or boards of supervisors. Customary expenses, including the cost of training sessions and/or conferences, are reimbursed subject to approval by the governing council or board.

While the state does not mandate the number of years a commissioner must serve, the term is typically determined by local legislation that also should provide clear direction on what is expected of a member during his/her service on the commission. A three-, four- or five-year term is customary, and in some cases there is no limit to how long a person may serve on the commission. In many communities, members often succeed themselves. Governing officials must remember that the service is volunteered, and it is possible to wear out good volunteers by asking them to serve too long.

Conflict of Interest

Planning commission members, just as any other local government officials, are viewed to uphold the "public trust." Because they make decisions and recommendations that can have important economic consequences, avoiding conflict of interest, and even the appearance of it, becomes even more important.

What constitutes a conflict for a planning commissioner? If there is any possibility for a member to benefit financially or otherwise from a decision he/she will make in performing commission duties, the member must not violate the public trust. The commission member should inform other members of the conflict and recuse or remove him/herself from the proceedings, and from taking any action on the issue or attempting to persuade any other member of the commission to act in any specific direction. Withdrawal from a decision should be formally recorded in the minutes of the meeting.

Commission members are held to the same rules governing receipt of gifts as all other Iowa public officials. Commissioners are not allowed to accept any gifts with a value of more than \$3 from a restricted donor. Any person making an official request of, or conducting business with, the commission is considered a restricted donor.

The Planning Commission's Responsibilities

The planning commission can have wide-ranging responsibilities depending on the legislative body's expectations of the commission and its delegation of specific duties and functions. The following is a fairly comprehensive list of possible commission activities.

- Develop and maintain a comprehensive plan for the physical development of the community and necessary or desirable specific plans. Recommend the plans to the governing body for adoption.
- Develop a zoning ordinance and specific zoning districts. Recommend the ordinance to the governing body for adoption.
- Serve as the agency to hear matters related to zoning regulations arising from the zoning code of the community. These include zoning ordinance review and district designation, annexations, initial zoning designations, pre-zonings, re-zonings, development agreements, final planned developments, use permits, variances, zoning interpretations, and ordinance amendments. Serve as the advisory agency to hear subdivision matters. In some cities, the commission reviews capital improvement plans and annexation proposals.

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- Determine the consistency with the comprehensive plan of any proposed project, using the criteria approved by the governing body.
 - Investigate and report to the governing body regarding means of implementing a comprehensive plan.
 - Consult with and advise public officials and agencies, public utility companies, civic, educational and other professional organizations and citizens regarding implementation of the comprehensive plan and specific plans.
 - Make comprehensive plan findings on development applications.
 - Review and make recommendations to the governing body on amendments to the comprehensive plan and specific related plans.
- Perform such other duties as the governing body determines.

Conclusion

The planning commission is an important advisory agency to assist local government officials in one of their most important functions. As the economic and social landscape of Iowa becomes more complex, the need for sound, well-considered land-use decision-making becomes ever more critical. Even though not all communities take advantage of their latent planning powers, the land-use planning process affects the lives of most Iowans. A strong and well-trained planning commission is invaluable to communities in the orderly development of their land and the achievement of their public and private development goals.

*Prepared by Susan Cosner for Extension
to Communities, with support from the Institute for
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Iowa State University.*

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File: Communities 2

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The Comprehensive Plan

*Extension to Communities
College of Design*

What is a Comprehensive Plan?

A comprehensive plan, also known as a master or general plan, is a collection of information and materials designed to guide the future development of a city or county. Such a plan can provide a community with a firm foundation for policy and action that will allow it to function more efficiently and effectively. It can strengthen communities' policies and legislation, and it also can promote a more certain future.

Although a comprehensive plan can do all of this and more, many places have outdated plans that serve little function. Some cities have more current plans but fail to rely on them in making development decisions. This publication will describe what a comprehensive plan is, what it contains, and what it can do for a city or county.

Characteristics of the Comprehensive Plan

A comprehensive plan is general in nature. It does not call for specific action or encourage any particular legislative strategy. Rather, it provides a framework and policy context within which to make all decisions relating to land use and future development.

The comprehensive plan also must be long-range. Because it deals with issues as many as thirty years down the road, the plan cannot chart a highly specific course. Instead, it points the way toward goals and objectives and acts as a reminder of the general policies that the city should consider when making development decisions. While short-term, more exact planning is important, it is not within the scope of the comprehensive plan.

Finally, the comprehensive plan must be physically and functionally all-encompassing. Given that growth and change can affect every aspect of a city or county, it is important that the plan cover all aspects of the community's future.

Why is a Plan Needed?

Communities across Iowa are experiencing growth and change. Increasing growth and development pressure can strain local resources, damage the environment, and inconvenience homeowners and other residents. No

growth or slow growth also can bring problems, including stagnant or declining tax revenues and deteriorating public infrastructure.

How then is a comprehensive plan important to communities? First, it must be recognized that all places, large and small, face problems and challenges that a comprehensive plan can help address. Other, more subtle reasons for a comprehensive plan also deserve attention. For instance, rural subdivisions may seem like good additions to an area's housing mix, and county officials may view such developments as additions to the property tax base. However, rural subdivisions often take up at least twice as much land and cost about 40 percent more to provide with public services than do subdivisions within or adjoining existing communities. Further, this development trend leads to the loss of productive farmland and to conflicts with neighboring farmers over dust, odors, and other aspects of modern farming.

A comprehensive plan that addresses where and how future development should take place can help communities avoid these types of problems and make sound decisions about their growth.

How is the Plan Implemented?

Zoning and subdivision regulations are two methods of implementing the comprehensive plan and controlling future development. Many communities use these tools to prevent unwanted development and its undesirable side effects. The Iowa Code states that zoning and subdivision regulations should be based on the community's comprehensive plan.

When a comprehensive plan is in place, the community and potential residents or developers have advance knowledge of the intentions of the city or county. Thus, zoning and subdivision regulations are stronger and less susceptible to legal challenges when based upon a comprehensive plan. With a plan in place, a community has a better idea of how to use zoning, subdivision regulations, budgeting, capital improvements programming, and all other functions to achieve its goals and allow the area to grow or change in positive ways.

Inconsistent or unguided decisions by planners and elected officials alike can do damage in a variety of ways. While each individual decision may be reasonable, the combined effect of many different decisions may negate the expected benefit, or may cause a negative outcome not foreseeable from the standpoint of the individual case. Because each decision can have a lasting effect, it is important to try to determine, as specifically as possible, what that effect will be. A comprehensive plan makes it easier to identify and predict outcomes and to determine how they mesh with the community's overall plans.

History of the Comprehensive Plan

While often thought of as a modern pursuit, planning has a long history. Hippodamus of Miletus is considered the first city planner because of his efforts in several Greek cities in the fifth century B.C. These plans, and much of the collective efforts throughout history, were largely architectural in focus. Much of the consideration that goes into modern plans was of no concern, as most of the work was in designing street layouts and calling for park space and monumental government buildings.

The comprehensive plan as it is known today has been around for a little more than 80 years. Planners' affiliation with a professional society began about the same time. The American Institute of City Planning was founded in 1917. Then, the creation of the Standard City Planning Enabling Act in 1928 touched off a flurry of planning activity across the country. State after state enacted this enabling legislation so that cities could legally undertake planning activities.

