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ORDINANCE NO. _____

**ZONING REGULATIONS FOR
THE INCORPORATED CITY OF WEST OKOBOJI, IOWA**

AN ORDINANCE to regulate and restrict the location and use of buildings, devices, and land for commercial, civic, residential, conservation and other purposes; to regulate and restrict the height of buildings and devices, the number and size of buildings and other devices; to establish the size of yards and other open spaces; to establish minimum lot areas; to regulate the density of population and the percentage of lot that may be occupied; to require off-street parking; to regulate location, size and number of signs; to divide the city into districts for such purposes; to provide for the administration and enforcement of its provisions; to confirm the existing Planning and Zoning Commission and Board of Adjustment; to prescribe penalties for the violation of its provisions, all in accordance with Chapter 414, Code of Iowa; and to be known, and cited as "The Zoning Ordinance of West Okoboji, Iowa."

WHEREAS, the City Council of West Okoboji, deems it necessary to preserve and protect area lakes, wetlands, waterways and natural lands; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of the population; to facilitate the adequate provision of transportation, water, sewer, recreational open space, and other public requirements; to conserve the value of property and buildings; to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, and other dangers; to protect the public health and general welfare; to control land use in a way that will minimize the number of conflicting land uses while preserving the separate character of development areas; to recognize the community's economic development potential; and encourage the most appropriate use of land throughout the city, all in accordance with the West Okoboji Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST OKOBOJI, IOWA:

ARTICLE I
Basic Provisions

Article 1: Basic Provisions

- Section 1.1. Short Title
- Section 1.2. Interpretation of Regulations
- Section 1.3. Repeal and Saving Clause
- Section 1.4. Validity and Severability Clause
- Section 1.5. Conflict with Other Laws
- Section 1.6. Jurisdiction
- Section 1.7. Application of Regulations

Section 1.1. SHORT TITLE.

This ordinance shall be known and may be cited and referred to as the "West Okoboji Zoning Ordinance" to the same effect as if the full title was stated.

Section 1.2. INTERPRETATION OF REGULATIONS.

In the interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes greater restrictions than is imposed or required by other provisions of law, rules or regulations or ordinances, the provisions of this ordinance shall govern.

Section 1.3. REPEAL AND SAVINGS CLAUSE.

Any previous editions of the West Okoboji Zoning Ordinance are repealed. The repeal of said ordinance shall not have the effect to release or relinquish any penalty, forfeiture or liability incurred under said ordinance or any part thereof, and such ordinance and all parts thereof shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

Section 1.4. VALIDITY AND SEVERABILITY CLAUSE.

If any court of competent jurisdiction shall declare any part of this ordinance to be invalid, such ruling shall not affect any other provisions of this ordinance not specifically included in said ruling.

If any court of competent jurisdiction shall declare invalid the application of any provision of this ordinance to a particular land, parcel, lot, district, use, or building, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, or building not specifically included in said ruling.

Section 1.5. CONFLICT WITH OTHER LAWS.

- 1) Where any condition imposed by any provision of this ordinance upon the use of any lot, building or device is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this ordinance or by the provision of an ordinance adopted under any other law, or by provision of any statute, the provision which is more restrictive or which imposes a higher standard or requirement shall apply.
- 2) This ordinance is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant or other private agreement, the provision of this ordinance shall govern.

Section 1.6. JURISDICTION.

In accordance with the provisions of Chapter 414, Code of Iowa and amendatory acts thereto, this ordinance is adopted by West Okoboji, governing the zoning of all lands within the incorporated area of the City of West Okoboji, Iowa.

Section 1.7. APPLICATION OF REGULATIONS:

No buildings or devices or parts thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no land shall be used except in conformity with the regulations herein prescribed for the district in which such building or land may be situated and until a zoning compliance permit has been issued by the Zoning Administrator as required herein.

- 1) The principal building on a lot shall have access onto a public street.
- 2) No yard, or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or open space for any other building, nor shall the lot area per building be reduced in any manner except in conformity with the area regulations herein established for the district in which such building is located.
- 3) The depths of front yards or rear yards and width of side yards shall be measured from the lot line to the nearest point of the adjacent building under consideration.
- 4) No lot shall hereafter be so reduced in area that any required yard, court or other open space will be smaller than is prescribed in this ordinance for the

district in which it is located.

- 5) Any portion of a building that is covered by a roof shall be considered as a part of the building.

These regulations shall be required in addition to any applicable state and city health and building codes.

ARTICLE II

Definitions/Use Classifications

Article 2: Definitions/Use Classifications

Section 2.1. Definitions

Section 2.2. Use Classifications

Section 2.1. DEFINITIONS

For the purpose of interpreting this ordinance, certain words, terms and expressions are herein defined. Words used in the present tense include the future; the singular number includes the plural and the plural includes the singular; the word “may” is

discretionary and the word “shall” is always mandatory. The word “person” includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual. The use of terms relating to the male gender shall also apply to the female gender.

1. **ACCESSORY BUILDING:** Any building subordinate to the main building or other buildings on the lot, not attached thereto and used for purposes incidental to those of the main building.
2. **ADDITION:** Any construction that increases the site coverage, height, length, width, or gross floor area of a building.
3. **ALLEY:** A public or private thoroughfare, which affords only a secondary means of access to abutting properties.
4. **ALTERED (ALTERATION):** Any change in the exterior dimension or volume of a building. Any change in the supporting members of a building, such as bearing walls, partitions, columns, beams or girders; as well as any enlargement or diminution of the size or height of a building, or the moving of a building to another location shall be construed to be a structural alteration.
5. **APARTMENT:** A single room or set of rooms occupied as a dwelling unit which is part of a multi-unit building.
6. **ATTACHED:** Having one or more walls common with a principal building.
7. **AWNING:** A device made of cloth, metal, or other material affixed to and projecting from a building in such a manner that the device is either fixed or so erected as to allow it to be raised or retracted and return to a flat position against the building when not in use.
8. **BILLBOARD:** A billboard is a device that is erected, maintained and/or used for public display of posters, painted signs, or wall signs, whether the device is placed on the wall or freestanding. Billboards include pictures or other pictorial reading material which advertises a business or attraction which is not carried on, manufactured, grown, or sold on the premises where the said signs or billboards are located.
9. **BLOCK:** That property abutting on one side of a street, and lying within the two

- nearest intercepting or intersecting streets or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way, golf course, park or other definite boundary.
10. **BUILDABLE AREA:** The portion of a lot or parcel remaining after required yard setbacks have been provided.
 11. **BUILDING:** A roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels. When separated by division walls from the ground up without openings, each portion of such building shall be deemed a separate building. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such openings, with or without a roof, shall not be deemed to make them one building.
 12. **BUILDING, ACCESSORY:** A building which is subordinate to the main building on the lot, not attached thereto and used for purposes customarily incidental to those of the main building. Private detached garages are considered accessory buildings.
 13. **BUILDING ALTERATION:** Any replacement or changes in the type of construction or in the supporting members of a building beyond ordinary repairs and maintenance; such as bearing walls or partitions, columns, beams or girders.
 14. **BUILDING, DETACHED:** A building having no structural connection with another building.
 15. **BUILDING, PRINCIPAL:** The principal building is a non-accessory building in which the principal use of the lot on which it is located is conducted.
 16. **BUILDING, HEIGHT OF:** The vertical distance measured in a straight line from the middle of the building wall facing the street to the highest point of the building, excluding chimneys. Where a dwelling is situated on a lot with more than one grade or level, the measurements shall be taken from the average level of the surface of the ground prior to landscaping, adjacent to the exterior walls of a building. In Lakeshore Residential district, the building height shall be measured from the level of the adjoining ground at the wall facing the lake, prior to landscaping.
 17. **BUILDING LINE:** The setback distance from the front property line, rear lot line, and side lot lines to the nearest portion of a building as provided in this

code.

18. **BUILDING WALL:** The wall of the principal building forming a part of the main building. The foundation walls of unenclosed porches or piazzas, steps, walks and/or retaining wall(s) shall not be considered as building walls under the provisions of this code.
19. **BUILDING WIDTH:** The shortest dimension between two parallel walls.
20. **CARPORT:** Space for the housing or storage of vehicles enclosed on not more than two sides by building walls and a roof.
21. **CITY:** City of West Okoboji, Iowa
22. **CLUB OR LODGE (PRIVATE):** An association of persons for the promotion of some non-profit objective, who are bona fide members paying annual dues, which owns, hires or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food to members and their guests on such premises provided adequate dining room space and kitchen facilities are available and are operated in compliance with state and municipal laws.
23. **COMMERCIAL USE:** The engaging in the purchase, sale, or exchange of goods and/or services. The definition of commercial use also refers to a business.
24. **COMMISSION (or PLANNING COMMISSION):** The West Okoboji Planning and Zoning Commission.
25. **COMPREHENSIVE PLAN (MASTER PLAN):** A compilation of policy statements, goals, standards, maps, and pertinent data relative to the past, present and future development trends of West Okoboji, including but not limited to its population, housing, economics, social patterns, land use, transportation, utilities, and public facilities as prepared by the Planning and Zoning Commission for the City Council.
26. **COTTAGE (SUMMER) OR CABIN:** A single-family building used exclusively for vacation or vacationer's seasonal occupancy.
27. **COUNCIL (CITY COUNCIL):** The legally elected City Council of West Okoboji, Iowa.

28. **CRITICAL AREA:** A natural feature in need of preservation from encroaching land uses. Such areas could but would not have to include prime agricultural soils, areas of excessive slope, natural marshes or wetlands, woodlands and floodplains and vegetative covered buffers.
29. **DAY NURSERY OR NURSERY SCHOOL:** Any private agency, institution, establishment or place which provides, for compensation, supplemental parental care and or educational work, other than overnight lodging, for seven (7) or more unrelated children of preschool age.
30. **DECK:** An unwallled (railing only) and unroofed device adjoined to the principal building. Decks higher than twelve inches above the grade of the ground shall be subject to required setbacks.
31. **DETACHED:** Fully separated from any other building.
32. **DISTRICT:** Any part or parts of West Okoboji, wherein the regulations of this ordinance are uniform. A geographic area within the city within which certain zoning or development regulations apply.
33. **DRIVEWAY:** An area providing vehicular access between a street and an off-street parking area. This area must be paved with gravel, asphalt, concrete or other approved materials.
34. **DUPLEX:** A building containing two single-family dwellings totally separated from each other by an unpierced wall extending from ground to roof or one upon the top of the other.
See DWELLING, TWO FAMILY.
35. **DWELLING:** A building or portion thereof which is designed or used exclusively for human habitation, and is built on a permanent foundation.
36. **DWELLING, SINGLE FAMILY:** A detached building that is arranged, and intended to be occupied as the residence of a single family unit, and having no party wall in common with an adjacent house or houses and is surrounded by open space or yards.
37. **DWELLING, TWO FAMILY:** A detached building that is designed or intended to be occupied as the residences of two (2) families or family units

- living independently of each other. Two family units may be placed side by side or one upon the top of the other. *See* DUPLEX.
38. DWELLING, MULTI-FAMILY: An apartment house or building used or intended to be used or occupied as the residence of three (3) or more family units living independently of each other, including units that are located one over the other.
39. EASEMENT: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.
40. ENCROACHMENT: Any obstruction or illegal or unauthorized intrusion into a delineated floodway, right-of-way, or on adjacent land.
41. ESSENTIAL SERVICES: The construction, alteration or maintenance by governmental entities or utility providers of gas, telephone, television, electrical, or water transmission or distribution systems, including poles, wire, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants, and other similar equipment and accessories which are necessary for the furnishing of adequate service by such public utilities or governments for public health, safety or welfare, but not including buildings.
42. FAÇADE: The exterior walls of a building exposed to public view.
43. FAMILY: An individual or group of individuals living and cooking together, but a family unit shall not include more than three (3) individuals not related by blood, marriage, adoption, or foster care agreement.
44. FARM: An area of ten (10) acres or more which is used for the growing of the usual farm products such as vegetables, fruits, trees and grain, and their storage on the area. The term "farming" includes the operating of such an area for one (1) or more of the above uses including the necessary accessory uses for treating or storing produce; provided, however, that the operation of accessory uses shall be secondary to the normal farming activities and provided further that farming does not include the commercial feeding of swine or other animals.
45. FENCE: Any manufactured barrier of any material or combination of materials erected or located so as to enclose or screen areas of land.

46. **FLOOR AREA:** The square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. Floor area shall not include porches, garages, or space that is not finished living space or used for storage or other incidental uses.
47. **FRONTAGE:** All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of a street, or if the street is dead-ended, then all of the property abutting one side between an intersecting street and the dead end of the street. The front of a double fronted lot shall face the street upon which the lot will be addressed.
48. **FOUNDATION:** The lowest and supporting part or member of a wall, including the base course and footing courses.
49. **FOUNDATION, PERMANENT:** A foundation which is constructed below the average normal frost level in the ground. A permanent foundation is a continuous solid built foundation typically constructed of poured concrete, concrete block, brick, stone or other solid permanent material around the perimeter of the building. The use of pillars or pilings alone does not constitute a permanent foundation, but may be considered part of a foundation.
50. **GARAGE, COMMERCIAL:** A building or portion thereof, other than a private or a storage garage, designed, intended or used for the equipping, servicing, selling, hiring, storing, care or repair of motor vehicles.
51. **GARAGE:** An accessory building or portion of a building used only for the parking of or storage of one or more motor vehicles, but in which no business services or industry connected with motor vehicles is carried on other than leasing of space.
52. **GRADE:** The average level of the surface of the ground prior to landscaping, adjacent to the exterior walls of a building.
53. **HEDGE:** A linear growth of organic vegetation planted continuously for the purpose of screening or enclosing an area.
54. **HIGH WATER MARK:** As used in this ordinance, high water mark means the line located as such by the Iowa Department of Natural Resources.
55. **HOME OCCUPATION:** A business or occupation use conducted in a

residential zone, which use is incidental and secondary to the permitted use and which complies with the provisions of this ordinance.

56. HOUSING UNIT: *See* DWELLING

57. INCIDENTAL: Subordinate and minor in significance with the primary use.

58. INSTITUTION: A building or premises occupied and intended for public use.

59. JUNK (OR SALVAGE): Any scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste appliances, furniture, equipment, demolition waste or structural steel waste. This definition shall also include junked, dismantled, or wrecked motor vehicles, or parts of motor vehicles, and iron, steel or other old or scrap ferrous or nonferrous material. Junk shall also mean waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.

60. JUNK VEHICLE OR JUNK MACHINERY: Shall mean any vehicle or portion thereof not in running condition and/or not licensed for the current year as provided by law and not legally placed in storage with the Treasurer of Dickinson County, or any other non-operating vehicle or machinery located in open view to the public for a period of more than 30 days which, because of its defective or obsolete condition, or rotted, rusted or loose parts, or in any other way constitutes a threat to the public health, welfare, or safety.

61. JUNKYARD (or SCRAP YARD): Any open area of any lot or parcel where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, kept, stored or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles, or other vehicles, or parts thereof. A solid waste transfer station or municipal recycling bin area is not considered a junkyard for purposes of this ordinance.

62. KENNEL, PUBLIC: A lot or building in which three (3) or more dogs or cats, at least four (4) months of age are kept for board, breeding or sale. (*See Also: Use Classifications*)

63. KEYHOLING: The use of a waterfront property, (whether riparian or not) as a common open space giving waterfront access to a larger development

located away from the waterfront.

64. **LAKESHORE BANK:** The lakeshore bank of West Okoboji Lake for the purpose of this ordinance shall include any real property within a lake residential district which is within an area between the front lot line and a line 25 feet inland from the front lot line measured along each side lot line.
65. **LAND USE:** A description of how land is occupied or utilized.
66. **LANDSCAPING:** The comprehensive array of activities in which rock or soil is cut into, dug, quarried, uncovered, displaced or relocated. This includes removal of viable plant life, rock or soil deposited by persons in the past or by natural means, and replaced by any manner of terracing by rock, timbers, retaining walls or other conventional means. Landscaping shall not mean excavation for a foundation or otherwise preparing the site for the construction or erection of a dwelling or other building.
67. **LOADING SPACE:** An area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.
68. **LOT:** A parcel of land as established by plat, subdivision, or as otherwise permitted by law, under one ownership of which may be owned, used, developed, or built upon. A Lot may consist of any one of the following:
- a. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
 - b. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residential lot or parcel be created which does not meet the requirements of this ordinance;
 - c. A single lot of record.
69. **LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines, but excluding any portion of a flag (panhandle) lot providing access to a street and excluding any public or private easement or right of way providing access to another lot.
70. **LOT, CORNER:** A lot fronting on two intersecting streets.

71. LOT, INTERIOR: A lot other than a corner lot having frontage on one street or public thoroughfare.
72. LOT, THROUGH: An interior lot with frontage on two parallel streets; or a double frontage lot.
73. LOT COVERAGE (or BUILDING COVERAGE): The area of a lot covered by buildings.
74. LOT DEPTH: The mean horizontal distance from the front lot line to the rear lot line. In the case of a lot of irregular shape, the mean depth shall be the lot depth.
75. LOT OF RECORD: A lot which existed at the time of adoption of the zoning ordinance, and shown or described on a plat or deed in the records of the County Recorder of Dickinson County, Iowa
76. LOT LINES: The lot lines of a tract, lot, or parcel are defined and determined as follows:
- A. Front Lot Line: In the case of an interior lot abutting on only one street, the "front lot line" is the street line of such street. In the case of any other lot, the front lot line will be such street line as is located in front of the main entrance, as addressed, to the principal building. Notwithstanding the foregoing in the case of a lot which abuts upon a lake (riparian or otherwise), harbor, or canal, the front lot line of such lot is the line of such lot that abuts upon the lake (riparian or otherwise), harbor or canal.
 - B. Through Lot Line: The Zoning Administrator shall decide which of the property lines fronting a street shall be determined as the front lot line.
 - C. Rear Lot Line: The boundary line that is opposite and most distant from the front lot line.
 - D. Side Lot Line: Any boundary line not a front or rear lot line.
 - E. Lakeshore Lot Line: On any tract, lot or parcel abutting a lake (riparian or otherwise), the property line abutting said lake shall be known as the lakeshore lot line. Each lakeshore lot line shall be considered as the front lot line and shall have the requirements of such.