However, the act was not perfect. Most critics point to four major weaknesses:

- First, the act was not clear or consistent in its distinction between the comprehensive plan and the zoning ordinance. The plan should provide the type of guidance needed for the creation of a zoning ordinance, but this ordinance is not a part of the plan.
- Second, the act allowed for piecemeal adoption of plan components. It was clear that all parts of the plan related to one another, but the act said there was no reason to wait for all areas to be completed before publishing those that were. The result was a rash of "master" plans for streets or public facilities that should have been only one part of the comprehensive plan.
- The third weakness of the Standard City Planning Enabling Act was that it provided no definition or outline for what technical elements the plan should contain. The next section of this publication will address this question.
- Finally, the act failed to make the legislative body an important part of the planning process. As a result, the plan often lacked the power and political will needed for complete implementation.

Over the past decades most of these problems have been corrected. Although the process remains imperfect, a much more successful and accepted definition of the comprehensive plan exists today.

Elements of a Comprehensive Plan

A comprehensive plan is one document with many distinct sections. While these sections cover different aspects of the community, they all are related. The document will contain written text, maps, illustrations, tables, and whatever else is needed to clearly describe the city and its conditions and goals. The plan should be easy to read and easy to update so that local employees, officials, and citizens can all use it comfortably.

The first part of the plan is an introduction, which should include a brief description of what a plan is and why the community needs one. The resolution adopting the plan usually appears here, to provide a list of reasons for its adoption. A table of contents should be included, and an explanation of how the actual plan was formulated is also helpful.

The next section of the plan is often a brief history of the area and an enumeration of existing conditions. Data on those conditions also can be used to begin to make estimates about future directions. It should be apparent to the reader how the planner or author arrived at his or her conclusions based upon the past and present situation. The locality's strengths, weaknesses, opportunities, and threats should be described and evaluated.

Next are a number of different areas that need to be addressed. This is where the plan becomes comprehensive. Population and demography, land use, traffic circulation and transportation, parks and open space (natural resources), housing, utilities and services, urban design, community facilities, economic development, historical preservation, and other elements are all areas that may be covered in the plan. The goals and objectives for the overall plan, as well as for each of these specific areas of study, should be included. A portion describing the workings of the local political system and setting guidelines for intergovernmental cooperation might also be useful for some communities.

Population and demography should be looked at in terms of existing conditions and future trends. An accurate population projection will be necessary for good planning. Ethnic makeup and age breakdowns are among the useful calculations.

Land use is an important plan piece. The existing land-use map should be included along with projections of future use. These maps should be based on the goals and projections from the many other areas of the plan. The maps of future land use will be one of the most studied portions of the plan. Landowners and other citizens will carefully review the maps to learn how specific parcels of land will be treated. Accompanying text should explain the rationale behind the various land uses.

Traffic circulation and transportation are increasingly important aspects of the comprehensive plan. As automobile use rises and traffic worsens, the need for roadway expansions, system improvements, and public transportation increases. All planned and potential new construction should be discussed in the plan. However, the comprehensive plan is not an exact outline of every future project. That level of detail should be left to the capital improvement program, a separate document that describes public capital expenditures over a five-year period.

The park and open space element is fairly easy to grasp. Changes to the existing system should be outlined as well as projections of future need based upon forecasted growth. Conservation interests also should be discussed. Other common areas of interest are farmland, wetlands, and special habitat areas.

Housing information can include provisions for affordable housing, planned residential growth, and building and density requirements. Good planning in this area will be necessary for efficient and effective growth.

Utilities and services should include water, sanitary and storm sewer, and treatment information. This section also will be less specific than what is contained in the capital improvement program.

Some portion of the plan should deal with urban design. Subdivision standards, neighborhood redevelopment, and even historical preservation may be included.

Community facilities include hospitals, schools and government buildings, and so forth. These entities are an important part of a growing community and should be considered in the comprehensive plan. Further, carefully planned public projects of this type may be used to spur redevelopment and set the standard for neighborhood renovations.

Economic development will also be a necessary element of the plan for most communities. Whether geared toward serious efforts to attract major employers or toward business retention and improvement, an economically strong community is a common goal.

How is a Comprehensive Plan Created?

The creation of a useful comprehensive plan involves a great deal of research, calculation, and discussion. The development of many of the plan elements requires a high degree of technical knowledge. For this reason, the process is best guided by trained professionals. Even cities with a planning department often hire a consultant to create their comprehensive plan. Either way, the plan should include significant public participation. Numerous public meetings should be arranged and special effort should be made to encourage attendance and disseminate information about the process.

The entire process can take years to complete. Once the plan is finished, the planning commission and the city council should formally approve the document. Although the comprehensive plan does not contain actual laws or regulations, this formal approval will lend strength to future legislation that is based upon the plan. Likewise, future work by any city agency or body should be compared to the comprehensive plan and should be consistent with it.


Finally, it is important to realize that once in place, the comprehensive plan is not an infallible or unchangeable document. Times and conditions change, and some of the forecasts the plan was based on may prove inaccurate. The plan should not be changed out of convenience but can be updated when necessary so that it continues to provide an accurate picture of how the community wishes to progress.

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Prepared by Stuart Huntington, extension community development specialist, and Chad Weaver, graduate student in community and regional planning, with support from the Institute for Design Research and Outreach, College of Design, Iowa State University.

File: Communities 2

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Administrative rules for boards of adjustment — an example

It is important that every board of adjustment adopt and follow a set of administrative rules. Adherence to such rules will allow the board to operate openly, fairly, and professionally. In this way, the board can provide itself with some protection against legal challenges on procedural grounds.

The following set of rules should be used only as an example. Please work closely with your city attorney or county attorney to formulate a set of administrative rules that is appropriate for your board.



In compliance with (Section 414.9 for cities; Section 335.12 for counties) and the (name of jurisdiction) zoning ordinance, which says that the board of adjustment will adopt rules to carry out the provisions of the zoning ordinance, the following rules of procedure are hereby adopted by the (name of jurisdiction) board of adjustment.

Section 1.0 Officers. The board of adjustment shall select from its membership a chairperson and vice chairperson who shall perform the usual duties pertaining to such offices.

1.1 Selection. At the first regular meeting in (January/July) of each year the board will

pick its officers from its membership. All officers are eligible for re-election.

1.2 Tenure. The chairperson and vice chairperson shall take office immediately following their election and shall hold office for a term of one year or until their successors are selected and assume office.

1.3 Duties. The chairperson shall preside at all meetings and hearings of the board, shall decide all points of order or procedure, and shall appoint any committees that may be found necessary. The vice chairperson shall assume the duties of the chairperson in the absence of the chairperson.

1.4 Secretary. The secretary will be appointed by the (city council/board of supervisors) and may be a member of the board, an employee of the board, or a regular employee of the (city/county). The secretary shall conduct all official correspondence subject to these rules at the direction of the board, shall send out all notices required by these rules of procedure, keep the minutes of the board's proceedings, and keep a file on each case that comes before the board. For all appeals and applications, the secretary shall issue the proper forms; see that

information maps and plats are compiled and ready for board's review; notify any property owner and other interested parties by mail of the time and place of the hearing; and any other duties as determined by the board.

Section 2.0 Meetings. The annual meeting of the board will take place at the first regular meeting in *(January/July)* of each year. Regular meetings of the board of adjustment shall be at *(7:00 p.m.)* on the *(second Tuesday)* of each month unless no cases are pending in which case no meeting shall be held. The secretary shall give each member of the board *(72 hours)* notice of such meeting by mail.

2.1 Special meetings. Special meetings may be called by the chairperson or at the request of three members of the board of adjustment. Notice of the special meeting shall be given by the secretary to the members of the board at least *(48 hours)* prior to such meeting and shall state the purpose and time of the meeting.

2.2 Quorum. A quorum of the board shall consist of *(three)* members.

2.3 Public. All regular, special, and subcommittee meetings; public hearings; records; and accounts shall be open to the public.

2.4. Order of business. The secretary shall prepare an agenda for each meeting and send it to each board member as a part of the notification process *(72 hours prior)*. The order of business shall be as follows:

- a) Roll call
- b) Reading the minutes of previous meeting
- c) Communications
- d) Report of committees
- e) Unfinished business
- f) New business
- g) Adjournment

2.5 Voting. The concurring vote of three members of the board is required to reach a decision (no matter how many board members are present). Voting will be by roll call and will be recorded by yeas and nays. All members of the board, including the chairperson, are required to cast a vote for each motion. Minutes will show members absent for each vote. A member may abstain if he or she feels there is a conflict of interest, particularly if the conflict is of a financial nature. If a member elects to abstain from voting, he or she is required to state the reason for his or her abstention at the time of voting.

2.6 Unfinished business. When all appeals or applications cannot be disposed of on the day set (due to length of meeting or extenuating circumstances), the board may adjourn from day to day or until the next regular meeting as the board may decide.

2.7 Board action. The board may not vote on an appeal or application until all required information has been set forth on the forms and until the hearing has been conducted.

2.8 Parliamentary procedure. *Roberts Rules of Order, Revised*, will govern the board meetings.

Section 3.0 Cases to be decided by the board. The following cases shall be made before the board of adjustment on forms provided by the board secretary:

- a) Appeals, when it is alleged there is error in any order, requirement, decision, or determination made by the *(zoning administrators)* in the enforcement of the zoning ordinance.
- b) Special exceptions to the terms of the zoning ordinance upon which the board is required to act under the ordinance.

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- c) Variances to a zoning district requirement where there are unusual conditions or circumstances which cause a hardship when the provisions of zoning are strictly applied.

Section 4.0 **Procedure for hearing cases.** The following rules will apply to all appeals or applications before the board.

- 4.1 Appeals to the board may be taken by any person, group, or by any officer or department of the *(city/county)* affected by any decision of the *(zoning administrator)* and by applicants for a special exception or variance.
- 4.2 The *(zoning administrator)* shall tell the applicant or interested party why the *(zoning or building)* permit was denied or why the application is necessary. He or she shall inform the applicant or interested party of the right to apply or appeal to the board and that it be made within *(10)* days. Such appeal shall be filed with the *(zoning administrator)* on the forms provided by the board of adjustment. The *(zoning administrator)* will transmit the completed appeal form along with all papers constituting the record upon which the board shall act.
- 4.3 The applicant shall complete the required forms, providing all information requested by the form and any additional information as requested by the *(zoning administrator)*.
- 4.4 The secretary of the board shall reject any such application or appeal that is not filed within *(10)* days of the *(zoning administrator's)* decision. Also, the secretary shall reject any such application or appeal unless same are made on prescribed forms properly filled out, with all required data attached.
- 4.5 An application or appeal filed according to the above procedure shall be given a

case number within *(five working)* days from the date filed. Applications or appeals will be assigned in the order in which they are received. Cases assigned to the board less than *(10)* days prior to the regular meeting will automatically be set for hearing on the subsequent regular meeting day.

- 4.6 The secretary of the board shall notify the parties of interest *(property owners of record within 200 feet of the applicant's lot lines)* by mail of the time, place, and purpose of the public hearing, and give *(four but not more than 20 days)* public notice in a newspaper of general circulation.
- 4.7 Hearings shall be held by the board of adjustment at the *(community hall)* and open to the public.
- 4.8 At the time of the public hearing the applicant may appear in his or her own behalf or be represented by agent or counsel. In the absence of any personal appearance on behalf of the applicant, the board will proceed to dispose of the matter on the forms and information provided before.
- 4.9 The order of the hearing shall be as follows:
 - a) The applicant's or appellant's side of the case
 - b) *(Zoning administrator's)* side of the case
 - c) Interested property owners' opinions
 - d) Applicant's rebuttal
- 4.10 After the hearing, the board shall deliberate the case. The board may ask its attorney for comments.
- 4.11 The applicant or appellant may withdraw his or her application or appeal at any time prior to the decision by the board of adjustment.

4.12 Final decision of any application or appeal shall be made in the form of a resolution by anyone on the board of adjustment. The resolution may affirm, modify, or reverse the refusal of a permit by the decision of the (*zoning administrator*). In the case of an application for variance or special exception, the resolution shall set forth that the application is granted or denied and said resolution shall specifically set forth what variances or special uses are permitted and what conditions, if any, shall be complied with.

4.13 Within (*fifteen*) days after the hearing the board shall notify the parties of interest and the (*zoning administrator*) of its decision.

4.14 A rehearing of any decision of the board of adjustment may be made if the following occur: the motion to reconsider is made by a member of the board and carried by not less than (*four*) affirmative votes; new evidence is submitted that could not reasonably have been presented at the original meeting; at least 90 days have elapsed since the resolution was defeated; and the case is put on the agenda for a rehearing.

Section 5.0 **Records.** The secretary shall keep books showing the status of all cases and minutes as part of the records of the board of adjustment. In addition, the secretary shall keep a file of all cases including forms and additional information as a part of the legal records.

5.1 All records of the board shall be public.

5.2 The secretary shall publish the minutes of all meetings in a newspaper of general circulation within (*fifteen*) days of the meeting.

Section 6.0 **Amendments** A majority vote of all the members of the board shall be necessary to amend these procedural rules. Such proposed amendments shall be presented in writing at any regular meeting of the board of adjustment.

Section 7.0 **Informal Advice.** The board will not consider a request (informal or not) for advice on theoretical or actual situations that potentially may later come before the board as an appeal or application.


Source: "*Planning and Zoning Handbook*," State of Iowa, Office of Planning and Programming, 1983.

File: Community Resource Development 2-3

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2006 CITY OF SAC CITY ZONING ORDINANCE

**ADDENDUM
A4**

PERMIT APPLICATIONS

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CC

2006 CITY OF SAC CITY ZONING ORDINANCE

**ADDENDUM
A5**

**FUTURE AMENDMENTS
(*INSERT AS NECESSARY*)**

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Zoning Administrator is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. **Various Inadequacies.** Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. **Manifestly Unsafe.** Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. **Inadequate Maintenance.** Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. **Fire Hazard.** Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. **Abandoned.** Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement

officer shall give to 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 forty-eight (48) hours (or longer if written application is approved by the enforcement officer), 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 thirty (30) days from date of notice, unless an extension is granted by the Council because repairs are underway; but in no event shall there be more than one 30-day extension.

(Code of Iowa, Sec. 364.12[3h])

1. **Notice Served.** Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. **Hearing.** Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. **Notice.** The owner shall be served with written notice specifying the date, time and place of hearing.
2. **Owner's Rights.** At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. **Determination.** The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF SAC CITY, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

(Code of Iowa, Sec. 364.12[3h])

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 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.