77. **LOT WIDTH:** The distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.
78. **MANUFACTURED HOUSING:** A factory-built building which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, Federal Manufactured Home Construction and Safety Standards, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body and frame any wheels or axles. For the purpose of these regulations, a manufactured home shall have been built after June 15, 1976 and shall bear a seal certifying that it is in compliance with the Federal Manufactured Housing Construction Act of 1974. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purposes of these regulations, manufactured homes shall be considered the same as any site built single-family detached dwelling.
79. **MANUFACTURED HOUSING CONVERTED TO REAL ESTATE:** An unencumbered manufactured home which has been attached to a permanent foundation on real estate owned by the manufactured home owner, which has had any vehicular or other transportation frame destroyed, rendering it impossible to reconvert it to a mobile manufactured home and which has been inspected by the assessor, the title, registration, and license collected from the owner and the property entered on the tax rolls of the County Assessor's Office.
80. **MOBILE HOME:** As defined by Section 435.1 (1) of the Code of Iowa. 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 shall also include any such vehicle with motive power not registered as a motor vehicle. A mobile home shall not be considered a dwelling unless converted to real property as described in Section 435.26 of the Code of Iowa. *See Also:* TRAVEL TRAILER.
81. **MOBILE HOME PARK:** Any site, lot, field or tract of land under single ownership upon which two or more occupied mobile homes are placed, either free of charge or for revenue purposes, for nontransient purposes.

82. **MODULAR HOME:** A home as defined in Section 435.1(3) of the Code of Iowa. Factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the state, modular homes are subject to the same standards as site-built homes.
83. **NONCONFORMING USE:** A lawful use of any land, building, or sign that does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.
84. **NONCONFORMING BUILDING:** A building in size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to the zoning ordinance codified in this title, but which fails to conform to the present requirements of the zoning district.
85. **OCCUPANCY (or OCCUPIED):** The residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building.
86. **OFFICIAL (ZONING) MAP:** An ordinance in map form adopted by the governing body that conclusively shows the location and width of proposed streets, public facilities, public areas, and drainage right-of-ways.
87. **PARKING AREA:** An area on a lot or within a building, or both, including one or more parking spaces together with driveways, aisles, turning and maneuvering areas, clearances, and similar features, and meeting the requirements established by this ordinance. Parking areas shall include parking lots, garages, carports, and parking facilities.
88. **PARKING LOT:** An off-street, ground level open area, usually improved for the temporary storage of motor vehicles. *See* PARKING AREA.
89. **PARKING SPACE:** A surfaced area, enclosed or unenclosed, having an area of not less than one hundred eighty (180) square feet plus necessary maneuvering space for the parking of a motor vehicle, and connected with a street or alley by a driveway which affords satisfactory ingress and egress for automobiles. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public parking space. Driveways for one and two family buildings may be considered as parking space. When four (4) or more automobile parking spaces are to be grouped as a common facility,

meeting a requirement of this definition, the individual car spaces plus the area necessary for driveways shall total not less than 315 square feet per car space.

90. PATIO: An unenclosed, roofless (device) adjoined to the principal building and elevated less than one foot above the ground.
91. PERSONAL UTILITY STORAGE: Storage primarily for personal effects and household goods within enclosed storage areas having individual access, and including use as personal workshops and hobby shops, but excluding manufacturing or commercial activity
See also: Convenience Storage (Section 2.2: Use Classifications)
92. PLANNED UNIT DEVELOPMENT (PUD): An area of minimum contiguous size, as specified by ordinance, developed according to plan as a single entity and containing one or more buildings and/or land uses with appurtenant or adjacent common areas.
93. PORCH, OPEN: A roofed (device), open on two (2) or more sides, projecting from the front, side or rear wall of the building.
94. PRINCIPAL PERMITTED USE: *See USE: 1. Principal Permitted Use*
95. PROHIBITED USE: Any use that is not permitted in a zoning district.
96. PROJECTING OVERHANG: That part of a roof, including accessories or devices located on or attached to the roof, exclusive of gutters, which extends beyond the façade of a lower wall.
97. PROPERTY: A lot, parcel, or tract of land together with buildings and devices located thereon.
98. PUBLIC ACCESS: An open or unoccupied public space which is permanently reserved for the purpose of access to abutting property.
99. PUBLIC NOTICE: A publication of the time and place of any public hearing (for purposes of zoning) not less than seven (7) days or not more than twenty (20) days prior to the date of hearing in one newspaper of general circulation in the city as provided in the Code of Iowa.

100. **RECREATIONAL VEHICLE:** A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term recreational vehicle shall include, but shall not be limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, and boats and boat trailers.
101. **REMODELED:** *See* ALTERED (ALTERATION).
102. **RESORT:** A dwelling or group of dwellings such as hotel, motel, cottages (summer), cabins, or non-resident condominium or timeshare properties which is frequented for fee by the vacationing public. A resort may also, but not necessarily, provide accommodations, leisure accommodation activity facilities, and vacation amenities such as swimming beaches, marinas, golf courses, and other active and passive recreation pastimes. A resort does not include commercial recreation or amusement parks.
103. **RESIDENTIAL PURPOSES:** The intent to use and/or the use of a room or group of rooms for the sleeping, living and housekeeping activities for the same person or the same group of persons on a permanent or semi-permanent basis of an intended tenure of one month or more.
104. **RESIDENTIAL CONVENIENCE SERVICE:** A use or activity of a commercial nature conducted as an accessory use to multiple family residential or mobile home park residential use, and intended solely for the convenience of residents thereof.
105. **RETAINING WALL:** A device constructed and erected between lands of different elevations to protect buildings and/or to prevent erosion.
106. **ROAD OR STREET LINE:** The dividing line between a lot, tract or parcel of land and a contiguous road, street or alley.
107. **ROADSIDE STAND:** A temporary building, so designed and constructed so that the building is easily portable or can be readily moved, and which is adjacent to a road and used for the sale of products.
108. **ROOMS HABITABLE:** A room that provides the required area and window area to provide necessary light and ventilation for occupants, and shall be clean and sanitary at all times.

109. **SETBACK:** The distance between the building and any lot line.
110. **SETBACK LINE:** A line within a lot parallel to and measured from a corresponding lot line, forming the boundary of a required yard and governing the placement of buildings and uses on the lot.
111. **SIGN:** *See* Article 17.2, Sign Regulations.
112. **SIGN AREA:** *See* Article 17.2, Sign Regulations.
113. **SITE PLAN:** A plan, prepared to scale, showing accurately and with complete dimensioning, all of the buildings, devices and uses, and the principal site development features including parking, access, and landscaping and screening, proposed for a specific parcel of land.
114. **SPOT ZONING:** Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the comprehensive plan.
115. **SPRAWL:** Uncontrolled growth, usually of a low-density nature, in previously rural areas and some distance from existing development and infrastructure.
116. **STREET:** A public or private road that affords a primary means of access to abutting property.
117. **STREET, FRONT:** The street or public place upon which a lot abuts. If a lot abuts upon more than one street or public place it shall mean the street in front of the principal or primary entrance to the house
118. **STREET, PUBLIC:** A thoroughfare, not an alley, at least thirty (30) feet in surface width
119. **STREET LINE:** The dividing line between a lot and a public street, alley or place.
120. **SUBDIVISION:** Shall mean the division of any parcel of land into three (3) or more lots or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land

subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

121. **SUBSTANDARD LOT:** A lot of record that does not comply with currently applicable minimum area, width, or depth requirements for the district in which it is located, but which complied with applicable requirements when it was placed on record.
122. **TEMPORARY BUILDING:** A building without any foundation or footings and that is removed when the designated time period, activity, or use has ceased.
123. **TRAVEL TRAILER:** A vehicle so designed and constructed in such a manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, occupation, or trade (or use as a selling or advertising device), and so designed that it is or may be mounted on wheels and used as a conveyance on highways or city streets, propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks. Such a vehicle is used for vacation or recreation purposes and not used as a place of human habitation for more than fourteen (14) consecutive days in any three (3) month period, or it shall be classed as a mobile home.
124. **USE:** The conduct of an activity or the performance of a function or operation, on a site or in a building or facility.
 - a. Principal Use: Any use which is the primary function of a lot or building.
 - b. Permitted Use: Any use permitted within a particular zoning district as a matter of right when conducted in accord with the regulations established by this ordinance; of which fulfills the primary function of a household, establishment, institution, or other entity.
 - c. Special Exception Use: A use listed allowable solely on a discretionary and conditional basis subject to a Special Exception Use Permit, and to all other regulations established by this ordinance.

- d. Accessory Use: A use located on the same lot and of a nature customarily incidental and subordinate to the principal use or building.
125. **VACANCY**: Any unoccupied land or building that is available and suitable for occupancy.
126. **VALUATION**: The estimated cost to replace a building; based on current cost of replacement.
127. **VARIANCE**: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions and peculiarity of the property and not the results of actions of the applicant, a literal enforcement of the zoning regulations would result in an undue hardship. A variance is authorized only for height, area, and size of building or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in adjoining zoning district.
128. **WATER SYSTEM, PUBLIC**: A public water distribution system and necessary water treatment.
129. **YARD**: A required open space on a lot adjoining a lot line, containing only landscaping and such uses and facilities as may be permitted by this ordinance. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for purpose determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used. A yard shall be measured exclusive of any public right-of-way.
- a. Front Yard: A required yard extending the full width of the lot and measured between the front lot line and the building.
- b. Rear Yard: A required yard extending across the full width of a lot and measured between the rear lot line and the building or any projections other than uncovered steps.
- c. Side Yard: A required yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

- 130. ZONING: The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.
- 131. ZONING ADMINISTRATOR: The individual appointed by the City Council to administer and enforce compliance with the zoning ordinance and issue zoning permits.
- 132. ZONING COMPLIANCE PERMIT: A document signed by a zoning officer, as required in this ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a building; acknowledging the proposed use complies with the provisions of the zoning ordinance or authorized variance.

Section 2.2. USE CLASSIFICATIONS:

The purpose of the Use Classifications shall be to provide a consistent set of terms encompassing and defining uses either permitted or by special exception in the various districts, and to provide a procedure for determination of the applicable use classification of any activity not clearly within any defined use classification.

In event of any question as to the appropriate use classification of any existing or proposed use or activity, the Zoning Administrator shall have the authority to determine the appropriate classification, subject to the right of appeal to the Board of Adjustment. In making such determinations, the Zoning Administrator shall consider the characteristics of the particular use in question, and shall consider any

functional, product, service, or physical facility requirements common with or similar to uses cited as examples of use classifications.

1) GENERAL DESCRIPTION OF RESIDENTIAL USE TYPES:

Residential use types include the occupancy of living accommodations on a wholly or primarily nontransient basis for multiple consecutive periods of not less than 31 days or one calendar month, but excludes institutional living arrangements involving those providing 24-hour skilled nursing, medical care, and those providing forced residence such as prisons.

- a. *Single Family Residential*: The use of a site for only one dwelling.
- b. *Duplex (two-family) Residential*: The use of a site for two dwellings on a single lot or parcel.
- c. *Townhouse Residential*: The use of a site for three (3) or more townhouse dwellings constructed with common or adjacent walls and each located on a separate ground parcel within the total development site.
- d. *Condominium Residential*: The use of a site for three (3) or more dwellings intended for separate ownership, together with common area serving all dwellings.
- e. *Multiple Family Residential*: The use of a site for three (3) or more dwellings, within one or more buildings.
- f. *Mobile Home Residential*: The residential occupancy of mobile homes by families on a weekly or longer basis. Uses only include mobile home parks or mobile home subdivisions.
- g. *Group Residential*: The residential occupancy of living accommodations by groups of more than five (5) persons not defined as a family unit on a weekly or longer basis. Typical uses include fraternity or sorority houses, dormitories, residence halls, group homes, shelters or boarding houses.
- h. *Nursing or Convalescent Home*: A building or facility having accommodations and where care is provided for invalid, infirmed, aged, convalescent, or physically disabled or injured persons, in which three (3) or more persons not defined as a family are received, kept and provided with food and shelter for compensation. This shall not include insane, mental cases, inebriate, or contagious cases.

- i. *Relocated Residential*: An existing, previously built residential building, intended for occupancy, which has been moved into the community from a location outside of West Okoboji, or an existing residential building which has been relocated from another location in the City of West Okoboji to a new residential site. A relocated residential building does not include the moving of a new manufactured, modular or mobile home into West Okoboji.
- j. *Kennel, Private*: Any building or land designed or arranged for the care of, not to exceed two, dogs and/or cats over the age of 4 months belonging to the owner of the principal building, kept for purposes of show, hunting, or pets.

2) **GENERAL DESCRIPTION OF COMMERCIAL USE TYPES:**

Commercial use types include the sale, rental, service, and distribution of goods; and the provision of services other than those classified as industrial or civic uses.

- a. *Administrative and Business Offices*: Office of private firms or organizations, which are primarily used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telemarketing, photocopy and reproduction, and offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.
- b. *Automotive and Equipment Services*: Establishments or places of business primarily engaged in automotive-related or equipment sales or services. The following are automotive and equipment use types:
 - i. *Automotive Washing*: Washing and cleaning of automobiles and related light equipment. Typical uses include auto laundries or car washes.

- ii. *Service Station*: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles.
- iii. *Commercial Off-Street Parking*: Parking of motor vehicles on a temporary basis within privately owned off-street parking facility, other than accessory to a principal use. Typical uses include commercial parking lots or parking garages.
- iv. *Automotive Rentals*: Rental of automobiles, noncommercial trucks, trailers, and recreational vehicles, including incidental parking and servicing of vehicles available for rent or lease. Typical uses include auto rental agencies, trailer rental agencies, and taxicab parking and dispatching.
- v. *Automotive Sales*: Sales or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships, motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.
- vi. *Equipment Sales*: Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
- vii. *Automotive Repair Services*: Repair of automobiles, noncommercial truck, motorcycles, motor homes, recreational vehicles or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include new and used car dealerships, motorcycle dealerships, and boat, trailer, and recreational vehicle dealerships.
- viii. *Equipment Repair Services*: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling or salvage.
- ix. *Vehicle Storage*: Long term storage of operating or non-operating vehicles. Typical uses include storage of private parking tow-a-ways or impound yards, but exclude dismantling or salvage.
- c. *Building Maintenance Services*: Establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or

window cleaning services.

- d. *Business Support Services*: Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but exclude automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.
- e. *Business or Trade School*: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.
- f. *Cocktail Lounge*: A use engaged in the preparation and retail sales of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses.
- g. *Commercial Recreation*: Establishments or places primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types:
 - i. *Indoor Sports and Recreation*: Uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, arcades.
 - ii. *Outdoor Sports and Recreation*: Uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, and racquetball courts.
 - iii. *Indoor Entertainment*: Predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls, and dance halls.
 - iv. *Outdoor Entertainment*: Predominantly spectator uses conducted in open facilities. Typical uses include sports arenas, racing facilities, amusement parks.
- h. *Communications Services*: Establishments primarily engaged in the provision of broadcasting and information relay services accomplished through the use of electronic and telephonic mechanisms but exclude those classified as Major Utility Facilities. Typical uses include television studios and telecommunication service centers.

- i. *Construction Sales and Services*: Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale, from the premises, of materials used in construction of building or other facilities other than retail sale of paint, fixtures and hardware; but excludes those classified as one of the Automotive and Equipment Services use types. Typical uses include building materials stores, tool and equipment rental or sales, or building contractors.
- j. *Consumer Repair Services*: Establishments primarily engaged in the provision of repair services to individuals and households, but excluding automotive and equipment use types. Typical uses include appliance, watch or jewelry, or musical instrument repair shops.
- k. *Convenience Storage*: Storage services primarily for personal effects and household goods within enclosed storage areas having individual access, but excluding use as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.
- l. *Convenience Store*: An establishment engaged in the retail sale of food and household products, including gasoline. However, the repair, storage or servicing of vehicles shall not be permitted.
- m. *Drive-in Service*: A feature or characteristic of a use involving sale of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services such as mechanical automobile washing.
- n. *Financial Services*: Establishments primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, loan and lending activities, and similar services.
- o. *Food Sales*: Establishment or places of business primarily engaged in the retail sale of food or household products for home consumption. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.
- p. *Funeral Services*: Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.
- q. *General Retail Sales*: Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified

more specifically in this Section inclusive. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards, and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys and handcrafted items; apparel, jewelry, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wallpaper, carpeting and floor covering, interior decorating services, office supplies; bicycles; and automotive parts and accessories (excluding service and installation)

- r. *Kennel, public*: A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation. Typical uses include boarding kennels, pet motels, or dog training centers.
- s. *Laundry Sales*: Establishments primarily engaged in the provision of laundering, dry cleaning, or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.
- t. *Liquor Sales*: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales for off-site consumption.
- u. *Medical Offices*: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts licensed for practice by the State of Iowa.
- v. *Personal Improvement Services*: Establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of nonprofessional nature. Typical uses include photography studios, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
- w. *Personal Services*: Establishments or businesses engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty & barbershops, seamstress, tailor, shoe repair shops, and self-service laundry or apparel cleaning services.

- x. *Pet Services*: Retail sales and grooming of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons, or pet grooming shops.
- y. *Professional Office*: Any building or facility or part thereof used by one or more persons engaged in the practice of law, accounting, architecture, medicine, engineering, planning, or other occupation customarily considered as a profession.
- z. *Research Services*: Establishments primarily engaged in research of an industrial or scientific nature but excluding products testing. Typical uses include electronics research laboratories, space research and development firms, or pharmaceutical research labs.
- aa. *Restaurant (Convenience)*: A use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages, for on premise consumption. Typical uses include soda fountains, ice cream parlors, sandwich shops, cafes, and coffee shops.
- bb. *Restaurant (General)*: A use engaged in the preparation and retail sales of food and beverages, including sale of alcoholic beverages when conducted as an accessory or secondary feature and producing less than fifty percent (50%) of the gross income. A general restaurant may include live entertainment. Typical uses include restaurants, coffee shops, dinner houses, and similar establishments with incidental alcoholic beverage service.
- cc. *Retail Specialty Shop*: Commercial establishments offering sales of goods which fall into a specific category, and services related to those goods. Examples would include, but not limited to, bicycle shops, camera shops, antique shops, bookstores, shore stores, etc.
- dd. *Scrap and Salvage Services*: Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse. Typical uses include automotive wrecking yards, junkyards or salvage yards.
- ee. *Veterinary Services*: Veterinary services for animals. Typical uses include pet clinics, dog and cat hospitals, and veterinary hospitals.
- ff. *Visitor Habitation*: Establishments primarily engaged in the provision of lodging services on a less-than-monthly basis with or without incidental food, drink and other sales and services intended for the convenience of guests. The following are visitor habitation use types:

- i. *Campground*: Campground facilities providing seasonal camping or parking areas for two (2) or more recreational vehicles, camping trailers or tent sites and incidental services for travelers in recreational vehicles or tents. Typical uses include recreational vehicle parks or camps, but does not include year long recreational vehicle storage or parking.
- ii. *Hotel/Motel*: A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and in which there are six (6) or more sleeping rooms or suites of rooms with no provisions made for cooking in any individual room or suite of rooms, and entrance is through a common lobby or office.
- iii. *Bed & Breakfast Inn*: A private, owner-occupied housing unit which provides up to five (5) sleeping rooms for rent to the general public. The only meal to be provided to guests is breakfast, and it shall only be served to those taking lodging in the facility. Individual units designed as rentals shall contain no cooking facilities.
- iv. *Trailer Camp or Tourist Ground*: Any area providing spaces for two (2) or more recreational vehicles or tent sites with necessary incidental services, sanitation and recreation facilities to serve the traveling public.
- v. *Cottage or Resort Enterprise*: Any group of buildings containing guest rooms offered for rent primarily for temporary occupancy. Such buildings may include quarters for the boarding of employees.
- vi. *Commercial Cottage Dwelling*: A single family dwelling unit rented to the general public for periods of time not exceeding 31 days or one calendar month.
- vii. *Time-share*: The ownership of any single family dwelling by three or more unrelated persons, agents, corporations or other interested parties.

3) GENERAL DESCRIPTION OF INDUSTRIAL USE TYPES:

Industrial use types include the on-site extraction or production of goods by methods not agricultural, and storage and distribution of products.

- a. *Basic Industry:* A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in storage of, or manufacturing processes utilizing flammable or explosive materials, or storage or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions.
- b. *Custom Manufacturing:* Establishments primarily engaged in the on-site production of goods by hand manufacturing which involves only the use of hand tool or domestic mechanical equipment and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle making shops or custom jewelry.
- c. *Light Manufacturing:* A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
- d. *Resource Extraction:* A use involving the on-site extraction of surface mineral products or natural resources. Typical extractive uses are quarries,

borrow pits, sand and gravel operations, oil and gas extraction, and mining operations.

- a. *Scrap and Salvage Services*: Places of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junkyards or paper salvage yards.
- b. *Stockyards*: Stockyard services involving the temporary keeping of livestock for slaughter, market or shipping. Typical uses include stockyards or animal sales or auction yards.
- g. *Warehousing and Distribution*: Establishments or places of business primarily engaged in wholesaling, storage, distribution and handling of materials and equipment other than live animals and plants. The following are warehousing use types:
 - i. *Limited Warehousing and Distribution*: Wholesaling, storage and warehousing services within enclosed buildings. Typical uses include wholesale distributors, storage warehouses or moving and storage firms.
 - ii. *General Warehousing and Distribution*: Open-air storage, distribution and handling of materials and equipment. Typical uses include grain elevators or open storage yards.

4) GENERAL DESCRIPTION OF CIVIC USE TYPES:

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with public or social importance.

- a. *Aviation Facilities*: Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft.

- b. *Cemetery*: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbiums, crematoriums, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
- c. *Club or Lodge*: A use providing meeting, recreational, or social facilities for private or non-profit association, primarily for use by members and guests.
- d. *College and University Facilities*: An educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree.
- e. *Community Recreation*: Active or passive recreational facilities or areas designated for use by residents of the community, including both indoor and outdoor facilities. Typical uses include snow skiing or sledding areas, shooting range, hiking or equestrian trails, outdoor physical fitness course, frisbee golf course, etc.
- f. *Convalescent Services*: A use providing bed care and in-patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services, and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.
- g. *Cultural Services*: A library, museum, art gallery, or similar nonprofit use affording display, preservation and exhibition of objects of permanent interest in the arts and sciences.
- h. *Day Care Services (Limited)*: A facility, or use of a dwelling unit or portions thereof, for daytime care of six (6) or fewer individuals.
- i. *Day Care Center*: A facility, or use of a building or portion thereof, for daytime care of seven (7) or more individuals. This term may include nursery schools, pre-schools, day care centers for children or adults, and similar uses.
- j. *Detention Facilities*: A publicly operated use providing housing and care for individuals confined by law.
- k. *Game Refuge*: A use of land providing natural habitat for animal and plant species. Typical uses include prairies, marshes, woodlands, and wetlands.
- l. *Government/Public Services*: Offices, administrative, clerical or public services that deal directly with the citizen. Typical uses include federal,

state, county, and city offices.

- m. *Guidance Services*: A use providing counseling, guidance, recuperative, vocational, or similar services to persons requiring rehabilitation assistance as a result of mental illness alcoholism, detention, drug addiction, or similar condition on a residential or daytime basis.
- n. *Hospital Services*: A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily for inpatient and emergency treatment, diagnostic services, training, research, administration, and services to patients, employees, or visitors.
- o. *Local Utility Services*: Services which are necessary to support principal development and involve only minor buildings such as lines and poles, transformers and control devices.
- p. *Maintenance and Service Facilities*: A facility supporting maintenance, repair, vehicular or equipment servicing, materials storage, and similar activities, including equipment service centers and similar uses having characteristics of commercial services or industrial activities.
- q. *Major Utility Facilities*: Communication towers (including cellular towers), antennas (radio, television, phone, private recreational), wind machines, generating plants, electrical switching facilities and primary substations, refuse collection or disposal facilities, water and wastewater treatment plants and similar facilities of public use, and firms having potentially significant impact upon surrounding uses.
- r. *Military Installations*: Military facilities of federal or state governments.
- s. *Park and Recreation Services*: Publicly owned and operated parks, playgrounds, recreation facilities, and open spaces.
- t. *Postal Facilities*: Postal services, including post offices, bulk mail processing or sorting centers, operated by the United States Postal Service.
- u. *Primary Educational Facilities*: A public, private, or parochial school offering instruction at the elementary school level.
- v. *Public Assembly*: Publicly owned or operated facilities for major public assembly, recreation, sports, amusement or entertainment, including civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, and exhibition facilities.

- w. *Railroad Facilities*: Railroad yards, equipment servicing facilities, and terminal facilities.
- x. *Religious Assembly*: A use located in a permanent building or drive in service providing regular organized religious worship and education incidental thereto, excluding primary/secondary education.
- y. *Residential Care Services*: A use, other than a hospital or convalescent facility, providing care for ambulatory persons in a residential environment, including extended care.
- z. *Safety Services*: Facilities for public safety and emergency services, including police and fire protection services and emergency medical and ambulance services.
- aa. *Sanitary Landfill*: A disposal project where garbage, refuse, rubbish, and other similar discarded solid or semisolid materials are buried between layers of earth.
- bb. *Secondary Educational Facilities*: A public, private or parochial school offering instruction at the junior and senior high school levels.
- cc. *Transportation Terminal*: A facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package between modes of transportation, including bus terminals, railroad stations, airport terminals, and public transit facilities.

5) **GENERAL DESCRIPTION OF AGRICULTURAL USE TYPES:**

Agricultural use types include the on-site production of plant and animal products by agricultural methods.

- a. *Agricultural Sales and Services*: Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, feed and grain stores, and tree service firms.
- b. *Animal Production*: The raising of animals or production of animal products such as eggs or dairy products, on an agricultural or commercial basis. Typical uses include grazing, ranching, dairy farming, poultry farming, and the raising of fur bearing animals.
- c. *Animal Production (Recreational)*: Limited keeping of animals on a non-

commercial, non-profit basis. Restrictions on this type of use include three (3) large animals per acre (horses, sheep and cattle, etc.); twenty-five (25) small fowl per acre (chickens and ducks, etc.); five (5) large fowl per acre (turkeys, geese, peacocks, etc.). The keeping of swine is prohibited.

- d. *Crop Production*: The raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis, including incidental packing and processing.
- e. *Farm Corporation, Authorized*: Other than a family corporation founded for the purpose of farming and the ownership of agricultural land in which:
 - i) The stockholders do not exceed twenty-five (25) in number.
 - ii) The stockholders are all natural persons or are persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.
- f. *Farm Dwelling, Principal*: A dwelling located on a farm and occupied by the owner, operator of the farm or renter.
- g. *Farm Dwelling, Support Housing*: The occupancy of any living accommodations by agricultural employees and their families, without regard to duration, which occurs exclusively in association with the performance of agricultural labor on the same property where the housing is located.
- h. *Feedlot*: A feedlot shall mean the confinement of horses or food animals in building lots, pens, pools or ponds which normally are not used for raising crops or grazing animals.
- i. *Horticulture*: The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes, but excluding retail sales.
- j. *Stable*: Any place, area, building or facility where horses are boarded, housed, cared for, fed or trained by other than the owner; or any other place, area, building or facility where more than two (2) horses are kept for the purpose of raising or breeding for a fee.

ARTICLE III Zoning Districts

Article 3: Districts

- Section 3.1. Zoning Districts.
- Section 3.2. Boundaries.
- Section 3.3. Official Map.
- Section 3.4. Interpretation of District Boundaries.
- Section 3.5. Road or Public Way Vacated.
- Section 3.6. General Regulations.

Section 3.1. ZONING DISTRICTS.

The City Council shall cause to be prepared and approved, an official zoning map showing the various districts, which may be changed or corrected from time to time as recommended by the Planning Commission and enacted by the City Council. The map shall be kept up to date by the City Clerk and will be placed in the City Council Chambers at City Hall. Also, a similar map shall be prepared and placed in a convenient place in the office of the Zoning Administrator, for reference at any time.

The City Council may divide the Official Zoning Map of the city into districts or zones, as follows:

- A Agricultural District
- CN Conservation District
- RL Lakeshore Residential District
- R Residential District
- C Commercial District
- PUD Planned Unit Development

Section 3.2. BOUNDARIES.

The zones shall show each zone in a certain place on the zoning map and by different colors or shades, which also will show its boundaries in relation to the others and classify its uses under regulations as provided in this ordinance.

Section 3.3. OFFICIAL MAP.

The “Official Zoning Map” shall be on file in the City Hall of the City of West Okoboji and all references hereafter to said official map shall mean the map just referred to; said map by this reference being made a part of this zoning title.

The official zoning maps shall be identified by the Mayor of West Okoboji and attested by the city clerk. The official zoning map shall become effective upon adoption and publication of this ordinance.

Amendments, supplements, or changes of the boundaries of districts as shown on the official zoning maps shall be made by an ordinance amending the "West Okoboji Zoning Ordinance." The amending ordinance shall refer to the official zoning map and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the County Recorder as other ordinances and a certified copy thereof be attached to the official zoning map. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The official zoning map, together with amending ordinances, shall be the final authority as to current zoning status of land and water areas, buildings, and other devices in the incorporated areas of the city.

In the event that the official zoning map is damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the city council may, by ordinance, adopt a new zoning map which shall supersede the prior zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning ordinance of West Okoboji, or any subsequent amendment thereof.

Section 3.4. INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to boundaries of districts as shown on the official zoning map, the following rules shall apply:

- a. Boundaries indicated as approximately following the centerlines of streets, highways, alleys or other public right-of-way shall be construed to follow such centerlines.
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
- d. Boundaries indicated as approximately following municipal corporate boundaries shall be construed as following such boundaries.
- e. Boundaries indicated as following shorelines shall be construed to follow

such shorelines, and in the event of change in shoreline, shall be construed as moving with the actual shoreline.

- f. Boundaries indicated as parallel to or extensions of features indicated in subsections a-e previously stated shall be so construed. The scale of the maps shall determine distances not specifically indicated on the official zoning map.
- g. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections a-f previously stated, the Board of Adjustment shall interpret the district boundaries.

Section 3.5. ROAD OR PUBLIC WAY VACATED.

Whenever any road, street, or other public way is vacated by the official action of the city council, the zoning district(s) adjoining each side of such road or public way shall automatically extend to the center of such vacation and all area included in such vacation shall then and therefore be subject to all appropriate regulations of the extended district.

Section 3.6. GENERAL REGULATIONS.

Except as herein provided:

- a. No building or device shall be erected or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this ordinance for the district in which the building or land is located.

- b. No lot existing at the time of adoption of this ordinance shall be reduced in dimension or area below the minimum required by this ordinance. No part of a yard or other open space, or off-street parking or loading space provided about any building, device, or use for the purpose of complying with the provisions of this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space required under this ordinance for another building, device, or use.

- c. Every building hereafter erected or structurally altered shall be located on a lot herein defined and in no case shall there be more than one principal residential use located on one lot unless otherwise provided in this ordinance.

- d. No building shall be erected or shall be structurally altered to the extent specifically provided hereinafter, except in conformity with the off-street parking and loading regulations of this ordinance.

ARTICLE IV
A - Agriculture District

Article 4: Agriculture District

- Section 4.1. Intent
- Section 4.2. Principal Permitted Uses
- Section 4.3. Special Exception Uses
- Section 4.4. Permitted Accessory Uses
- Section 4.5. Site Development Regulations
- Section 4.6. Off-Street Parking and Loading Spaces
- Section 4.7. Sign Regulations
- Section 4.8. Zoning Permits Required

Section 4.1. INTENT.

The intent of the Agricultural District is to preserve land best suited for agriculture (especially prime agricultural lands) from the encroachment of incompatible land uses; and to preserve, in agricultural use, land suited for development into other uses until such time as streets, utilities, and other community facilities may be provided or programmed as to ensure the orderly and beneficial conversion of these lands to non-agricultural uses.

Section 4.2. PRINCIPAL PERMITTED USES.

Within the Agricultural District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Agriculture Uses	Civic Uses
Animal production (recreational) Crop production Farm dwelling, principal Farming & agricultural operations Horticulture	Cemetery Game refuge Irrigation/Flood Control Systems Local utility services Park & recreation services

Section 4.3. SPECIAL EXCEPTION USES.

The following uses may be permitted in the Agricultural District subject to approval of the Board of Adjustment, as provided for in Articles XIX and XXIII of this ordinance.

Agriculture Uses	Commercial Uses	Civic Uses
Agricultural sales and services Farm corporation Farm dwelling, support housing	Commercial Recreation - Outdoor Sports & Recreation - Outdoor Entertainment Communication Services Veterinary Services Visitor Habitation - Campgrounds - Bed & Breakfast	Major Utility Facilities Primary & Secondary Schools Religious Assembly

Section 4.4. PERMITTED ACCESSORY USES.

The following accessory uses and buildings shall be permitted in the Agricultural District.

1. Private garage or carport
2. Private parking lot
3. Private utility sheds or garden buildings not used for commercial purposes
4. Solar collectors, radio/television antennas or residential satellite dishes.
5. Water retention ponds and stormwater basins
6. Roadside stands
7. Home occupations
8. Essential Services
9. Temporary buildings for uses incidental to construction, which buildings shall be removed upon completion or abandonment of construction
10. Accessory buildings normally incidental and subordinate to the principal permitted or special exception use, as approved by the Zoning Administrator

Permitted accessory uses shall not be the principal building on any residential lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.

Section 4.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be observed subject to modifications contained in Article X “Additional Yard, Area, and Height Requirements” of the

ordinance.

Minimum Lot Area -	1 acre (43,560 sq. ft.)
Lot Width -	125 feet
Maximum Height -	35 feet
Residential Density - unit per lot	Not more than (1) one dwelling
Front Yard - setback	50 feet - minimum required
Side Yard -	30 feet - minimum required setback
Rear Yard -	50 feet - minimum required setback

No minimum requirements for local utility facilities and essential services.

All residential dwelling units must be constructed in compliance with the “Minimum Requirements for Residential Buildings” regulations outlined in Section 11.8.

Section 4.6. OFF-STREET PARKING AND LOADING SPACE.

Off-street parking and loading requirements shall be required for activities in the Agricultural District in accordance with the provisions of Article XVI of this ordinance.