(Code of Iowa, Sec. 364.12[3h])

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

146.01 DEFINITIONS. For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer's Stock.** Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

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2006 CITY OF SAC CITY ZONING ORDINANCE

**ADDENDUM
A6**

ZONING MAP

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CITY OF SAC CITY CODE OF ORDINANCES

CHAPTER 170 SUBDIVISION REGULATIONS

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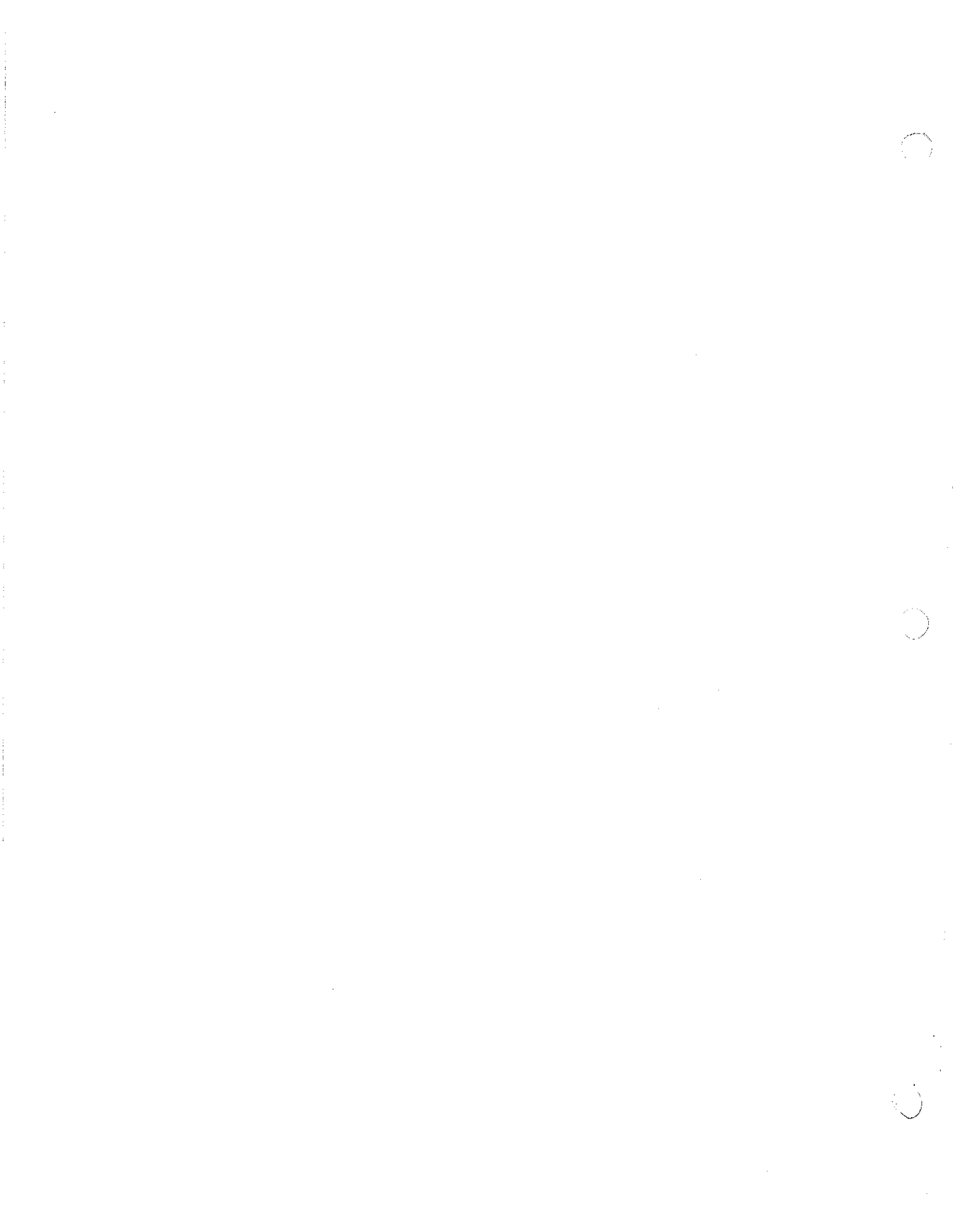
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GENERAL PROVISIONS

170.1 SHORT TITLE. This Chapter shall be known and may be cited as "The City of Sac City, Iowa Subdivision Control Ordinance."

170.2 PURPOSE. The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new 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, and to promote the public health, safety and general welfare of the citizens of the City of Sac City, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

170.3 APPLICATION. Every owner who divides any original parcel of land, or part thereof, entered of record in the office of the Sac County Recorder as a single lot, parcel or tract on or before the effective date of these regulations (June 11, 1979) into three (3) or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots, acreage or suburban lots, transfer of ownership or building development within the City shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

170.4 RECORDING OF PLAT. No subdivision plat, re-subdivision plat or street dedication within the City of Sac City, Iowa, as provided in Section 354.9, Code of Iowa, shall be filed for record with the Sac County Recorder, or recorded by the Sac County Recorder, until a final plat of such subdivision, re-subdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.

Upon approval of the final plat by the City Council, it shall be the duty of the subdivider to immediately file such plat with the Sac County Auditor and Sac County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Administrator within such thirty (30) days.

(Code of Iowa, Sec. 354.9)

170.5 FEES ESTABLISHED. The City Council shall, from time to time, establish by resolution fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the City Administrator, unless and until such plat is accompanied by the fee, as established by resolution of the City Council, and as required by this ordinance.

170.6 PENALTIES. Any person who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this ordinance, until the plat thereof has been approved by the City Council, and recorded as required by law, shall forfeit and pay one hundred dollars (\$100.00) for each lot or part of lot sold, disposed of or offered for sale. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this ordinance.



170.7 BUILDING PERMIT TO BE DENIED. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this ordinance, and until the improvements required by this ordinance have been accepted by the City.

DEFINITIONS

170.8 TERMS DEFINED. For the purposes of this Ordinance, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition Plat" shall mean the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
(Code of Iowa, Sec. 354.2(1))

2. "Aliquot Part" shall mean a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.
(Code of Iowa, Sec. 354.2(2))

3. "Alley" shall mean public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