Section 4.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the Agricultural District in accordance with the provisions of Article XVII of the ordinance.

Section 4.8. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 20.3 of this ordinance.

**ARTICLE V
CN – Conservation District**

Article 5: Conservation District

- Section 5.1. Purpose
- Section 5.2. Principal Permitted Uses
- Section 5.3. Special Exception Uses
- Section 5.4. Permitted Accessory Uses

- Section 5.5. Site Development Regulations
- Section 5.6. Off-Street Parking and Loading Spaces
- Section 5.7. Sign Regulations
- Section 5.8. Zoning Permits Required

Section 5.1 PURPOSE.

This district is intended to provide for water conservation, erosion control, protect natural drainageways, and to generally provide for ecologically sound land use of environmentally sensitive areas. This district is also intended to prevent such development as would result in a hazard to health or safety or be otherwise incompatible with the public welfare.

Section 5.2. PRINCIPAL PERMITTED USES.

The following uses are permitted in the Conservation District.

Conservation Uses	Civic Uses
Critical Areas Marshlands or Wetlands Undeveloped or Unused land in its Natural Condition Water Retention Ponds and Stormwater Basins	Game Refuge Local Utility Services Public Parks and Recreation Spaces

Section 5.3. SPECIAL EXCEPTION USES.

Certain uses may be permitted in the Conservation District subject to specific conditions and requirements subject to approval of the Board of Adjustment intended to make them compatible with and acceptable to adjacent uses.

Agricultural Uses	Commercial Uses	Civic Uses
Crop Production (agricultural) Horticulture	Visitor Habitation - Campground - Trailer Camp or Tourist Ground	Private Recreational Uses Publicly Owned Buildings

Section 5.4. PERMITTED ACCESSORY USES.

Uses of land or buildings customarily incidental and subordinate to a permitted use in the Conservation District including, but not limited to, the following.

1. Agricultural or recreational buildings or devices.
2. Roadside stands offering for sale only agricultural products or other products.
3. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
4. Accessory uses and buildings normally incidental and subordinate to the principal permitted uses and buildings, as approved by the Zoning Administrator.

In any case, permitted accessory uses shall not be the principal building on a lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.

Section 5.5. SITE DEVELOPMENT REGULATIONS.

The following requirements shall provide for light and air around permitted uses and buildings in the Conservation District, and subject to modifications contained in Article X “Additional Yard, Area, and Height Requirements.”

Minimum Lot Area -	2 acres
Minimum Lot Width -	125 feet
Maximum Height -	35 feet
Front Yard - setback	50 feet - minimum required
Side Yard -	30 feet - minimum required setback
Rear Yard -	50 feet - minimum required setback
Building Coverage -	20 percent of the lot area – maximum coverage
Impervious Coverage - coverage	40 percent of the lot area – maximum
Usable Open Space - minimum coverage	60 percent of the lot area –

No minimum requirements for local utility facilities and essential services.

Section 5.6. Off-Street Parking and Loading Space.

Off-street parking and loading requirements shall be required for activities in the Conservation (CN) District in accordance with the provisions of Article XVI of this ordinance.

Section 5.7. Sign Regulations.

Sign regulations shall be required for activities in the Conservation (CN) District in accordance with the provisions of Article XVII of the ordinance.

Section 5.8. Zoning Permits Required.

Zoning permits shall be required in accordance with the provisions of Article 20.3 of this ordinance.

**ARTICLE VI
RL Lakeshore Residential District**

Section 6: Lakeshore Residential District

- Section 6.1. Intent
- Section 6.2. Principal Permitted Uses
- Section 6.3. Special Exception Uses
- Section 6.4. Permitted Accessory Uses
- Section 6.5. Site Development Regulations
- Section 6.6. Off-Street Parking and Loading Spaces
- Section 6.7. Sign Regulations
- Section 6.8. Zoning Permits Required

Section 6.1. INTENT.

The intent of the Lakeshore Residential District is to provide for special restrictions to protect the amenities and aesthetic qualities of lakeshore residential properties.

Section 6.2. PRINCIPAL PERMITTED USES.

Within the Lakeshore Residential District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Residential Uses	Civic Uses
Single Family Residential	Day Care Services (limited)

Section 6.3. SPECIAL EXCEPTION USES.

The following uses and buildings may be permitted in the (RL) Lakeshore Residential District subject to approval of the Board of Adjustment, as provided for in Articles XIX and XXIII of this ordinance.

Residential Uses	Civic Uses
Relocated Residential (Single Family)	Local Utility Services Major Utility Facilities

Section 6.4. PERMITTED ACCESSORY USES.

The following accessory uses and buildings shall be permitted.

1. Private garage or carport.
2. Private recreational facilities for use by residents (*pools, trampolines, play equipment, etc.*).
3. Patios, cabanas, porches, gazebos, and incidental household storage buildings.
4. Solar collectors, radio/television antennas or residential satellite dishes.
5. Water retention ponds and stormwater basins.
6. Home occupations.
7. Private greenhouse (*not for commercial use*).
8. Essential services.
9. Keeping or kenneling of dogs and cats and similar small animals as household pets in a non-commercial environment.
10. Temporary buildings for uses incidental to construction, which buildings shall be removed upon the completion or abandonment of work, and in compliance with Section 11.2.
11. Accessory uses and buildings normally incidental and subordinate to the

principal permitted or special exception uses and buildings, as approved by the Zoning Administrator.

Permitted accessory uses shall not be the principal building on any residential lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.

Section 6.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be observed subject to the modifications contained in Article X “Additional Yard, Area, and Height Requirements.”

Minimum Lot Area -	7,500 square feet
Minimum Lot Width -	50 feet
Maximum Height -	35 feet
Residential Density - unit per lot	Not more than (1) one dwelling
Front Yard (lakeshore side) - setback	25 feet - minimum required
Side Yard - setback	5 feet or 10 percent of the lot width, whichever is greater - minimum required
Rear Yard (street side) -	25 feet - minimum required setback

No minimum requirements for local utility facilities and essential services.

All residential dwelling units must be constructed in compliance with the “Minimum Requirements for Residential Buildings” regulations outlined in Section 11.8. Manufactured homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa.

Section 6.6. OFF-STREET PARKING AND LOADING SPACE.

Off-street parking and loading requirements shall be required for activities in the Lakeshore Residential District in accordance with the provisions of Article XVI of this ordinance.

Section 6.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the Lakeshore Residential District in accordance with the provisions of Article XVII of the ordinance.

Section 6.8. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 20.3 of this ordinance.

**ARTICLE VII
R - Residential District**

Section 7: Residential District

- Section 7.1. Intent
- Section 7.2. Principal Permitted Uses
- Section 7.3. Special Exception Uses
- Section 7.4. Permitted Accessory Uses
- Section 7.5. Site Development Regulations
- Section 7.6. Off-Street Parking and Loading Spaces
- Section 7.7. Sign Regulations
- Section 7.8. Zoning Permits Required

Section 7.1. INTENT.

The intent of the Residential District is to provide for low to medium density residential development with a limited number of institutional and recreational facilities permitted.

Section 7.2. PRINCIPAL PERMITTED USES.

Within the Residential District, unless otherwise provided, no building or land shall be used for other than one or more of the following principal permitted uses.

Residential Uses	Civic Uses
Single Family Residential	Day Care Services (limited) Local Utility Services Primary & Secondary Schools Religious Assembly Safety Services

Section 7.3. SPECIAL EXCEPTION USES.

The following uses and buildings may be permitted in the Residential District subject to approval of the Board of Adjustment, as provided for in Articles XIX and XXIII of this ordinance.

Residential Uses	Commercial Uses
Duplex Residential Nursing or Convalescent Home Relocated Residential (Single Family or Duplex)	Funeral Services Visitor Habitation - Bed & Breakfast Inn
Civic Uses	
Day Care Center Government/Public Services Hospital Services Major Utility Facilities	Religious Assembly Residential Care Services Park and Recreation Services Postal Facilities Primary & Secondary Educational Facilities

Section 7.4. PERMITTED ACCESSORY USES.

The following accessory uses and buildings shall be permitted.

1. Private garage or carport.
2. Private recreational facilities for use by residents (*pools, trampolines, play equipment*).
3. Patios, cabanas, porches, gazebos, and incidental household storage buildings.
4. Solar collectors, radio/television antennas or residential satellite dishes.
5. Water retention ponds and stormwater basins.
6. Home occupations
7. Private greenhouse (*not for commercial use*).
8. Essential Services.
9. Keeping or kenneling of dogs and cats and similar small animals as household pets in a non-commercial environment.
10. Temporary buildings for uses incidental to construction, which buildings shall be removed upon the completion or abandonment of work, and in

compliance with Section 11.2.

- 11. Accessory uses and buildings normally incidental and subordinate to the principal permitted or special exception uses and buildings, as approved by the Zoning Administrator.

Permitted accessory uses shall not be the principal building on any residential lot, and accessory uses are to remain incidental and secondary in size, use, and nature to the principal permitted use.

Section 7.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be observed subject to the modifications contained in Article X “Additional Yard, Area, and Height Requirements” of the ordinance.

Minimum Lot Area -	7,500 square feet, plus 1,500 square feet for each additional dwelling unit. Other non-residential uses: 10,000 square feet.
Minimum Lot Width -	75 feet
Maximum Height -	35 feet
Residential Density - unit per lot	Not more than (1) one dwelling
Front Yard - setback	25 feet - minimum required
Side Yard - setback	5 feet or 10 percent of the lot width, whichever is greater - minimum required
Rear Yard -	25 feet - minimum required setback

No minimum requirements for local utility facilities and essential services

All residential dwelling units must be constructed in compliance with the “Minimum Requirements for Residential Buildings” regulations outlined in Section 11.8. Manufactured homes placed in designated residential subdivisions must be converted to real property in conformance with section 135D.26 of the Code of Iowa.

Section 7.6. OFF-STREET PARKING AND LOADING SPACE.

Off-street parking and loading requirements shall be required for activities in the (R) Residential District in accordance with the provisions of Article XVI of this ordinance.

Section 7.7. SIGN REGULATIONS.

Sign regulations shall be required for activities in the (R) Residential District in accordance with the provisions of Article XVII of the ordinance.

Section 7.8. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 20.3 of this ordinance.

**ARTICLE VIII
C – Commercial District**

Section 8: Commercial District

- Section 8.1. Intent
- Section 8.2. Principal Permitted Uses
- Section 8.3. Special Exception
- Section 8.4. Permitted Accessory Uses
- Section 8.5. Site Development Regulations
- Section 8.6. Additional Regulations
- Section 8.7. Off-Street Parking and Loading Spaces
- Section 8.8. Sign Regulations
- Section 8.9. Zoning Permits Required

Section 8.1. INTENT.

The intent of the Commercial District is to designate specific areas of the community where personal services and business facilities can serve the convenience and shopping needs of the local consumers and seasonal visitors. A further intent of the Commercial District is to designate areas adjacent to major traffic routes where commercial uses catering to the motoring public are permitted.

Section 8.2. PRINCIPAL PERMITTED USES.

Within the Commercial District, unless otherwise provided, buildings or land shall be used for only one or more of the following principal permitted uses.

Commercial Uses	Civic Uses
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Administrative/Business Offices Automotive Sales Automotive Washing Business Support Services Building Maintenance Services Communication Services Commercial Off-Street Parking Commercial Recreation - Indoor Sports/Recreation - Indoor Entertainment Consumer Repair Services Convenience Store Convenience Storage Drive-in Service General Retail Sales Food Sales Financial Services	Laundry Sales Medical Offices Personal Improvement Services Personal Services Pet Services Professional Office Restaurants (Convenience) Restaurants (General) Retail Specialty Shop Service Station Visitor Habitation - Bed & Breakfast Inn - Hotel/Motel	Community Recreation Cultural Services Day Care Center Government/Public Services Guidance Services Hospital Services Local Utility Services Park/Recreation Services Postal Facilities Religious Assembly Safety Services
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Section 8.3. SPECIAL EXCEPTION USES.

The following uses and buildings may be permitted in the Commercial District subject to approval of the Board of Adjustment, as provided for in Articles XIX and XXIII of this ordinance.

Commercial Uses	Civic Uses

<p>Adult-Oriented Establishment (See Section 11.5 for Requirements) Automotive and Equipment Services Automotive Repair Services Automotive Rentals Business or Trade School Cocktail Lounge Construction Sales & Service Commercial Recreation - Outdoor Sports/Recreation - Outdoor Entertainment Communication Services Equipment Sales Kennels (commercial) Liquor Sales Scrap or Salvage Services Veterinary Services Visitor Habitation - Campground - Trailer Camp or Tourist Ground - Commercial Cottage Dwelling - Time-share</p>	<p>Cemetery Major Convalescent Services Maintenance/Service Facilities Public Assembly Utility Facilities</p>
	<p>Residential Uses</p>
	<p>Group Residential Nursing or Convalescent Home</p>
	<p>Industrial Uses</p>
	<p>Custom Manufacturing Light Manufacturing Limited Warehousing and Distribution</p>

Section 8.4. PERMITTED ACCESSORY USES.

The following accessory uses and buildings shall be permitted.

1. Private garage.
2. Essential services.
3. Temporary buildings for uses incidental to construction, which buildings shall be removed upon the completion or abandonment of work, and in compliance with Section 11.2.
4. Accessory uses and buildings normally incidental and subordinate to the principal permitted or special exception uses and buildings, as approved by the Zoning Administrator.

Section 8.5. SITE DEVELOPMENT REGULATIONS.

The following minimum requirements shall be observed subject to the modifications contained in Article X “Additional Yard, Area, and Height Requirements” of the ordinance.

Minimum Lot Area -	10,000 square feet
Minimum Lot Width -	80 feet
Maximum Height -	35 feet
Front Yard -	50 feet – minimum required setback
Side Yard -	10 feet or 10 percent of the lot width, whichever is greater – minimum required setback
Rear Yard -	25 feet – minimum required setback

No minimum requirements for local utility facilities and essential services.

Section 8.6. ADDITIONAL REGULATIONS.

Residential use properties in the Commercial District shall be subject to the site development regulations identified in Section 7.5. in lieu of any corresponding regulation identified above in Section 8.5.

Section 8.7. OFF-STREET PARKING AND LOADING SPACE.

Off-street parking and loading requirements shall be required for activities in the Commercial Residential District in accordance with the provisions of Article XVI of this ordinance.

Section 8.8. SIGN REGULATIONS.

Sign regulations shall be required for activities in the Commercial Residential District in accordance with the provisions of Article XVII of the ordinance.

Section 8.9. ZONING PERMITS REQUIRED.

Zoning permits shall be required in accordance with the provisions of Section 20.3 of this ordinance.

ARTICLE IX
PUD - Planned Unit Development District

Article 9: Planned Unit Development District

- Section 9.1. Purpose
- Section 9.2. Authorized Uses
- Section 9.3. General Regulations

Section 9.1. PURPOSE.

The PUD, Planned Unit Development District, is intended to accommodate a wide variety of use types in accordance with the city's comprehensive plan. It is the intent of the PUD District to provide flexibility from use and site development regulations in order to encourage innovative, well-designed projects that achieve a high level of environmental sensitivity, energy efficiency, safety, aesthetics and other community goals.

Section 9.2. AUTHORIZED USES.

No development shall be permitted in a PUD unless approved pursuant to the procedures and standards of Section 11.9. No use shall be approved within a PUD if it is found by the Planning Commission to be contrary to the comprehensive plan or contrary to the health, safety and general welfare of the present and future residents of the city. The overall land use makeup of PUDs shall be consistent with the underlying land use designation and the following standards:

1. **Residential PUDs:** PUDs to be established on lands designated for residential land uses on the comprehensive plan's future land use map shall be considered "Residential PUDs". The following land-use standards shall apply to residential PUDs:
 - a. Residential and Public/Civic Uses: The Planning Commission may approve any residential and public/civic uses within residential PUDs. Permitted dwelling units shall include detached, clustered, semi-detached, attached, or multi-storied buildings or combinations thereof. Customary accessory uses are also permitted.
 - b. Commercial Uses: In addition to residential and public/civic uses, the Planning Commission may approve commercial uses within residential PUDs; provided that:
 - 1) Such uses do not occupy in total more than 25 percent of the total land area in the PUD.
 - 2) Such uses are designed and located in such a manner as to protect the character of the surrounding land uses and natural assets; and
 - 3) The limitation on commercial uses may be adjusted by the Planning Commission upon an acceptable demonstration that a larger nonresidential allocation is a necessary convenience and whether a demonstrated need exists for additional nonresidential uses.
2. **Commercial PUDs:** PUDs to be established on lands designated for commercial or professional office land uses on the comprehensive plan's future land use map shall be considered "Commercial PUDs". The following land-use standards shall apply to Commercial PUDs:
 - a. Residential and Public/Civic Uses: The Planning Commission may approve any residential and public/civic uses identified within this ordinance.
 - b. Commercial/Industrial Uses: The Planning Commission may approve any commercial or industrial uses identified within this ordinance.
3. **Mixed-Use PUDs:** PUDs to be established on lands designated for both residential and nonresidential (commercial, professional office or light industrial) land uses on the comprehensive plan's future land use map shall be considered "mixed-use PUDs." Those portions of a mixed-use PUD that have an underlying residential land-use designation shall be regulated in accordance with the residential PUD standards of subsection 1 of this Section. Those portions of a mixed-use PUD that have an underlying commercial or professional office land-use designation shall be regulated in accordance with

the commercial PUD standards.

Section 9.3. GENERAL REGULATIONS.