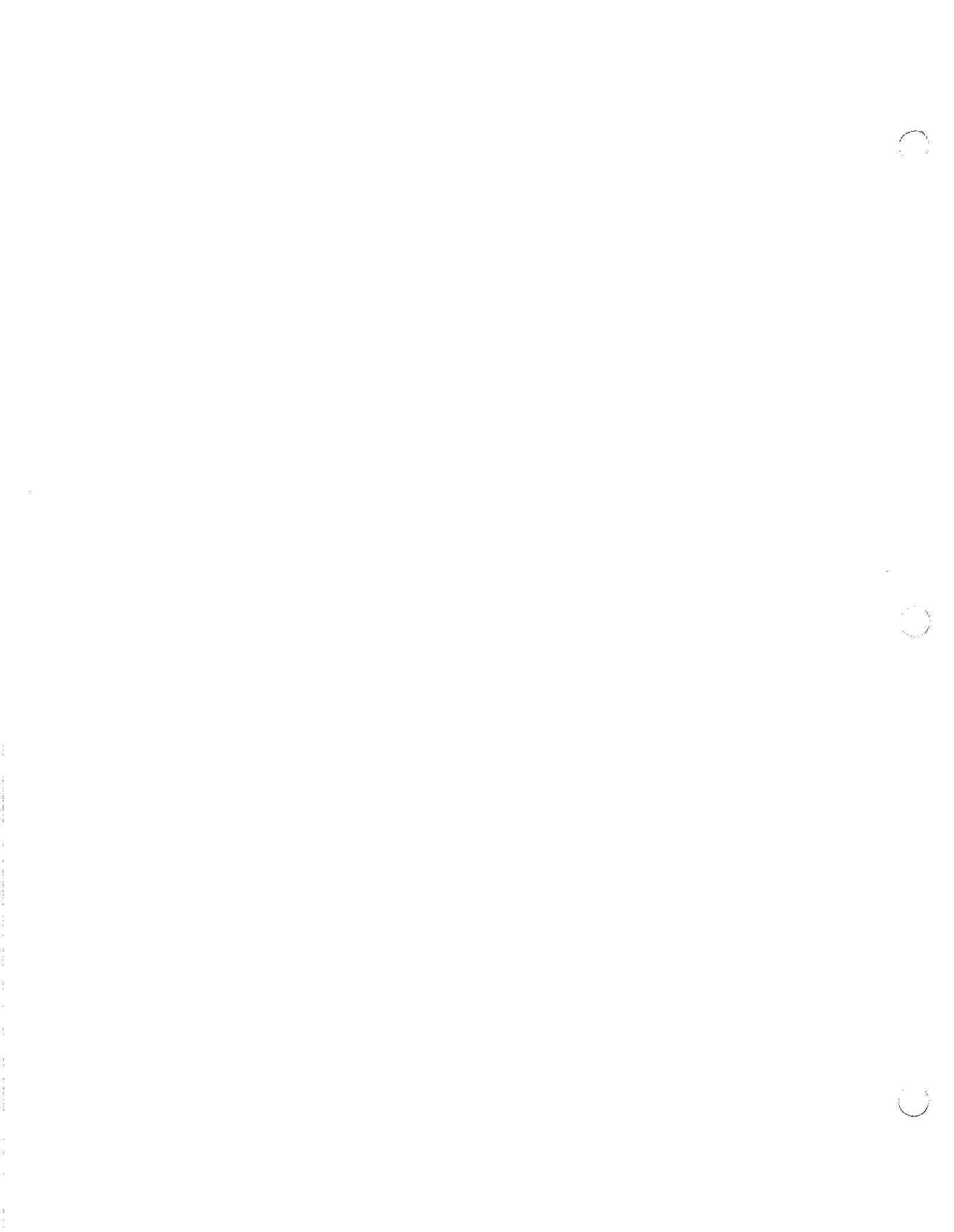
4. "Auditor's Plat" shall mean a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the auditor.
(Code of Iowa, Sec. 354.2(3))

5. "Block" shall mean an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.

6. "Building Lines" shall mean a line on a plat between which line and public right-of-way upon which no building or structures may be erected.

7. "City Engineer" shall mean the professional engineer registered in the State of Iowa designated as City Engineer by the City Council or other hiring authority.

8. "Comprehensive Plan" shall mean the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the City Council. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.



REGION XII COUNCIL OF GOVERNMENTS

9. "Conveyance" shall mean an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.

(Code of Iowa, Sec. 354.2(5))

10. "Cul-de-Sac" shall mean a street having one end connecting to another street, and the other end terminated by a vehicular turn around.

11. "Division" shall mean dividing a tract or parcel of land into two (2) parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this Chapter.

(Code of Iowa, Sec. 354.2(6))

12. "Easement" shall mean an authorization by a property owner for another to use a designated part of said owner's property for a specified purpose.

13. "Flood Hazard Area" means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.

14. "Floodway" shall mean the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.

15. "Forty-Acre Aliquot Part" shall mean one-quarter of one-quarter of a section.

(Code of Iowa, Sec. 354.2(7))

16. "City Council" shall mean the City Council of the City of Sac City, Iowa.

(Code of Iowa, Sec. 354.2(8))

17. "Government Lot" shall mean a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

(Code of Iowa, Sec. 354.2(9))

18. "Improvements" shall mean changes to land necessary to prepare it for building sites, including but not limited to, grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainage ways and other public works and appurtenances.

19. "Lot" shall mean a tract of land represented and identified by number or letter designation on an official plat.

(Code of Iowa, Sec. 354.2(10))

20. "Lot, Corner". The term "corner lot" shall mean a lot situated at the intersection of two (2) streets.



21. "Lot, Double Frontage". The term "double frontage lot" shall mean any lot that is not a corner lot that abuts two (2) streets.

22. "Metes and Bounds Description" shall mean a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

(Code of Iowa, Sec. 354.2(11))

23. "Official Plat" shall mean either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor, and Assessor.

(Code of Iowa, Sec. 354.2(12))

24. "Original Parcel" shall mean forty (40) acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before June 11, 1979.

25. "Owner" shall mean the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.

26. "Parcel" shall mean a part of a tract of land.

(Code of Iowa, Sec. 354.2(13))

27. "Performance Bond" shall mean a surety bond or cash deposit made out to the City of Sac City, Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Ordinance.

28. "Permanent Real Estate Index Number" shall mean a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.

(Code of Iowa, Sec. 354.2(14))

29. "Planning Commission" shall mean the appointed commission designed by the City Council for the purpose of this Ordinance, and is also the Zoning Commission, in which case the commission is known as the Sac City Planning and Zoning Commission.

30. "Plat" shall mean a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.

31. "Plat, Preliminary" shall mean a plat submitted for the purpose gaining approval of the general layout of a subdivision under Section 170.24 of this Ordinance.

32. "Plat, Final" shall mean a plat that is intended to become an official plan on approval that is filed with the City and meets the requirements set forth in this Chapter and Chapter 354 of the Code of Iowa.



33. "Proprietor" shall mean a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

(Code of Iowa, Sec. 354.2(16))

34. "Re-subdivision" shall mean any subdivision of land that has previously been included in a recorded plat. In appropriate context, it may be a verb referring to the act of preparing a plat of previously subdivided land.

35. "Street" shall mean public property, not an alley, intended for vehicular circulation. In appropriate context the term "street" may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

36. "Street, Arterial" shall mean a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.

37. "Street, Collector". The term "Collector Street" shall mean a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

38. "Street, Local". The term "Local Street" shall mean a street primarily designed to provide access to abutting property.

39. "Subdivider" shall mean the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

40. "Subdivision" shall mean the accumulative effect of dividing an original lot, tract, or parcel of land, as of June 11, 1979 into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions and land taken by condemnation. The term includes a re-subdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date October 22, 2007 shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Secs. 354.2(17) & 355.1(10))

41. "Subdivision Plat" shall mean the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(18))



42. "Surveyor" shall mean a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

(Code of Iowa, Sec. 354.2(19))

43. "Tract" shall mean an aliquot part of a section, a lot within an official plat or a government lot.

(Code of Iowa, Sec. 354.2(20))

44. "Utilities" shall mean the systems for the distribution or collection of water, gas, electricity, wastewater and storm water.

IMPROVEMENTS

170.9 IMPROVEMENTS REQUIRED. The subdivider shall, at subdivider's expense, install and construct all improvements required by this Ordinance. 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.

170.10 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

170.11 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the City Council after receiving the report and recommendations of the City Engineer.

2. Roadways. All roadways shall be surfaced with Portland cement concrete or with asphaltic concrete over a crushed stone base as the City Council may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the City Council after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).

4. Sidewalks. Sidewalks shall be required by the City Council as they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the City Council after receiving the report and recommendations of the City Engineer.

5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe

installed to the property line in accordance with the City Water Department standards, procedures and supervision.

6. Sewers.

a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the City Council and the State Department of Natural Resources and the construction subject to the supervision of the Superintendent of public utilities.

b. Where sanitary sewers are not available, other facilities, as approved by the City Council and the State Department of Health must be provided for the adequate disposal of sanitary wastes.

c. An adequate system shall be installed by the subdivider for the disposal of storm waters, including any necessary storm sewer lines, intakes, holding ponds, etc. The system and all parts of it shall be constructed subject to the approval of the City Council and to the supervision of the Superintendent of public utilities.

170.12 EASEMENTS

1. Public 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.

2. Easements Along Streams and 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.

170.13 COMPLETION OF IMPROVEMENTS. Before the City Council shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of the resolution of acceptance, the Superintendent of public works shall report that the improvements meet all City specifications and Ordinances or other City requirements, and the agreements between subdivider and the City.

170.14 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the City 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.

MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

170.15 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety and general welfare of the City of Sac City.

1. Land Suitability.

a. Land shall not be subdivided if it is found to be unsuitable for the intended development due to flooding, poor drainage conditions, adverse soils or geological conditions, unsuitable topography or any other condition that could be deemed harmful to the public health or general welfare of the residents of the City unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable to subdivide for these or any other reasons, the Council shall provide the intended subdivider with said reasons and provide them the opportunity to provide additional information on the situation. Following the submission of any answer to the question of unsuitability or any additional information, the Council may then either reaffirm or rescind its decision on the unsuitability of said land.

2. Relation to Existing Streets.

a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the City Council to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

3. Acreage Subdivisions.

a. Where the submitted plat covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.

b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.

c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.

4. Local Streets.

a. Local streets shall be so planned as to discourage through traffic.

b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of sixty (60) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.

5. Frontage Streets.

a. Where a subdivision abuts or contains an existing or proposed arterial street, the City Council may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the City Council may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

6. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the City Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.



7. Street Geometrics & Design.

a. Street design shall be according to the following minimum standards:

Type of Street	Right of Way	Pavement Width	Minimum Radius of Horizontal/Vertical Curves
Arterial	80'	49'	500'/200'
Arterial, with turning lane	90'	56'	500'/200'
Collector	60'	36'	400'/150'
Collector, with turning lane	70'	41'	400'/150'
Minor Street (parking limitations)	50'	27'	100'/100'
	50'	31'	100'/100'

b. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

c. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

d. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the City Council shall determine for special cases.

8. Intersections.

a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the City Council may deem it necessary. The City Council may permit comparable cutoffs or chords in place of rounded corners.

9. Street Names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the City Council.

10. Street Grades.

a. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.

b. No street grade shall be less than one-half (1/2) of one (1) percent.

11. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the City Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

b. The width of an alley shall be twenty (20) feet.

c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.

d. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the City Council.

12. Blocks.

a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the City Council, extraordinary conditions unquestionably justify a departure from these limits.

b. In blocks over seven hundred (700) feet in length, the City Council may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

13. Lots.

a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

b. Minimum lot dimensions and sizes.

(1) Residential lots, where not served by public sewer, shall not be less than eighty (80) feet wide nor less than ten thousand (10,000) square feet in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

(3) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.



c. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.

d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet across, which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

14. Building Lines. Building lines shall be shown on all lots within the platted area. The City Council may require building lines in accordance with the needs of each subdivision.

15. Easements.

a. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

16. Plat Markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the City Council. The markers shall be of such material, size and length as may be approved by the City Council.

PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

170.16 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the City Council, the owner and subdivider shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

170.17 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Administrator. The conference should be attended by the City Administrator, City Engineer, and such other City or utility representatives as is deemed desirable, and by the owner and owner's engineer and/or planner, as deemed desirable.

The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures and any special problems relating to the proposed subdivision.

170.18 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

170.19 PRESENTATION TO PLANNING COMMISSION AND CITY COUNCIL. The subdivider may present the sketch plan to the Planning and Zoning Commission and/or City Council for review, prior to incurring significant costs preparing the preliminary or final plat.

170.20 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Shall mean any subdivision that contains not more than four (4) lots fronting on an existing street, does not require construction of any public improvements, and does not adversely affect the remainder of the parcel shall be classified as a minor plat.

2. Major Subdivision. Any subdivision that, in the opinion of the City Council, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

170.21 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.

(Code of Iowa, Sec. 354.6)

170.22 PLAT TO CONFORM TO COMPREHENSIVE PLAN. The arrangement, character, extent, width, grade and location of all streets and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan of the City, provided such plan has been adopted by 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.

(Code of Iowa, Sec. 354.8)

170.23 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the City Administrator twenty (20) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date;
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners;



3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights;
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular;
5. Building setback or front yard lines;
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes;
7. Present and proposed easements, showing locations, widths, purposes and limitation;
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each;
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county;
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat;
11. Existing and proposed zoning of the proposed subdivision and adjoining property;
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat; and
13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater, unless the City Council waives this requirement.

170.24 REFERRAL OF PRELIMINARY PLAT. The City Administrator shall forthwith refer two (2) copies of the preliminary plat to the City Engineer, seven (7) copies to the Planning & Zoning Commission, seven (7) copies to the Mayor, City Council and City Administrator, and five (5) copies to Utility Representatives.

170.25 ACTIONS BY CITY STAFF, THE CITY ENGINEER & PLANNING & ZONING COMMISSION.

1. City staff and the City Engineer shall carefully examine all preliminary plats as to its compliance with Section 354.8 of the Code of Iowa and the laws and regulations of the City of Sac City, Iowa, the existing street system, and good engineering practices, and shall, as soon as



possible, submit the City engineer's findings in duplicate to the City Council together with one (1) copy of the plat received.

(Code of Iowa, Sec. 354.8)

2. The Planning & Zoning Commission shall, as soon as possible but not more than thirty (30) days thereafter, pass upon the preliminary plat as originally submitted or modified. If the Commission does not act within thirty (30) days, the preliminary plan shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time period of up to an additional thirty (30) days. It shall then set forth its recommendations in writing to the City Council of approval, modification, or disapproval.

170.26 ACTION BY THE CITY COUNCIL. The City Council shall, upon receiving the reports of City Staff, the City Engineer and Planning & Zoning Commission, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the City Council does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the City Council or disapproval of the plat, it shall give its reasons therefore and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the City Council shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.

3. The action of the City Council shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the City Council.

4. The "Conditional Approval" by the City Council shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

170.27 AUTHORIZATION TO INSTALL IMPROVEMENTS. The conditional approval of the Preliminary Plat shall constitute an authorization by the Council for the installation of improvements as shown on the preliminary plat; provided, no such improvements shall be constructed or installed until and unless the plans, profiles, cross sections and specifications for the construction of such improvements have been submitted to and approved in writing by the City Engineer.

1. Requirements of Public Improvement Construction Documents. The public improvement construction documents shall be prepared by a registered professional engineer in sufficient detail to permit bidding the work. The plans shall be prepared on standard sized sheets



to a scale of not less than one inch equals twenty (20) feet for street paving improvements and one inch equals fifty (5) feet for sewer and water main projects not associated with paving improvements.