The city may approve the planned unit development only if it is found that the development satisfies all of the following regulations:

1. *Conformance with the Comprehensive Plan:* The proposed planned unit development is in conformance with the comprehensive plan for West Okoboji. At a minimum, the Planning Commission shall find that the planned unit development does not conflict with the comprehensive plan with regard to the following:
 - a. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.
 - b. The PUD is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation of unique natural amenities such as streams, banks, wooded cover, rough terrain, and similar areas.
 - c. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property, and will not be detrimental to surrounding uses.
2. *Minimum Site Area:* The minimum contiguous site area included in a PUD shall be 10 acres. A minimum of two (2) or more principal buildings must be proposed.
3. *Preservation of Natural Features:* Mature trees, vegetative cover, watercourses and other natural features shall be preserved to the greatest extent possible. Abrupt changes in natural slope shall be avoided.
4. *Common Open Space:* A minimum of ten percent of the gross area of every residential PUD shall be devoted to common open space for use and enjoyment of residents. A minimum of twenty percent of the gross area of every commercial PUD shall be devoted to common open space for use and enjoyment of residents. In the case of a mixed-use PUD, the greater requirement of minimum open space shall apply. The following areas shall qualify as common open space:
 - a. Major Recreation Areas: Improved community recreation areas may be

counted as common open space. A golf course may be used to satisfy a maximum of 50 percent of the common open space requirement.

- b. Mini-Parks: Must have a minimum dimension of 10,000 square feet and include benches, playground apparatus, and other approved recreational amenities.
 - c. Pedestrian Open Space: A continuous pedestrian trail system consisting of permanently maintained walks or trails leading to or through a natural amenity, recreation facility or commercial use, offering circulation apart from streets.
 - e. Environmental Features: If natural habitats of significant value or environmentally sensitive areas exist, the Planning Commission may require the area to be left in an undisturbed state and adequately protected as a passive recreation area with only minimum improvements permitted.
5. *Maintenance of Common Open Space*: Common open space established in a development plan for a PUD shall be deeded to the City of West Okoboji, at the discretion of the city, as a public park or open space available for the enjoyment of all West Okoboji residents. In the event the city decides not to accept responsibility for any designated open space in a PUD development plan, the property owner or specified maintenance organization shall be established to own and maintain the common open space.

In the event that the property owner or organization established to own and maintain common open space fails to maintain the common open space in reasonable condition, the Zoning Administrator may, upon proper notification, call upon any public or private agency to maintain the common open space. In such cases, the city shall annually assess the costs incurred proportionally against all properties within the PUD that have the right of use.

6. *Site Design and Buffers*: The PUD development site as a whole shall, at a minimum, comply with the buffer and site plan standards of Articles XIII and XIV of this ordinance. Additional buffering beyond minimum requirements shall be provided at the perimeter of the development.
7. *Neighborhood Relationship and Land Use Compatibility*: A PUD shall be harmonious and not conflict with surrounding neighborhoods and existing natural features. It shall be planned, designed and constructed so as to avoid undue traffic congestion and provide a compatible land use relationship with the surrounding area.
8. *Development Phasing*: The timely construction of any PUD shall be undertaken

to assure full completion of the development in accordance with the adopted development plan. Each phase of the proposed development must be of sufficient size, composition, and arrangement so that its construction, marketing, and operation are feasible as a complete unit. Each completed phase shall comply with all applicable standards. The infrastructure, as installed, shall be sufficient to accommodate each phase of the development.

9. *Off-Street Parking and Loading:* Off-street parking and loading requirements shall be permitted in accordance with the provisions of Article XVI of this ordinance, unless a deviation from those standards is specifically approved during the PUD approval process.
10. *Subdivision Standards:* All utilities, streets, and infrastructure improvements shall comply with the West Okoboji Subdivision Regulations, unless a deviation from those standards is specifically approved during the PUD approval process. Review of the city's subdivision regulations should be carried out simultaneously with the review of a planned development under this article of the Zoning ordinance.
11. *Other Conditions:* The Zoning Administrator and the Planning Commission shall have the authority to recommend, and the City Council shall have the authority to impose such other conditions as are necessary to accomplish the purposes of this ordinance and the West Okoboji comprehensive plan.

ARTICLE X Additional Lot, Yard & Height Regulations

Article 10: Additional Lot, Yard & Height Regulations

- | | |
|---------------|----------------------------------|
| Section 10.1. | Intent |
| Section 10.2. | Lot of Record |
| Section 10.3. | One Residential Building Per Lot |
| Section 10.4. | Yard Regulations |
| Section 10.5. | Fences and Hedges |
| Section 10.6. | Building to Have Access |
| Section 10.7. | Use of Public Right-of-Way |

- Section 10.8. Block Frontage Continuity
Section 10.9. Height Requirements
Section 10.10. Silt Screening Required

Section 10.1. INTENT.

The regulations set forth in this article qualify, supplement or modify the area and height regulations set forth elsewhere in this ordinance.

Section 10.2. LOT OF RECORD.

Any lot of record at the time of passage of this ordinance having less area or width than herein required may be used for a dwelling where such uses are permitted as provided in this ordinance and subject to the required setbacks and further provisions of this ordinance.

A lot of record at the time of passage of this ordinance having a lot depth of less than one hundred (100) feet may have the required yard reduced twenty (20) percent, provided that no rear yard shall be less than twenty (20) feet.

Section 10.3. ONE RESIDENTIAL BUILDING PER LOT.

Except as provided herein, there shall not be more than one principal residential building placed upon a lot. For purposes of this section, when two residential properties share a common building wall, the principal building shall constitute the total building.

Section 10.4. YARD REGULATIONS.

- 1) Through Lots. Buildings on through lots, extending from street to street shall provide the required front yard on both streets.
- 2) Corner Lots. For buildings on corner lots with frontage on two (2) or more public streets, each yard abutting a public street shall have the same setback requirements as a “front yard”, and no accessory building shall project beyond the required front yard on either street.
- 3) Line of Sight Visibility (at Intersections). On a corner lot in any district, except the Commercial District, no fence, wall, hedge, tree or other planting or device that will obstruct vision between a height of two (2) feet and ten (10) feet above the center line grade of the intersecting streets shall be erected, placed or maintained within the triangular area formed, by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the

right-of-way lines, and measured along the right-of-way lines;

- 4) Projecting Overhang or Device. The ordinary horizontal projection from the building wall lower than the roof including eaves, sills, fascia, parapets, cornices, or other similar architectural features may not project or extend into any required yard setback.
- 5) All air conditioning units, compressor units, L.P. tanks, heat pumps, or other such similar devices may not encroach into the required side yard.
- 6) Carports, bay windows, window wells, cantilevered projections, chimneys and other such devices may not project into the required yards.
- 7) Steps, Decks and Patios.
Steps providing access to the ground level of a dwelling may encroach into any required yard setbacks. However, landings or spiral staircases shall not be permitted into any required yard setbacks, just the actual steps from the principal building or deck may encroach to permit access.

Decks higher than twelve (12) inches above the average grade of the ground shall conform to all required yard setbacks. Patios, concrete slabs, or other ground level buildings, constructed less than 12 inches above the average grade of the ground, shall be allowed within the required front, side, or rear yards. However, no patio or other ground level building shall encroach closer than two (2) feet of the property line.

Wood, concrete, patio stones or other natural or man-made landscaping materials may be permitted in the Residential or Lakeshore Residential districts for means of a ground level walkway, steps, or access from principal or accessory buildings to the lakeshore. Any walkway to the lakeshore for means of access shall not be attached to the principal or accessory building.

Section 10.5. FENCES AND HEDGES.

- 1) No fence may be constructed within the front yard in the Lakeshore Residential District beyond the building site line, as indicated in Section 10.9.
- 2) Except as provided above, fences less than six (6) feet in height may be erected on those parts of a lot that are setback from the street as far as the main building is from the street. Fences in excess of six (6) feet will be allowed in the cases of

tennis courts and swimming pools.

- 3) Fences shall not be closer than six inches (6") to any property line. Hedges and permanent plantings shall not be planted closer than two feet (2') to any property line.
- 4) Fences shall not be constructed of corrugated tin or metal, or sheet metal. Fences may be constructed from chain link, wood products, molded plastic, wrought iron, and steel posts may be used for supporting posts; the Zoning Administrator may approve other materials.

Section 10.6. BUILDINGS TO HAVE ACCESS.

Every building and/or principal use hereafter erected or structurally altered, shall be on a lot or parcel having access onto a public street or road.

Section 10.7. USE OF PUBLIC RIGHT-OF-WAYS.

No portion of the public road, street or alley right-of-way shall be used, or occupied by an abutting use of land or building for storage or display purposes, or to provide any parking or loading space required by this ordinance.

Section 10.8. BUILDING LOT FRONTAGE CONTINUITY.

Where thirty percent or more of the block front is improved with buildings, then no part of any new building on either side shall project beyond a line joining the farthest projecting point of the two nearest buildings. Where there is a building on only one side, the building setback line shall be determined as the line projected from the farthest projecting point of the two nearest buildings. Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line.

In the case where the block front improved with buildings amounts to less than thirty percent of the total number of lots, including vacant lots, on one side of the street between two intersecting streets, the required minimum yards of the district shall be enforced.

Because of the uniqueness of the circumstances surrounding the latter addition of water-abutting property in Green's Beach on Lots 1 through 6, Block 5, Original Plat of Terrace Park, City of West Okoboji, Dickinson County, Iowa the site line established by existing buildings shall establish the front building line on new or redeveloped lots.

Section 10.9. HEIGHT MODIFICATIONS.

The building height limitations of this ordinance shall be modified as follows:

- 1) No building shall exceed a height of thirty-five (35) feet, unless otherwise provided in this ordinance, except non-dwelling agricultural buildings.
- 2) Height regulations shall not apply to television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, grain elevators, ornamental towers and spires, chimneys, elevator bulkheads, drilling rigs, conveyors, flagpoles and other pertinent mechanical apparatus which may be erected to any height not in conflict with any other applicable regulations. These additional buildings or accessories may be erected to a height approved by the Board of Adjustment of the City of West Okoboji, provided however, that no building including the above shall be permitted to extend into approach zones, clear zones or other restricted air space required for the protection of the flying public.
- 3) Public, semi-public, or public service buildings, hospitals, sanitariums, or schools when permitted in a district may be erected to a greater height than otherwise permitted in the district if the building is set back from each property line at least one foot in addition to the minimum yard requirements, for each two feet of additional building height above the height limit otherwise provided in the district in which the building is constructed.

Section 10.10. SILT SCREENING REQUIRED.

Silt mat or silt screening material must be used on any lot, regardless of lot grade or elevation on which there is to be any excavating, earthmoving, or disturbance of the lot grade or surface ground cover due to remodeling, rebuilding or new construction, which could cause silt or dirt runoff. It is to be installed with three (3) foot silt screening installed on posts set no more than four (4) feet apart, with screening material installed one (1) foot below ground level and two (2) feet above ground level. Silt screening is to be constructed around any street storm sewer or drain intakes which also could carry dirt or silt into the lake which would be affected by the project. All silt screening shall be maintained by the applicant for the landscaping permit and/or zoning compliance permit to allow for its effective operation. These silt screens shall be removed after written approval is received from the Zoning Administrator.

ARTICLE XI
Additional Use Regulations

Article 11: Additional Use Regulations

- Section 11.1. Intent
- Section 11.2. Temporary Uses
- Section 11.3. Accessory Buildings
- Section 11.4. Recreational Vehicles
- Section 11.5. Adult-Oriented Establishment Regulations
- Section 11.6. Home Occupations
- Section 11.7. Zoning of Annexed Areas
- Section 11.8. Minimum Requirements for Residential Buildings
- Section 11.9. Planned Unit Development (PUD) - Application and Approval

Section 11.1. INTENT.

These provisions apply to additional use regulations in addition to those guidelines set forth in the zoning district regulations. In event of any conflict in provisions, the more restrictive provision shall apply unless specifically indicated to the contrary.

Section 11.2. TEMPORARY USES.

Provisions authorizing temporary uses are intended to permit occasional, temporary uses and activities when consistent with the purposes of the zoning regulations and when compatible with other nearby uses.

- 1) Temporary Use Types: The following types of temporary use may be authorized, subject to specific limitations herein and such additional conditions as may be established by the Zoning Administrator.
 - a. Contractor's office, storage yard, and equipment parking and servicing on the site of an active construction project may be permitted in any district during the period that the construction work is in progress, but such temporary building(s) shall be removed within thirty (30) days after completion or abandonment of the construction work.
 - b. Religious, patriotic, or historic assemblies, displays, or exhibits.
 - c. Outdoor art and craft shows and exhibits.
 - d. Christmas tree sale lots.
 - e. Outdoor special sales, including swap meets, flea markets, parking lot sales, or similar activities, limited to locations in commercial districts, and when operated not more than 3 days in the same week or more than five (5) days in the same month.
 - f. Seasonal retail sale of agricultural or horticultural products raised or

produced off the premises.

- g. Additional temporary uses determined to be similar to the foregoing by the Zoning Administrator.

2) Required Conditions of Temporary Use:

- a. Each site occupied by a temporary use shall be left free of debris, litter, or other evidence of temporary use upon completion or removal of the use.
- b. The Zoning Administrator may establish such additional conditions as he/she deems necessary to ensure land use compatibility and to minimize potential impacts on nearby uses, including but not limited to time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening or enclosure, and guarantees for site restoration and cleanup following temporary use.

3) Determination: The Zoning Administrator may authorize a temporary use only when, in his judgement, the following determination can be made:

- a. The temporary use will not impair the normal, safe, and effective operation of a permanent use on the same site.
- b. The temporary use will be compatible with nearby uses in the general vicinity.
- c. The temporary use will not impact public health, safety, or convenience, or create traffic hazards or congestion or otherwise interrupt or interfere with the normal conduct of uses and activities in the vicinity.

4) Application and Authorization:

- a. Application to conduct a temporary use shall be made to the Zoning Administrator, and shall include a description of the use and such additional information as required by the Zoning Administrator to evaluate the use and make a determination whether to approve, approve conditionally, or to deny the temporary use.
- b. Authorization of a temporary use shall be by issuance of a zoning permit.
- c. A temporary use authorized pursuant to these provisions shall not be exempted or relieved from compliance with any other ordinance, law,

permit, or license applicable to such use.

Section 11.3. ACCESSORY BUILDINGS.

The purpose of these provisions is to establish the relationship among principal and accessory uses and to establish provisions governing the conduct of accessory uses.

Principal uses specified as permitted uses or special exception uses for a district by the district regulations shall be deemed to include accessory uses and activities identified by these regulations and such other accessory uses that are necessary and customarily associated with and are appropriate, incidental, and subordinate to such principal uses. Accessory uses shall be subject to the same regulations as apply to principal uses in each district, except as otherwise provided in these regulations.

Accessory buildings and uses customarily incidental to that of the main building may be erected or established as permitted, provided they comply with the following limitations:

- 1) Accessory buildings that are structurally part of or attached to the principal building shall conform to the site development regulations of the principal building.
- 2) No attached or detached accessory buildings shall be located in any required front or side yard, or within ten (10) feet of any public thoroughfare.
- 3) Site development regulations for detached accessory buildings are as follows:
 - a. Accessory buildings shall be limited to a maximum of three total buildings, including a garage, of which all total accessory buildings in the rear yard shall not occupy more than thirty (30) percent of the yard area.
 - b. Accessory buildings on a corner lot may not be placed in any rear or side yard nearer to a public street right-of-way than the principal building on the same lot.
 - c. Accessory buildings located entirely within the rear yard of a principal building shall be located no less than two (2) feet from the side lot line and/or the rear lot line. If a garage door directly faces an alley, there must be a ten (10) feet minimum setback.
 - d. Accessory buildings in any residential district shall not be erected within six (6) feet of any principal building(s).

- e. Accessory buildings shall not be erected within a required utility or construction easement, whether temporary or permanent.
- 4) Accessory buildings shall not be constructed, including siding and roofing materials, from galvanized corrugated metal, galvanized sheet metal, sheet fiberglass, or sheet plastic.
- 5) Accessory buildings shall not exceed a maximum height of 15 feet.
- 6) No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used unless the main building on the lot is also being used.
- 7) In both the (R) Residential and (RL) Lakeshore Residential districts, no detached accessory building is permitted within the limits of a front yard;
- 8) Accessory buildings shall not be used as a dwelling.

Section 11.4. RECREATIONAL VEHICLES.

- 1) Recreational vehicles may be parked or stored within the front yard in a Residential District, or the rear yard in a Lakeshore Residential District, providing that the view of the street is not obstructed as to vehicular ingress and egress. Recreational vehicles may be parked or stored within the rear yard of a Residential District or within an enclosed garage. Recreational vehicles may not be parked or stored within the side or front yards in the Lakeshore Residential District.
- 2) Recreational vehicles shall not be used for human occupancy in any district for more than fourteen (14) consecutive days in any three (3) month period.

Section 11.5. ADULT-ORIENTED ESTABLISHMENT REGULATIONS.

- 1) Purpose. The City of West Okoboji finds:
 - a. Adult-oriented establishments require special consideration in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of West Okoboji;
 - b. Adult-oriented establishments, because of their very nature, have a detrimental effect on both existing establishments around them and

- surrounding residential areas adjacent to them;
- c. The concern over sexually-transmitted diseases is a legitimate health concern of the City that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the community;
 - d. Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, thereby contributing to blight and downgrading the quality of life in the adjacent area;
 - e. The City of West Okoboji wants to prevent these adverse effects and thereby protect the health, safety, and welfare of its residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight;
 - f. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact content neutral regulations that address the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments.

2) Definitions Related to Adult-Oriented Establishments.

- a. *ADULT BOOKSTORE*: An establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.
- b. *ADULT ENTERTAINMENT*: Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.
- c. *ADULT MOTION PICTURE THEATER*: An enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to

specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.

- d. *ADULT-ORIENTED ESTABLISHMENT*: Any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, where such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, or any other term of like import.
 - e. *OPERATORS*: Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
 - f. *SPECIFIED ANATOMICAL AREAS*: Less than completely and opaquely-covered human genitals, pubic region, buttocks, female breasts below the point immediately above the top of the areola; or, human male genitals in a discernible turgid state, even if opaquely covered.
 - g. *SPECIFIED SEXUAL ACTIVITIES*: Simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of masturbation, sexual intercourse, sodomy, necrophilia, sado-masochistic abuse, fellatio, or cunnilingus; or (c) fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.
- 3) Locational Restrictions. An adult-oriented establishment shall be permitted within the City of West Okoboji only in the Commercial District upon receipt of a site plan (Article XIV) and special exception use permit in accordance with the procedures set forth in Articles XIX, and only if it meets all of the locational requirements set forth below.

Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult entertainment business is to be located, to

the nearest point of the parcel of property or zoning district boundary line from which the proposed adult entertainment business is to be separated.

- a. Adult-oriented establishments shall be prohibited in or within one thousand (1,000) feet of the borders of a residential district.
- b. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any church, synagogue, mosque, temple, or other place of religious worship.
- c. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public or private school offering general education for students between the years of Kindergarten and Twelfth grade.
- d. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any day care home or day care business.
- e. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any public park or playground. For purposes of this section, bike paths, trails, waterways, and boat launches shall not be deemed a public park.
- f. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any other adult entertainment business.
- g. Adult-oriented establishments shall be prohibited within one thousand (1,000) feet of any existing establishment selling alcoholic beverages for consumption on premises.

4) Development Design Standards.

- a. *Exterior.* It shall be unlawful for an owner of an adult-oriented establishment:
 - i. To allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
 - ii. To allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities.
 - iii. To allow exterior portions of the establishment to be painted other than a single color.

- b. *Signage*. The operator shall comply with Article XVII of this ordinance. Additionally, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.
- 5) Responsibilities of the Operator. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- 6) Minors. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person under the age of eighteen (18) from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished either a valid operator's drivers license or a valid personal identification certificate issued by a state reflecting that the person is eighteen (18) years of age or older.
- 7) Hours of Operation. An adult-oriented establishment may remain open for business no longer than the hours from between 10:00 a.m. to 2:00 a.m., seven days a week.
- 8) Licensing. An adult-oriented establishment must file for and be granted a sexually oriented business license issued by the City of West Okoboji prior to receiving a building permit. Licensing requirements and procedures are outlined in the West Okoboji "Licensing Sexually Oriented Businesses" ordinance.

Section 11.6. HOME OCCUPATIONS.

Home occupations as an accessory to residential uses shall be subject to the following limitations.

- 1) The use must be conducted as a secondary use and in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the

ordinary meaning of the term.

- 2) The home occupation shall be conducted entirely within a dwelling unit that is the bona fide residence of the practitioner(s), or entirely within an attached accessory garage (not to include a carport, driveway, yard or outside area or detached accessory garage).
- 3) Neither the interior nor the exterior of the dwelling shall be structurally altered so as to require compliance with nonresidential construction codes to accommodate the home occupation. No additional buildings shall be added on the property to accommodate the home occupation.
- 4) Only one (1) unrelated person living outside the residence and members of the immediate family may be employed in the home occupation.
- 5) The home occupation shall not generate customer related vehicular traffic substantially in excess of the normal anticipated residential neighborhood traffic.
- 6) No equipment or materials associated with the home occupation shall be displayed or stored where visible from anywhere off-premises.
- 7) Shall have no exterior display, no exterior storage of materials, and no other exterior indication of the home occupation.
- 8) May have no more than one, flush mounted, non-illuminated sign not exceeding four (4) square feet.
- 9) No more than thirty percent (30%) of the total floor area of the principal building may be utilized by the home occupation. However, this regulation shall not apply to daycare services.
- 10) The occupation shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste run off outside the dwelling unit or on the property surrounding the dwelling unit.
- 11) The use must not infringe upon the right of neighboring residents to enjoy peaceful and healthy occupancy of their home for which purpose the residential district was primarily intended.
- 12) Music lessons, when operated as a home occupation shall be limited to two (2) students at any one time. Dance lessons, when operated as a home occupation, shall be limited to no more than four (4) students at any one time.
- 13) Nothing herein shall be construed to allow the following businesses or

occupations as home occupations: animal hospitals, animal breeding, clinics, hospitals, contractor's yards, dancing schools, junk yards, restaurants, rental outlets, vehicle repair shops or massage parlors. Day care, for home occupation, shall be permitted according to state regulations.

Section 11.7. ZONING OF ANNEXED AREAS.

Any land annexed to the City of West Okoboji after the effective date of this ordinance shall be subject to the West Okoboji Planning Commission recommending to the City Council to approve an appropriate zoning classification of newly annexed land, based upon projected use and intent.

Section 11.8. MINIMUM REQUIREMENTS FOR RESIDENTIAL BUILDINGS

All buildings intended for residential occupancy placed, erected, assembled or constructed in the city after the effective date of this ordinance shall meet and comply with the following minimum requirements:

- 1) **Building Size:** Each such building shall have a main body with a minimum exterior dimension of at least twenty-two feet (22') measured from outside of the exterior walls, exclusive of attached garages, porches, or other attached accessory buildings. The minimum exterior dimensions of a residential building shall not be less than 22 feet in width and a minimum of 800 square feet.
- 2) **Foundation:** All residential buildings shall have a continuous and complete perimeter foundation extending below the typical frost line, except that a perimeter foundation shall not be required for a manufactured home if a perimeter foundation is incompatible with the structural design of the manufactured home. For such a manufactured home, a permanent foundation may be a pier or post foundation system designed and constructed to be compatible with the building and the site. Foundation materials may be masonry, poured concrete, wood or metal. Any building must be permanently attached to a foundation. In lieu of a traditional perimeter foundation, an approved frost-free foundation may be allowed upon approval from the Zoning Administrator.
- 3) **Wheels, Axles or Towing Device:** No residential building shall have attached wheels, axles, or a towing device.
- 4) **Minimum Residential Occupancy and Use:** All principal residential buildings with attached garages or other attached accessory building(s) and/or uses shall maintain a minimum residential occupancy for the entire building of at least 51

percent. This means that the occupied living space in the residential building, including but not limited to the kitchen, living, bedroom, and restroom areas must be larger in square feet than attached accessory building(s) and/or uses.

Section 11.9. PLANNED UNIT DEVELOPMENT (PUD) – APPLICATION AND APPROVAL.

A planned unit development to be eligible for application and approval must meet all of the requirements of Article IX and meet the following requirements:

Application Procedures: Planned Unit Developments shall be subject to the approval of the City Council based upon review and recommendations by the Planning Commission.

- 1) *Pre-Application Meeting.* Prior to the submission of any plan to the Planning Commission, the applicant shall meet with the Zoning Administrator to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a special exception use permit and subdivision process. The applicant may submit a simple sketch plan at this stage for informal review and discussion.
- 2) *Development Plan.*
 - a. An applicant shall make an application for a special exception use permit following the procedural steps as established by the Zoning Administrator.
 - b. In order to grant approval to a special exception use permit, the City Council shall find that the planned unit development complies with the “general regulations” criteria outlined in Section 9.3 and with the requirements as established in this section of this ordinance.
 - c. Development Plan Documentation - the following information shall be submitted by the developer as part of the application for a special exception use permit.
 - i. An explanation of the character and need for the planned development and the manner in which it has been planned to take advantage of the planned development regulations.
 - ii. A statement of proposed financing of the Planned Unit Development (PUD).
 - iii. A statement of the ownership of all of the land included within the planned development and a list of property owners and addresses within two hundred (200) feet of the property.

- iv. A general indication of the expected schedule of development including phasing schedules.
 - v. A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easement, street rights-of-way, utilities, and buildings.
 - vi. Natural features map of the property showing contour lines, drainage patterns, wetlands, vegetation, soil and subsoil conditions.
 - vii. A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.
 - viii. Full description as to how all necessary infrastructure and municipal services will be provided, including sanitary sewer, storm sewer, water, streets and other public utilities.
 - ix. Any additional information requested by the Zoning Administrator or Planning Commission.
3. *Preliminary Plat.* The applicant shall also submit a preliminary subdivision plat and all the necessary documentation as required under the city's subdivision ordinance. For purposes of administrative simplification, the public hearings required for the special exception use permit and preliminary subdivision plat may be combined into one hearing.
4. *Development Plan Procedures.*
- a. The applicant shall file a completed application together with required exhibits with the Zoning Administrator.
 - b. The Zoning Administrator shall review for conformity and transmit the application and required exhibits to the Planning Commission, and notify all property owners within the affected zone and within two hundred (200) feet of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
 - c. The Zoning Administrator shall set a date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than seven (7) days and not more than thirty (20) days prior to said hearing.
 - d. The Planning Commission shall hold the public hearing and recommend and transmit to the City Council within thirty (30) days after the close of the public hearing, one of three actions - approval, denial, or conditional

- approval.
- e. The City Council shall act upon the application within thirty (30) days after receiving the recommendation of the Planning Commission.
 - f. Upon approval by the City Council, the Zoning Administrator shall issue a conditional use permit to the applicant. The final subdivision plat shall be submitted to the County Recorder's Office within ninety (90) days. This shall include posting a performance bond or certified check with the City of West Okoboji, guaranteeing those required improvements will be constructed according to the approved implementation schedule.
 - g. Once the development plan and final subdivision plat have been approved, the city may issue the building permit for the area complying with the plan and other laws of the city.
6. *Enforcing Development Schedule.* The provision of all of common open spaces and public or recreational facilities shown on the development plan must proceed at the same rate as the construction of the principal buildings. If the Zoning Administrator finds that the rate of construction of principal buildings is faster than the rate of public or recreational facilities, the City Council may revoke the conditional use permit.
7. *Review and Amendments.* If the Zoning Administrator finds that development has not occurred within one year after the original approval, the Planning Commission may recommend that the City Council revoke the conditional use permit.

Revisions or amendments to the Planned Unit Development (PUD) may include:

- a. Changes in location, placement, and heights of buildings may be authorized by the Zoning Administrator.
- b. Approval of the Planning Commission and City Council shall be required for other changes such as rearrangement of lots, blocks and building tracts.
- c. Amendments to the Planned Unit Development (PUD) shall require the same procedures as for the application for a conditional use permit.

ARTICLE XII

Open Space (Greenspace) Requirements

Article 12: Open Space (Greenspace) Requirements

Section 12.1. Intent

Section 12.2. Open Space (Greenspace) Requirements

Section 12.1. INTENT.

It shall be recognized that the extensive use and excessive congestion of land induces the natural elements to become hazardous to the general health and welfare of the community. Therefore, the intent of this article shall be to require an adequate amount of open space or greenspace necessary to preserve the basic qualities and beauty of nature.

Section 12.2. OPEN SPACE (GREENSPACE) REQUIREMENTS.

- 1) All buildings located within the Residential (R) or Lakeshore Residential (RL) districts shall comply with the following:
 - a. On each lot or parcel of land there shall be provided a pervious or natural greenspace equal to at least thirty (30) percent of the total lot or parcel area.
 - b. Open spaces shall be unencumbered with any building or impervious off-street parking and shall be landscaped and maintained with grass, trees, shrubbery or other natural native vegetation.
 - c. Front yards in the (R) residential district and rear yards in the (RL) lakeshore residential district shall allow parking or impervious paving to be no more than 30 feet in width or half the width of the lot, whichever is greater. If a property owner wishes to have more than the allotted paving or parking within the required yard area then the Board of Adjustment, under a special exception, can allow additional parking or paving as long as it is comprised of a pervious surface or other natural or man-made material which allows for and encourages on-site water retention.
- 2) All buildings located within the commercial (C) district shall comply with the following:
 - a. On each lot or parcel of land there shall be provided a pervious or natural greenspace equal to at least fifteen (15) percent of the total lot or parcel area.
 - b. Open spaces shall be unencumbered with any building or impervious off-street parking and shall be landscaped and maintained with grass, trees, shrubbery or other natural native vegetation.
 - c. Each principal building located within a commercial or other professional office complex of which multiple principal buildings are located on one lot

shall be separated from any other principal building by a clear open space of not less than fifteen (15) feet in width. Said distance to be measured on a line projected at right angles to the opposite building.

ARTICLE XIII Buffers Required

Article 13: Buffers Required

Section 13.1	Intent
Section 13.2	Conditions for Requiring a Buffer
Section 13.3	Permissive Buffers
Section 13.4	Burden of Provision of a Buffer
Section 13.5	Waiver of Buffer Requirement

Section 13.1. INTENT.

It shall be recognized that the transition from one district to another district of contrasting and conflicting uses, is across a barrier in theory and not in existence. Therefore, it shall be the intent of this article to require the actual provision of a physical barrier so as to reduce potential harmful or detrimental influence from one district to an abutting and contrasting district.

Section 13.2. CONDITIONS FOR REQUIRING A BUFFER.

- 1) The following conditions shall require a buffer between abutting districts: Any commercial (C) district which abuts any residential (R) or lakeshore residential (RL) district shall be buffered as required in this article.
- 2) Any lot located in a commercial (C) district having both its front and rear lines abutting a public thoroughfare (a double frontage lot) shall be buffered from the thoroughfare abutting its rear line by one of the buffer methods set forth in this article.
- 3) Any storage facility, storage or loading yard, or equipment storage/staging area in any commercial (C) district that abuts a public thoroughfare shall be restricted from public view by a buffer.
- 4) Any other uses or districts abutting residential properties determined to be more intensive in nature or as recommended by the Board of Adjustment.

Section 13.3. PERMISSIVE BUFFERS.

Buffers required under the provisions of this Article or elsewhere in this ordinance shall be accomplished by any one or approved combination of the following methods:

1) *A Man-made Buffer:*

Such shall be not less than six (6) feet in height; constructed of a permanent low maintenance material. The wall shall be designed for both structural adequacy and aesthetic quality. The use of weather resistant wood, metal, concrete products, brick, tile, or other manufactured substitutes shall be used as a primary material for aesthetic quality, as long as the buffer is solid and opaquely screened.

2) *A Natural Buffer:*

a. *Natural Buffer Park:* Such park shall be not less than sixty (60) feet in width; designed and landscaped with evergreen type trees, shrubs and plants so as to assure year around effective screening.

A Natural Buffer (Cont.):

b. *Natural Buffer Screen:* Such natural screen shall not be less than 6 feet in height and comprised of natural plantings; and shall maintain a density of planting adequate to serve as a solid and impenetrable screen.

c. *Natural Buffer Berm:* Such natural berm or berm in combination with natural plantings shall not be less than 6 feet in height. If a berm is used in combination with natural plantings, the earthen berm shall be at least 3 feet in height.

Section 13.4. BURDEN OF PROVISION OF A BUFFER.

The burden of provision and selection of the buffer shall be as follows:

1) Where two different districts, requiring a buffer between them, are both in an existing improved condition, the above requirement is not retroactive and should a buffer be desired, it shall be by mutual agreement between property owners or as otherwise provided by law. However, in the event the improved property is abandoned, destroyed, demolished, etc., for the purpose of renewal,

redevelopment, etc., that portion of such property being renewed, redeveloped, etc. shall be considered vacant land subject to the requirements herein.

- 2) Where one of two different districts requiring a buffer between them is partially developed, the developer of the vacant land shall assume the burden.
- 3) Where both districts requiring a buffer between them are vacant or undeveloped except for agricultural use, the developer shall assume the burden as the land is improved or developed.

Section 13.5. WAIVER OF BUFFER REQUIREMENT.

Where the line between two districts requiring a buffer follows a highway right-of-way, railroad, stream, or other similar barrier, the requirement for a buffer may be waived, providing such waiver does not permit the exposure of undesirable characteristics of land use to public view. Waiver of a buffer requirement may be incorporated into and considered during the subdivision platting process.

**ARTICLE XIV
Site Plans**

Article 14: Site Plans

- Section 14.1. Intent
- Section 14.2. Scale
- Section 14.3. Legal Information

Section 14.4. Site Plan

Section 14.1. INTENT.

Site plans which are required for review and approval for any use in any district or elsewhere by this ordinance shall comply with and illustrate the following.

Section 14.2. SCALE.

All site plans shall be drawn at a scale not less than 1" = 40' and three (3) copies of the site plan shall be submitted with zoning permit application.

Section 14.3. LEGAL INFORMATION.

The final site plan required shall include the following legal information:

- a. Legal property owners name and description of property.
- b. Applicant's name, requested land use and zoning.
- c. If the applicant is other than the legal owner, the applicant's interest shall be indicated and the legal owners' authority to appeal shall be certified.
- d. Record of plat by a registered surveyor.

Section 14.4. SITE PLAN.

Site plans shall clearly illustrate and enumerate the following information:

- a. Property boundary lines, lot dimensions and total area drawn to scale.
- b. Dimensions of required yards and setbacks
- c. Contour lines at intervals not more than five feet, as requested by the Zoning Administrator.
- d. The availability and location of existing utilities.
- e. The proposed location, size, shape, type and location of all new buildings.
- f. Existing buildings, rights-of-way, street improvements, easements, drainage courses, etc.
- g. A vicinity sketch showing adjacent properties.
- h. Parking areas, number of proposed parking spaces, and type of surfacing to be used.
- i. Walkways, driveways, outside lighting, walls, fences, signs, monuments, statues and other man-made features to be used.
- j. Dimensions and location of open space, storm water site drainage and runoff control provisions that ensure storm water drainage does not exceed pre-

development flow rates.