2. Contents of Public Improvement Construction Plans. The following information shall be shown on the public improvement construction plans in addition to any other information deemed necessary by the City Engineer.

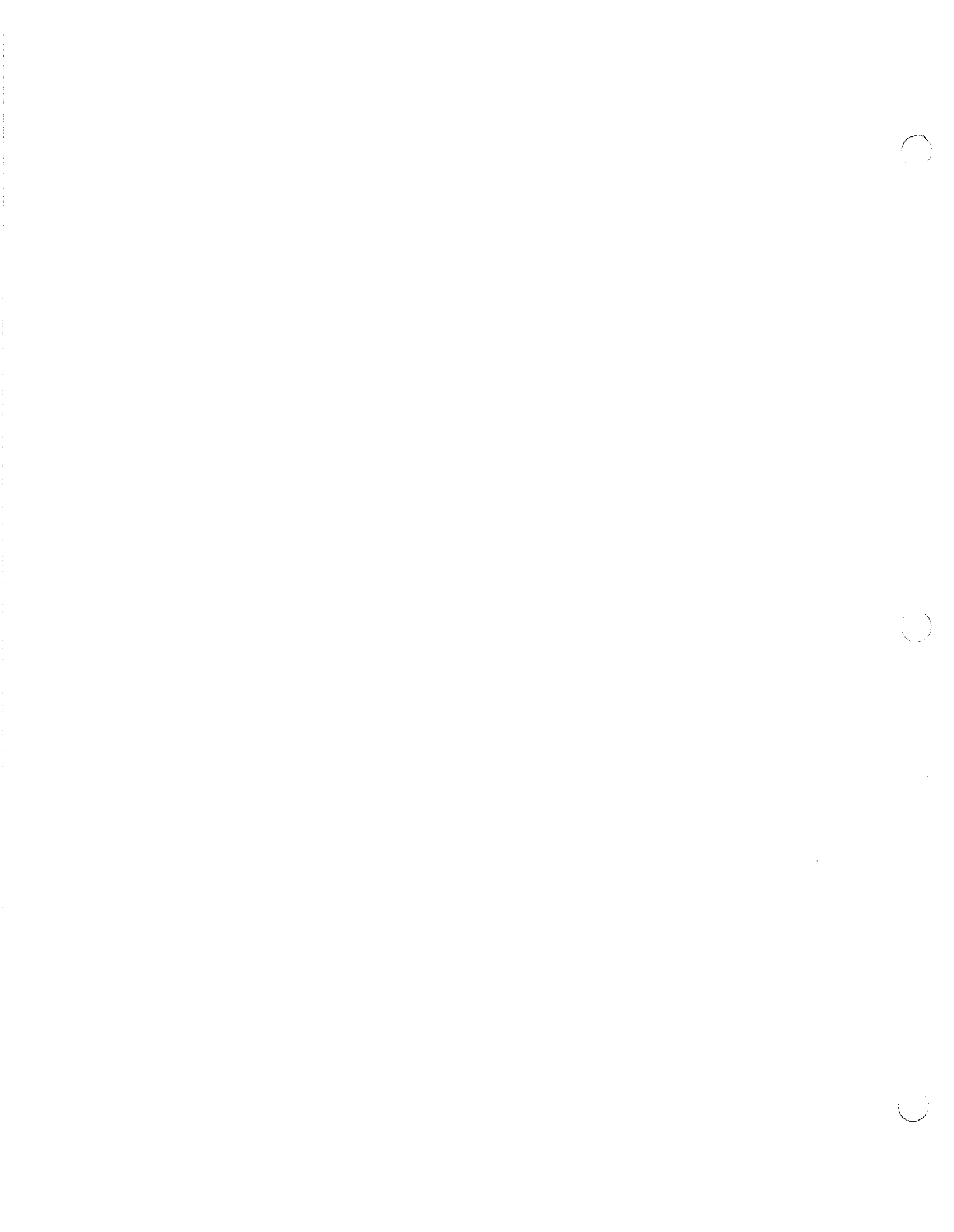
- a. Title Sheet
- b. Estimate of quantities and notes including bench mark data and references
- c. Details
- d. Plans and profiles including right-of-way and/or easement locations and curve data
- e. Cross Sections

3. "As Built" Drawings. At the completion of construction of any public improvements or portions of improvements, and prior to acceptance of the improvements by the City, the City shall be provided with two copies of "As Built" drawings of the completed improvements, one being on drafting film capable of reproduction. Additionally, the City shall be provided with photographs of "As Built" work for underground items such as water valves, hydrants, manholes, and other similar appurtenances that have been taken prior to backfilling those areas.

170.28 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

170.29 REFERRAL FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the City Council prepare and file twenty (20) copies of the final plat and other required documents with the City Administrator as hereafter set forth, and upon the subdivider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the City Council. Upon receipt of the final plat and other required documents, the City Administrator shall transmit six (6) copies to the mayor and council and seven (7) copies of the final plat to the Planning & Zoning Commission for its recommendations and approval. Within thirty (30) days, the Commission shall forward its recommendation the Council, who shall, within sixty (60) days, either approve or disapprove the final plat. In the event that said final plat is disapproved by the Council, such disapproval shall point out wherein said proposed plat is objectionable. In the even that said final plat is found to be acceptable and in accordance with these regulations, the Council shall accept the same.

Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the City Council until and unless a preliminary plat for the area included



in the proposed final plat has been approved and has not expired and become void as set forth above.

At its discretion, the City Council may refer the final plat to the City Engineer pursuant to the procedure established in 170.18.

170.30 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:

(Code of Iowa, Secs. 354.8 & 355.8)

1. The title under which the subdivision is to be recorded;
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys, and storm water infrastructure. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles;
3. 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. Street names may be required to conform to the City Plan;
4. The identification of surrounding property, including lot numbers, names of property owners (if available), and other identifying marks;
5. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks;
6. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse; and
7. 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.

170.31 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land;
(Code of Iowa, Sec. 354.6(2))
2. 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;

(Code of Iowa, Sec. 354.11(1))



3. 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;

(Code of Iowa, Sec. 354.11(3))

4. A certificate from the County Treasurer that the subdivision land is free from taxes;

(Code of Iowa, Sec. 354.11(5))

5. 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;

6. 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;

(Code of Iowa, Sec. 354.11(2))

7. A certificate of dedication of streets and other public property;

(Code of Iowa, Sec. 354.11(1))

8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots;

9. Resolution and certificate for approval by the City Council and for signatures of the Mayor and the City Administrator.

(Code of Iowa, Sec. 354.11(4))

10. 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;

11. A certificate by the City Administrator, or similar official, 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 City Administrator, or that the City Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision; and

12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.

(Code of Iowa, Secs. 354.11(2) & 354.12)

OTHER PROVISIONS

170.32 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the City Council may vary, modify or waive the requirements so that substantial justice may be done

and the public interest secure. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Ordinance. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the City Council.