- k. Walls, fences or other artificial screens to be used as buffers shall indicate proposed height and structural material to be used.
- l. Any additional information deemed necessary or requested by the Zoning Administrator.

ARTICLE XV Lakeshore Landscaping

Article 15: Lakeshore Landscaping

Section 15.1. Intent

Section 15.2. Lakeshore Landscaping Permit Required

Section 15.1. INTENT.

Preserve and protect the natural shoreline and natural terrain of West Okoboji Lake.

Section 15.2. LANDSCAPING PERMIT REQUIRED.

- 1) It shall be unlawful for any individual, corporation or other entity to landscape a lakeshore bank in any manner without a valid landscaping permit from the Zoning Administrator. Upon written application of the title holder of any real estate in any zoning district, and upon payment of the permit fee in an amount set by the City Council, the Zoning Administrator may issue a lakeshore landscaping permit upon demonstration of the following necessities.
 - A. Erosion of the lakeshore bank is occurring or likely to occur as a result of the drainage of surface water from the subject property and adjacent property into the lake; or
 - B. Erosion of the lakeshore bank is occurring or likely to occur as a result of the wave action of the lake against the lakeshore and the landscaping of the lakeshore bank will prevent erosion from occurring.
 - C. Erosion must be documented by either a public or private agency professionally trained in the area of soil conservation (i.e. IDNR, County Engineer, NRCS, etc.).
- 2) *Procedure for Obtaining Lakeshore Landscaping Permit:* Upon written application from the titleholder of the property in question, and upon payment

of the permit fee, the Zoning Administrator may consider issuance of a lakeshore landscaping permit. Applications shall be accompanied by a plan which shall set out the necessity for the proposed landscaping, as well as the corrective measures proposed and the materials to be used. Corrective measures proposed in the plan shall minimize, as far as reasonably possible, any change in the level of finished grade of the ground proposed to be landscaped, and minimize permanent removal of vegetation or plant cover.

The following are prohibited within the area of the lakeshore bank:

1. The construction or enlargement of buildings, decks, patios, fences, or other improvements, including those that inhibit the absorption of rainwater into the ground or inhibit the growth of natural vegetation is prohibited.
2. The excavation of the lakeshore bank, unless permitted pursuant to a special landscaping permit issued pursuant to this section is prohibited.
3. The construction and maintenance of a sidewalk, steps or combination of the two not exceeding four (4) feet in width shall be permitted.
4. The lakeshore bank shall not be raised or lowered by landscaping involving earth movement, excavation, filling, or construction.

ARTICLE XVI
Off Street Parking and Loading

Article 16: Off Street Parking and Loading Space

- Section 16.1. Intent
- Section 16.2. General Parking Area and Surface Requirements
- Section 16.3. Off Street Parking Requirements
- Section 16.4. Computation of Parking Spaces
- Section 16.5. Location and Type of Parking
- Section 16.6. Off Street Loading Requirements

Section 16.1. INTENT.

After the effective date of this ordinance, in all districts there shall be provided, at the time any new building or dwelling is erected, off street parking spaces in accordance with the requirements set forth herein.

Section 16.2. GENERAL PARKING AREA AND SURFACE REQUIREMENTS.

All off-street parking areas as required in this Section shall comply with the following minimum area and surface requirements.

- 1) A "parking space" shall be not less than eight feet (8') in width and not less than nineteen feet (19') in length.
- 2) Enclosed parking areas or garages shall meet the minimum parking space requirements under this section.
- 3) Requirements as to number and size of parking space in this section are minimum requirements only and shall not be construed as limitations.
- 4) Willful failure to permanently maintain and provide parking spaces as required under this section shall be a simple misdemeanor and each day such violation continues shall be considered a separate offense.
- 5) All buildings erected and all uses of land in all districts established after the effective date of this ordinance shall provide accessory parking facilities as required under this section unless a building permit has been issued and construction is begun at least two (2) months prior to the effective date of this ordinance.
- 6) All off-street parking spaces required by this ordinance shall be located on the lot of the use it serves. Only commercial or general assembly civic land uses shall be permitted to allow parking spaces within three hundred (300) feet of the principal

use lot.

- 7) All yard area, except the front yard in the Lakeshore Residential (RL) District may be used for off street parking.
- 8) Owners of two (2) or more parcels of land may agree to jointly utilize the same parking spaces provided that satisfactory legal evidence is presented in the form of deeds, leases, or contract documents to establish such a joint area of use.
- 9) A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled, shall accompany an application for a zoning compliance permit. The plan shall show all elements necessary to indicate that the requirements are being fulfilled.

Section 16.3. OFF STREET PARKING REQUIREMENTS.

At the time of construction, alteration, moving into, or enlargement of a building, or change in the use of the land; off-street parking spaces and loading areas shall be provided, constructed, and maintained for all uses as follows.

A. Single Family Residential:	2 spaces
B. Duplex Family Residential:	2 spaces per dwelling unit
C. Mobile/Manufactured Home:	2 spaces per dwelling unit
D. Hotel/Motel and Bed & Breakfast Inn:	1 space per bedroom or sleeping quarters
E. Hospital, Nursing Home, plus each two (2) employees on the	1 space for each four (4) patient beds, Convalescent Services: 1 space for major shift
F. Public Assembly: <i>Churches, Auditoriums, Comm. Center,</i>	1 space for each six (6) seats of seating capacity, or 1 space per 500 square feet of gross floor area, whichever is greater.
G. General Retail/ Service Uses/ Financial/ Professional Office:	1 space per 200 feet of gross floor area
H. Restaurants:	1 space for each four (4) seats, plus 1 space for each two (2) employees
I. Lounges/Bars/Taverns:	1 space for each two (2) seats, plus 1

- space for each two (2) employees
- J. Educational Facilities: 1 space per regular employee or 1 space for every six (6) seats in the largest facility for public assembly, whichever is greatest.
- K. Convalescent/Nursing Home: 1 space for each eight beds, plus 1 space for each 3 employees on the largest shift.
- L. Manufacturing or Industry: 1 Space for every two (2) employees on the largest working shift.
- M. Automobile/Equipment square feet of Sales and Service: One (1) space for each 300 floor area and one (1) space for each four (4) regular employees.
- N. Funeral Services: Fifteen (15) spaces, or one (1) space for each four (4) seats in the largest seating area or four (4) spaces for each viewing room, whichever is greater; plus one (1) space for each two (2) employed persons
- O. All Other Uses: All other buildings having a gross floor area of more than two thousand (2,000) square feet shall provide one (1) off-street parking space for each one thousand (1,000) square feet of floor space.

Section 16.4. COMPUTATION OF PARKING SPACES.

- 1) In the case of any building or premises, the use of which is not specifically mentioned herein, the provisions for a use that is so mentioned and to which said use is similar, shall apply, as determined by the Zoning Administrator.
- 2) Where fractional spaces occur, the parking spaces required shall be construed to be the nearest whole number.
- 3) Whenever a building or use existing prior to the effective date of this ordinance is enlarged to the extent of fifty percent (50%) or more in floor area or in the

area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.

- 4) In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses if computed separately.
- 5) Whenever a building is constructed or use established after the effective date of the ordinance is changed, enlarged floor area, number of employees, number of dwelling units, seating capacity, or otherwise to create a need for an increase of ten (10) percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

Section 16.5. LOCATION AND TYPE OF PARKING.

All parking spaces required herein shall be located on the same lot as the building or use served, except that where an increase in the number of spaces is required due to a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained no more than three hundred feet (300') from an institutional or other non-residential building being served.

- 1) In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, shall be properly drawn and executed by the parties concerned, approved as to form and execution, and shall be filed with the application for a building permit.
- 2) Off-street parking spaces may be located within the required front yard in the (C) commercial district; however, no off-street parking shall be permitted in the required front or side yard in the (R) residential district except a driveway providing access to a garage, carport or parking area.
- 3) All required off-street parking areas in the (C) commercial district of more than five spaces shall be surfaced with asphalt, concrete, or other such surface as shall be approved by the Zoning Administrator so as to provide a durable surface. They shall be graded and drained to dispose of all surface water accumulation within the lot, and shall be arranged and marked to provide for orderly and safe loading or unloading.
- 4) Any lighting used to illuminate any off-street parking areas shall be arranged to

reflect light away from adjacent lots and uses of land.

- 5) No part of any parking space shall be closer than five feet from any street right-of-way. In case the parking lot adjoins a (R) residential or (RL) lakeshore residential district, it shall be at least five feet from the property line and effectively screened by the use of a fence, hedge, or other similar methods approved by the city.

Section 16.6. OFF STREET LOADING REQUIREMENTS.

In any district, in connection with every building hereafter erected, every hospital, hotel, institution, manufacturing, storage, warehouse, retail store, wholesale store, or other similar commercial or industrial building having a gross floor area of ten thousand (10,000) square feet or more and secondary access from an alley, side street or otherwise shall have at least one permanently maintained loading space upon which such building is located.

- 1) Each loading space shall be no less than ten feet (10') in width, forty feet (40') in length and fifteen feet (15') in height.
- 2) All loading and unloading must be conducted on private property and cannot be conducted in the public right-of-way. Such space may occupy all or any part of any required side or rear yard or open space, except where adjoining a residential district. If the loading space is adjacent to a residential district, it shall be set back at least ten feet (10') from said district and be effectively screened from view.

ARTICLE XVII
Sign Regulations

Article 17: Sign Regulations

- Section 17.1. Intent
- Section 17.2. Definitions
- Section 17.3. Requirements
- Section 17.4. Special Exceptions
- Section 17.5. Additional Regulations
- Section 17.6. General Sign Provisions
- Section 17.7. Permits Required
- Section 17.8. Unsafe and Unlawful Signs
- Section 17.9. Removal of Signs
- Section 17.10. Exemptions

Section 17.1. INTENT.

This article is established to protect and promote health, safety, general welfare and order within the city limits of West Okoboji through the establishment of comprehensive and uniform standards, regulations and procedures governing the type, number, size, building, location, height, lighting, erection, use or display of devices, signs, or symbols serving as a visual communications media to persons situated within or upon public rights-of-way or private properties. The provisions of this article are intended to encourage opportunity for effective, aesthetically

compatible, and orderly communications by reducing confusion and hazards resulting from unnecessary or indiscriminate use of communications facilities. Hereafter, billboards and signs in conjunction with the principal permitted use are to be erected, constructed, altered, or modified subject to the following regulations.

Section 17.2. DEFINITIONS.

For use in this section, the following terms are defined.

ABANDONED SIGN: A sign which no longer correctly directs any person, advertises a bona fide business, lessor, owner, product, or activity conducted on the premises where such sign is displayed.

ADDRESS SIGN: A sign communicating street address only, whether written or in numerical form.

BILLBOARD: A sign advertising a service, business or product not offered for sale or made available on the same zoning lot on which the sign is located.

CAMPAIGN SIGN: A temporary sign promoting the candidacy of a person running for a governmental office, or promoting an issue to be voted upon at a governmental election.

CONSTRUCTION SIGN: A sign placed at construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

DIRECTIONAL SIGN: A sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity plus directional or location information.

ERECT: To build, construct, attach, hang, suspend or affix, and also includes painting wall signs.

FACING (or SURFACE): The surface of the sign upon, against or through which the message is displayed or illustrated.

FLASHING SIGN: Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use.

FREE STANDING SIGN: Any sign or sign device, not securely attached to the ground or to any other building. This shall not include trailer signs as defined in this section

GOVERNMENTAL SIGN: A sign which is erected by a governmental unit.

GROUND (or POLE) SIGN: A sign located on a pole, upright or bracing which is independent of any building or any other device.

ILLUMINATED SIGN: Any sign which has character, letters, figures, designs or outline illuminated by electric lights or luminous tubes as a part of the sign proper.

INCOMBUSTABLE MATERIAL: Any material that will not ignite at or below a temperature of 120 degrees Fahrenheit and will not continue to burn or glow at that temperature.

INFORMATION SIGN: Any sign giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.

JOINT IDENTIFICATION SIGN: A free-standing sign which identifies a subdivision, a shopping center consisting of three (3) or more separate business concerns, an industrial area, an office complex consisting of three (3) or more buildings or any combination of the above.

NON-CONFORMING SIGN: A sign which lawfully existed at the time of the passage of this ordinance or amendments thereto but which does not conform to the regulation of this ordinance.

PORTABLE SIGN: Any sign not permanently attached to a building, device, or the ground, capable of being moved at periodic intervals.

PROJECTING SIGN: A sign, other than a wall sign, projecting perpendicular from a building wall, and supported by a wall of the building. A projecting sign shall extend no more than three (3) feet from the supporting wall.

REAL ESTATE SIGN: A business sign placed upon a property advertising that particular property for sale, for lease or for rent.

ROOF SIGN: A sign erected upon or above a roof or parapet of a building, and not extending beyond the highest point of the roof or above a height of thirty-five feet (35').

SIGN: The use of words, numerals, pictures, figures, devices or trademarks by

which anything is made known; used to show an individual, firm, profession or business, and is visible to the general public.

SIGN AREA: That area within the marginal lines of the surface which bears the advertisement or, in the case of messages, figures or symbols attached directly to the part of a building; that area which is included in the smallest connecting geometric figures which can be made to circumscribe the message, figure or symbol displayed thereon. Only changeable copy areas of marquee or canopies shall be considered in determining the total sign area.

SIGN DEVICE: The supports, uprights, bracing and framework for a sign including the sign area.

STREET LINE or (PROPERTY LINE): The place where the street right of way line begins and the private property line ends.

STRUCTURAL TRIM: The molding, battens, cappings, nailing strips, latticing and platforms that are attached to the sign device.

SWINGING SIGN: A sign installed on an arm or spar that is not, in addition, permanently fastened to an adjacent wall or upright pole.

TEMPORARY SIGN: Any sign which is erected or displayed for a specified period of time.

TRAILER SIGN: Any sign mounted on a vehicle normally licensed by the State of Iowa as a trailer and used for advertising or promotional purposes.

WALL SIGN: All flat signs of solid face construction which is placed against a building or other device and attached to the exterior front, rear or side wall of any building or other device. Such signs may extend no more than twelve (12) inches from the surface of the building or device to which they are attached. Wall signs are also referred to as "flush mounted signs".

Section 17.3. REQUIREMENTS.

Billboards and signs in conjunction with principal permitted uses are allowed subject to the following regulations.

- 1) *Residential (R) and Lakeshore Residential (RL) Districts.* Signs pertaining to principal permitted uses are allowed in residential districts subject to the

following regulations.

- a. Home occupation signs are permitted pursuant to Section 11.6, and shall be limited to no more than four (4) square feet in area appurtenant to a permitted use of the property on which displayed.
- b. One (1) on-site sign not exceeding four (4) square feet in area pertaining only to the sale or lease of the land or building upon which displayed shall be allowed. Such sign shall comply with one-half of the minimum setback required in the district in which the sign is erected.
- c. Nonresidential uses will be limited to signs incorporated as a part of the building facade or attached flush to the building.
- d. Signs at the entrance of subdivision, displaying only the name of that subdivision not exceeding 50 square feet.
- e. The following type signs are prohibited in the (R) Residential and (RL) Lakeshore Residential District:
 - Flashing signs
 - Illuminated signs
 - Swinging signs
 - Billboard
 - Roof Signs
 - Projecting signs
 - Free Standing signs
 - Trailer signs (permanent or temporary)
 - Ground (Pole Sign)

2) *Commercial (C) Districts.* Signs and billboards in conjunction with principal permitted uses are allowed in commercial districts subject to the following regulations.

- a. Only two (2) permanent type signs are permitted; one may be placed on the principal use building and one may be placed on an independent building located not more than one hundred fifty (150) feet from the principal use building and not containing more than one hundred fifty (150) square feet of total sign area on one side and of sufficient height that sight distance is not impaired;
- b. Signs shall be limited to those (a) identifying uses conducted within the building; or (b) necessary for directional purposes; or (c) used to advertise the sale or lease of real property on buildings on which displayed; or (d) identifying the commercial enterprise by name or symbol.
- c. The total allowable area of all use identification signs on any building of a business establishment shall be determined by permitting two (2) square feet of sign area for each horizontal foot of the building wall displaying such sign

- or signs.
- d. For the purposes of this section, the sign area allowed by sections a-c above shall:
 - i. For freestanding letters, be computed by taking the area enclosed within the smaller rectangle needed to completely encompass each word or insignia of the sign.
 - ii. For signs other than freestanding letters, be computed by taking the total area of the facing or the total area within the outer edge of any existent border of the sign.
 - e. All signs shall be fixed and shall not be audible. Illumination shall not be intermittent or flashing, nor shall any sign or illumination be revolving or animated. No signs shall have moving parts including devices set in motion by movement of air.
 - f. No wall-mounted sign shall project out from a wall or face of a building more than two (2) feet nor project above the roofline more than four (4) feet.
 - g. Service stations located in the commercial (C) district shall be limited to three square feet of sign area for each lineal foot of street frontage occupied by such use. Where a service station located in the commercial (C) district has frontage on more than one street, only one street frontage may be used to compute the allowable sign area. In no case however, shall the total of all signs for any one service station exceed 250 square feet.
 - h. Advertising signs and billboards shall be set back from the right-of-way line of any state, federal, county, or local thoroughfare at least as far as the required front yard depth for a principal building.
- 3) *All other Zoning Districts.* Signs and billboards in conjunction with principal permitted uses are allowed subject to the following regulations.
- a. Only two (2) permanent type signs are permitted; one may be placed on the principal use building and one may be placed on an independent building or device located not more than one hundred fifty (150) feet from the principal use building and not containing more than one hundred fifty (150) square feet of total sign area;
 - b. For the purposes of this section, the sign area allowed by section “a” shall:
 - i. For freestanding letters, be computed by taking the area enclosed within the smaller rectangle needed to completely encompass each word or insignia of the sign.