170.33 CHAIN SUBDIVIDING. No more than two (2) building permits for each separate tract existing at the effective date of this Ordinance shall be issued unless the tract has been platted in accordance with this Ordinance; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the (choose one)- (zoning or restricted residence district) Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

September 10, 2007

Date: Introduction & First Reading

September 24, 2007

Date: Second Reading

October 8, 2007

Date: Third & Final Reading

October 16, 2007

Date of Publication

Lonnie Rubendall, Mayor

attest:

Sandy Tellinghuisen, City Clerk

seal

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City of Sac City Ordinance

ORDINANCE NO. 2007-197

ORDINANCE ADOPTING THE REVISED SAC CITY, IOWA SUBDIVISION ORDINANCE

WHEREAS, The Sac City Planning and Zoning Commission has undertaken a thorough and complete review of the City of Sac City's subdivision regulations in order to ensure that the provisions of said regulations are in conformity with the City's comprehensive plan, zoning ordinance, and other ongoing development efforts and projects of the City; and,

WHEREAS, The Planning and Zoning Commission has held public hearings and submitted a report to the City Council recommending the adoption of a new Subdivision Ordinance as Chapter 180 of the City of Sac City Code of Ordinances; and,

WHEREAS, The City Council has had a public hearing and heard comments on the proposed Subdivision Ordinance.

NOW THEREFORE BE IT RESOLVED, The City Council of the City of Sac City hereby adopts the following:

Section 1. PURPOSE. The purpose of this Ordinance is to enable the City of Sac City, Iowa, to encourage development of the community in an orderly and efficient manner.

Section 2. ADOPTION. The City of Sac City, Iowa hereby adopts Chapter 170 of the Sac City Code of Ordinances, the chapter being

titled "Subdivision Regulations," pursuant to published notice and following a public hearing on September 10, 2007.

Section 3. CONTENT. Chapter 170, "Subdivision Regulations," contains provisions regulating the subdividing of land within the City of Sac City. All parts and provisions of the previous Subdivision Regulations (Title VI, Chapter 6 of the Sac City Code of Ordinances) in force on the date of publication of this Ordinance are hereby repealed except as herein provided.

The repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Ordinance; nor shall any repeal affect any permit or restriction already approved.

Nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any prosecution, suit, or other proceedings pending or any judgment rendered on or before or prior to the effective date of this Ordinance.

The Subdivision Regulations shall include this adopting Ordinance and the City Clerk's certification of its adoption and passage.

Section 4. FORMAT. Chapter 170 shall be compiled in a bound format with the complete Sac City Code of Ordinances.

Section 5. OFFICIAL COPY. The official copy shall on file in the office of the City Clerk.

Section 6. PUBLIC COPIES. Additional copies of Chapter 170 shall be kept in the office of the City Clerk and shall be available for public inspection and for sale for cost to the public.

Section 7. ADDITIONAL ORDINANCES. All ordinances regulating subdividing of land, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to Chapter 170.

Section 8. EFFECTIVE DATE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

September 10, 2007
Date: Introduction & First Reading

September 24, 2007
Date: Second Reading

October 8, 2007
Date: Third & Final Reading

October 16, 2007
Date of Publication

/s/ Lonnie Rubendall
Mayor

Attest:
/s/ Sandy Tellinghuisen



City of Sac City Ordinance

ORDINANCE NO. 2007-198

AN ORDINANCE VACATING ELM STREET LYING BETWEEN OUTLOT 54C AND OUTLOT 48B, ALSO KNOWN AS ELM STREET BETWEEN MORNINGSIDE DRIVE AND HIGHWAY 20, SAC CITY, IOWA

Be It Enacted by the City Council of the City of Sac City, Iowa:

SECTION 1. The street lying between Outlot 54C and Outlot 48B (Elm Street between Morningside Drive and Highway 20), Sac City, Iowa is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the street described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

SECTION 4. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and adopted this 8th day of October, 2007

First Consideration: October 8, 2007

Second Consideration: Waived

Third Consideration: Waived

/s/ Lonnie Rubendall
Mayor



Sac County Supervisors

October 9, 2007
Board Room
10:00 AM

The Sac County Board of Supervisors met in regular session with all members present, Rick Hecht, Chairman, presiding. The minutes of the last meeting were approved as submitted.

It was moved by Stock and seconded by Bensley to amend the agenda to consider the Recorder's quarterly report. Ayes all, motion carried.

It was moved by Bensley and seconded by Stock to approve the agenda as amended. Ayes all, motion carried.

Sherrie Wilson, Sac County Zoning Officer, questioned the procedure when no building permit is applied for prior to construction. The Board called Chris Whitaker with Region XII Council of Governments and was directed to Iowa Code, which calls for a fine of up to \$750.00. The group also discussed the fee for appealing the decision of the Board of Adjustment. A fee of \$50.00 plus costs was suggested by Mr. Whitaker. No action was taken.

It was moved by Stock and seconded by Bensley to approve the Recorder's Quarterly Report for the Quarter ending September 30, 2007. Ayes all, motion carried.

The Board was informed that the new generator installation was complete and operational. The old generator is currently sitting in the parking lot. It was moved by Stock and seconded by Bensley to direct the County Auditor to place ads in the local papers that the board would accept sealed bids for the old generator until 10:00 am on Tuesday, November 11, 2006. Ayes all, motion carried.

The Sac County Board of Supervisors called the Calhoun County Board of Supervisors to discuss a drainage petition submitted by property owners in Joint Drainage District 7 & 9.

as secretary for this joint meeting. Ayes all, motion carried.

After some discussion regarding the problems of flooded basements in the Town of Lytton, it was moved by Stock of Sac and seconded by Hoag of Calhoun to acknowledge receipt of the petition and to direct the drainage clerks from both counties to prepare a review of the drainage records and the history of the district to present to the joint boards on Tuesday, October 16, 2007. Calhoun County will call Sac County at 11:15 to discuss the issues. Ayes all, motion carried.

The County Engineer updated the Board on activities of the county road crews and the status of current maintenance and construction projects.

Ed Stoenke, Architect, presented updated specifications and bidding procedures for re-roofing the courthouse. Bids will be opened and reviewed on Tuesday, October 16, 2007.

With there being no further business, on motion, the meeting was adjourned.

Secretary S/ James W. Dowling
Chairman _____
Date _____



STATEMENT OF NONDISCRIMINATION
"In accordance with Federal law and U.S. Department of Agriculture policy, these institutions are prohibited from discriminating on the basis of race, color, national origin, sex, religion, age, disability (Not all prohibited bases apply to all programs.)"

tract price of the material used in forms of Bonds the date of final Payment for and in Drainage "not paid for was maximum set by reserves the right the Code of laws rants issued to by the Board, in the Contractor or maximum set by Progress paym pleted. Final pay acceptance by th ions of Chapter No such final labor, and services ments stated in and Use Tax and authorization left Liquidated da assessed the Co contract period w control of the Co By virtue of si coal produced, w required under lo responsible bidd state or local law. The work sha tember 15, 2008, repairs and the to the offices of Kue Lake, Iowa for ex for the project, Ki non-refundable p This notice giv age District No. 6

Jim Dowling, C
Sac County, Io



Kids World Board
October 10, 2007
5:00 p.m. at Kids

The regular me sory board was c president Tom Mu were present: C Jerry Volkert, Kris Sammie Bruce. A present was Moll on-site, and two g Ketcham move proved, Volkert' carried.

Ketcham made of the August 14 presented, Irwin carried.

The financial re presented and a rvice Volkert move bills payable be a motion. Motion ca

The meeting th to discuss some it was having with a

Statement

Avenue, SW, Was call (202) 720-596 equal opportunity CORN BELT

Hu Karen K. Berts Finance