- ii. For signs other than freestanding letters, be computed by taking the total area of the facing or the total area within the outer edge of any existent border of the sign.
- c. All signs shall be fixed and shall not be audible. Illumination shall not be intermittent or flashing, nor shall any sign or illumination be revolving or animated. No signs shall have moving parts including devices set in motion by movement of air.
- d. No wall-mounted sign shall project out from a wall or face of a building more than two (2) feet nor project above the roofline more than four (4) feet.
- e. Advertising signs and billboards shall be set back from the right-of-way line of any state, federal, county, or local thoroughfare at least as far as the required front yard depth for a principal building.

Section 17.4. SPECIAL EXCEPTIONS.

In all districts, for uses permitted as special exception uses, signs will be allowed only through Board of Adjustment approval and subject to any conditions deemed by the board to be appropriate.

Section 17.5. ADDITIONAL REGULATIONS.

In all districts, signs and billboards shall adhere to pertinent state regulations and other local ordinances.

Section 17.6. GENERAL SIGN PROVISIONS.

Regardless of the district in which they are located, all signs within the City of West Okoboji shall be subject to and shall conform to the following regulations:

1) Safety:

- a. Obstructions to doors, windows or fire escapes. No sign shall be erected, located or maintained so as to prevent free ingress to or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.
- b. Hazardous Signs: No sign permitted by this ordinance shall, by reason of its location, lighting, size, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "stop",

"caution", "warning", etc., unless such sign is intended to direct traffic within the premises. No sign or other advertising device as regulated by this ordinance shall have posts, guides or supports located within any public right-of-way.

- c. Face of sign shall be smooth. All signs or other advertising devices which are constructed on street lines, or within five (5) feet thereof, shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom, except electrical reflectors and devices which may extend over the top and in front of the advertising devices.
 - d. Illumination. Lighting devices and goose neck reflectors shall be permitted on ground signs, roof signs and wall signs, provided, however, the lights or reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign as to prevent glare upon the street or adjacent property.
- 2) Sign Maintenance: All signs and sign devices shall be properly maintained and kept in a safe, orderly condition. In addition, all parts and supports shall be properly painted. Any sign or sign device which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, or replaced by the property owner or agent of the owner of the property upon which the sign is located, within thirty (30) days after written notice by the City of West Okoboji.
 - 3) Interference: No sign, nor any guys, stay or attachment thereto shall be erected, placed or maintained by any person on rocks, fences, or trees; nor in such a manner as to interfere with the effective use of fire fighting equipment or personnel, or any electric light, power, telephone, telegraph, TV cable, or other buried fiber optic wires or supports thereof.
 - 4) Signs in Right-of Way: No signs other than government signs shall be erected or temporarily placed within any public rights-of-way except as may be specifically provided herein.
 - 5) Clearance: All signs located over public rights-of-way or any public roadway shall be located a minimum of fourteen (14) feet above grade level.
 - 6) Signs Required by Law: All signs required by law shall be permitted in all districts.

- 7) Back to Back Signs: If a free-standing sign or sign device is constructed so that the faces are not back to back, the angle shall not exceed thirty degrees. If the angle is greater than thirty degrees, the total area of both sides added together shall be the calculated sign area. Back to back signs (when less than thirty degrees) shall be considered as one sign when debited against the total number of signs permitted on one zoning lot.
- 8) Double Frontage: Lots having frontage on two streets or on a street and an alley, or on a street and a lake shall be permitted to provide the maximum number and square footage of signs on each of the opposite ends of said lot, provided however, that not more than the maximum number of square feet of signs per frontage may be viewed simultaneously.
- 9) Nonconforming Signs: Nonconforming signs shall be brought into compliance upon change of ownership or occupancy of the premises.
- 10) Temporary Signs: The temporary use of portable or moveable signs, search lights, banners, pendants, and similar devices shall be allowed in excess of and in addition to the sign limitations of this Article for continuous periods of ten (10) consecutive days. No business proprietor shall be allowed more than three such periods in any calendar year.
- 11) Animated Signs: Animated signs may be allowed as a special exception requiring a hearing before the Board of Adjustment.
- 12) Intermittent Flashing Signs: No intermittent flashing signs are permitted, except public service information signs.
- 13) Ground Signs and/or Pole Signs: No ground sign shall be nearer the street than five (5) feet from the property line. All ground signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.
- 14) Wall Signs: No wall sign shall cover wholly or partially any wall opening, and shall not be attached to a wall at a height of less than (ten) feet above the sidewalk or ground.
- 15) Signs and Billboards not in conjunction with Principal Permitted Uses: Billboards and signs not located in conjunction with principal permitted uses are allowed in the Commercial (C) District provided that such sign or billboard

contains not more than one hundred (100) square feet in sign area on any one side, the sign or billboard complies with the bulk regulations of the Commercial (C) District, and must be a minimum of fifteen feet (15 ft.) from all street lines.

- 16) Free Standing Signs: Free standing signs will be permitted if they do not block the view of oncoming traffic, conform to the Iowa Department of Transportation regulations, and are twenty (20) feet from the curblineline or immediately adjacent to the edge of the sidewalk furthest from the center of the roadway.

Section 17.7. PERMITS REQUIRED.

It shall be unlawful for any person to erect, alter, or relocate within the city any sign or other advertising device as defined in this ordinance, without first obtaining a sign permit (or zoning compliance permit for a sign) and making payment of the fee required by this Section.

- 1) Application for Sign Permit. Application for sign permits shall be provided by the Zoning Administrator and shall be completed and approved prior to the construction, erection, or placement of the proposed sign. Included with the permit application shall be a sketch of the site plan, method of construction, attachment to the building or ground, inscription of what the sign will say, and other such information as the Zoning Administrator may require in compliance with this ordinance and all other ordinances of the city. A state sign permit will need to be included with the application for signs located along a state or national primary highway.
- 2) Permit Issued. It shall be the duty of the Zoning Administrator, upon the filing of an application for a sign permit to examine such plans and other data and the premises upon which it is proposed to erect the sign or other advertising device, and if it shall appear the proposed device is in compliance with all the requirements of this ordinance and all other ordinances of the City of West Okoboji, the permit may be issued. If the work authorized under a sign permit has not been completed within six months from date of issuance, said permit shall become null and void.
- 3) Permit Revocation. Any permit holder who fails to comply with a valid order of the Zoning Administrator within the allotted time period, or who fails to pay reasonable removal or repair expenses assessed under the Sections 17.9 and 17.10 shall have the permit as to such sign or signs revoked, and another permit for the erection or maintenance of such sign or signs shall not be issued to said

permit holder for a period of one (1) year from the date of revocation.

Section 17.8. UNSAFE AND UNLAWFUL SIGNS.

If the Zoning Administrator shall find that any sign or other advertising device is unsafe, insecure, a menace to the public, or has been constructed, erected or maintained in violation of the provisions of this ordinance, written notice shall be provided to the permit holder including a statement explaining alleged violations or deficiencies and an order to repair or remove said sign. Furthermore, the written notice will also provide an explanation of the consequences of failure to comply with said order as explained in Section 17.10 below. The permit holder may appeal the sign removal order by the Zoning Administrator to the Board of Adjustment and, if such an appeal is on file, the order may be extended until the Board of Adjustment's decision on the matter. If, however, the Zoning Administrator finds that any sign or other advertising device poses a serious and immediate threat to the health or safety of any person, the Zoning Administrator may order the removal of such sign summarily and without notice to the permit holder.

Section 17.9. REMOVAL OF SIGNS.

Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be removed within sixty (60) days from date of notice provided by the Zoning Administrator. The owner of the property on which the sign is located shall have sixty (60) days from date of notice to remove any such sign. If after the expiration of the sixty (60) day period, the sign has not been removed, the city may cause the sign to be removed and any expenses may be charged back to the property owner.

Section 17.10. EXEMPTIONS.

The provisions and regulations of this ordinance shall not apply to the following signs; provided however, said signs shall comply with all other applicable provisions of this ordinance

- 1) **Real estate signs.** Real estate signs advertising for sale, rental or lease only, the premises, lots or tracts where they are located will be allowed in all districts. The area of such sign shall not exceed four (4) square feet in area on any one side. Illuminated real estate signs are not permitted. In the case of sale, signs shall be removed within twenty-four (24) hours after the sale. Only one (1) real estate sign may be allowed per lot except on double frontage lots.
- 2) **Professional name plates** not exceeding one (1) sq. ft. and attached to the principal building.
- 3) **Address Signs** bearing only property numbers, post box numbers, names of

occupants of the premises or other identification of premises not having commercial connotations;

- 4) **Informational and Directional Signs** will be permitted in all districts.
- 5) **Construction Signs** as a non-illuminated sign announcing the names of architects, engineers, contractors, future use, and other individuals or firms involved with the construction, alteration, or repair of such building (but not including any advertisement of any product). Such signs shall be confined to the site of the construction, alteration or repair and shall be removed within two (2) years of the date of issuance of the first building permit or when the particular project is completed, whichever is sooner. One (1) sign, not to exceed 32 sq. ft., shall be permitted on the project site.
- 6) **Memorial signs** or tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other non-combustible materials.
- 7) **Traffic or other municipal signs**, legal notices, railroad crossing signs, danger signs, and other such temporary or emergency signs directing and guiding traffic and parking on private property, but bearing no advertising matter, as approved by the Board of Adjustment.
- 8) **Temporary signs** up to a maximum of six (6) square feet on owned property or with owner's consent, to be removed within 24 hours following the advertised event.
- 9) **Political signs** as allowed by Section 306C.22, Code of Iowa.
- 10) **Government Signs** of a public, non-commercial nature to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when signs are erected by or on order of a public officer or employee in the performance of official duty.
- 11) **Flags and insignias** of any government except when displayed in connection with commercial promotion.

ARTICLE XVIII Nonconformities

Article 18: Nonconformities

Section 18.1 Intent

Section 18.2. Nonconforming Lot of Record

Section 18.3.	Nonconforming Uses of Buildings and Land
Section 18.4	Repairs and Maintenance
Section 18.5	Replacing Damaged Buildings
Section 18.6	Uses Under Exception Provisions Not Nonconforming Uses
Section 18.7	Change of Tenancy or Ownership

Section 18.1. INTENT.

It is the intent of this ordinance to permit legal nonconforming lots, buildings, or uses to continue until they are removed but not to encourage their survival. It is recognized that there exists within the districts established by this ordinance and subsequent amendments, lots, buildings, and uses of land and buildings which were lawful before this ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other buildings or uses prohibited elsewhere in the same district.

A nonconforming use of a building, a nonconforming use of land, or a nonconforming use of a building and land in combination shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved. To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this ordinance and upon which actual building construction has been diligently carried on.

Section 18.2. NONCONFORMING LOT OF RECORD.

In any district in which dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots of the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located.

Variance of area, width and yard requirements shall be obtained through action of the Board of Adjustment.

Section 18.3. NONCONFORMING USES OF LAND OR BUILDINGS.

Where a lawful use of a building, or of a building and land in combination exists at the effective date of adoption or amendment of this ordinance that would not be permitted or built in the district under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks or other characteristics of the building or its location on the land, the lawful use or building may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 1) An existing building devoted to a use not permitted by this ordinance in the district in which it is located shall not be enlarged, extended, constructed, reconstructed, moved or structurally altered, except when required by law, unless in changing the use of the building to a use permitted in the district in which it is located.
- 2) Any nonconforming use may be extended throughout any parts of a building that was manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- 3) Any building, or building and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such building is located, and the nonconforming use may not thereafter be resumed.
- 4) When a nonconforming use of a building, or buildings and land in combination, is discontinued or ceases to exist for a period of more than six (6) months, the building, or building and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- 5) Where nonconforming use status applies to a building and land in combination, removal or destruction of the building shall eliminate the nonconforming status of the land.
- 6) Should such building be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 18.4. REPAIRS AND MAINTENANCE.

On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on

repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing of the building to an extent not exceeding fifty (50) percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety upon orders of such official.

Section 18.5. REPLACING DAMAGED BUILDINGS.

Any nonconforming building which is damaged less than 50 percent of assessed value in such a manner as to require its repair or replacement shall be permitted to be repaired, restored, or reconstructed and used as before such damage, provided that such repair, restoration, or reconstruction is confined to the existing foundation or to the size of the building prior to its damage or destruction.

Under no circumstances shall such a nonconforming building be restored or reconstructed unless the same is completed within one (1) year from the date of such damage, and under no circumstances shall any nonconforming building which is repaired, restored or reconstructed be enlarged from its size prior to the damage which caused the need for repair, restoration or reconstruction. If a building is damaged more than 50 percent of assessed value all rebuilding or uses must conform to provisions of this ordinance.

Section 18.6. USES UNDER EXCEPTION PROVISIONS NOT NONCONFORMING USES.

Any use for which a special exception is permitted as provided in this ordinance shall not be deemed a nonconforming use, but shall without further action, be deemed a conforming use in such district. Any expansion shall be with approval of the Board of Adjustment.

Section 18.7. CHANGE OF TENANCY OR OWNERSHIP.

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, of buildings, or of buildings and land in combination.

ARTICLE XIX
Special Exceptions

Article 19: Special Exceptions

Section 19.1 Requirements

Section 19.2 Jurisdiction

Section 19.3. Application for a Special Exception Permit

Section 19.4.	Procedures
Section 19.5.	Standards
Section 19.6	Revocation
Section 19.7.	Supplemental Standards

Section 19.1. REQUIREMENTS.

Allowable special exception uses may be permitted, enlarged, or altered upon application for a special exception use permit in accordance with the rules and procedures of the Board of Adjustment. The Board of Adjustment will grant or deny a special exception use permit in accordance with the standards set forth herein and with the intent and purpose of this ordinance. In granting a special exception use permit, the Board of Adjustment will authorize the issuance of a special exception use permit and may prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the special exception use permit.

Section 19.2. JURISDICTION.

The Zoning Administrator shall be responsible for administration of the special exception procedure and the Board of Adjustment shall be responsible for the review, evaluation, and action on all applications for a special exception use permit.

Section 19.3. APPLICATION FOR SPECIAL EXCEPTION PERMIT.

An application for a special exception use permit may be initiated by a property owner or his authorized agent by filing an application with the Zoning Administrator upon forms prescribed for the purpose. The application shall be accompanied by:

- 1) Name and address of the owner and applicant.
- 2) Address and legal description of the property.
- 3) If the applicant is not the legal owner of the property, a statement that the applicant is the authorized agent of the owner of the property.
- 4) An abstractor's certificate which shows the legal description, the names, and last known mailing address of the owners of all property within 200 feet of the property for which the special exception use is requested.
- 5) A statement describing the nature and operating characteristics of the proposed use, including any data pertinent to the findings required for approval of the application.

- 6) Site plans in accordance with the requirements of Article XIV, preliminary building elevations, preliminary improvement plans, and other such plans and data showing the dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein.
- 7) Any applicable fee established by the West Okoboji City Council.

Section 19.4. PROCEDURES.

The Board of Adjustment shall not grant a special exception unless and until the following procedures have been fulfilled:

- 1) The Zoning Administrator shall, provide a copy of the application for special exception for review and comment to the Planning and Zoning Commission.
 - a. The Planning and Zoning Commission shall provide the Board of Adjustment with their recommendations within fifteen (15) days after receipt of the application.
 - b. After receipt of the Planning and Zoning Commission's recommendations, the Board of Adjustment shall schedule a public hearing in relation to the special exception request. Notice shall be given of the public hearing as required by state statute by publication in a newspaper of general circulation in the city. Notice shall be given to a complete list of persons provided by the applicant who are all of the owners of property within two hundred (200) feet of the property in question at least fifteen (15) days prior to the public hearing.
- 2) The Board of Adjustment shall determine that it is empowered under this ordinance to grant the special exception as described in the application, and the granting of the special exception will not adversely affect the public interest pursuant to testimony presented at the public hearing and the review by the Planning and Zoning commission.
- 3) In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this ordinance and punishable under Article XXI of this ordinance.
- 4) The concurring vote of three (3) members of the Board of Adjustment grants a special exception use permit. No order of the Board of Adjustment granting a special exception use permit shall be valid for a period longer than six (6)

months from the date of such order, unless the Board of Adjustment specifically grants a longer period of time or a building permit is obtained within the six (6) month period and construction is commenced.

Section 19.5. STANDARDS.

The Board of Adjustment shall not grant a special exception permit unless such Board shall find:

- 1) That the establishment, maintenance, or operation of the special exception use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare of the community.
- 2) That the special exception use will not be injurious to the use and enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the neighborhood.
- 3) That in the case of existing relocated residential dwellings (single family or duplex), that the proposed use aesthetically blend in with the neighboring existing permitted uses and special attention be given to the architectural style, size and quality of construction of the proposed use.
- 4) That the establishment of the special exception use will not impede the normal and orderly development or improvement of the surrounding property for uses permitted in the district.
- 5) That adequate utilities, access roads, drainage, parking, and/or necessary facilities have been or will be provided.
- 6) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7) The use shall not include any activity involving the use or storage of flammable, or explosive material unless protected by adequate fire fighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- 8) The use shall not include noise that is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- 9) The use shall not include vibration that is discernable without instruments on any adjoining lot or property.
- 10) The use shall not involve any malodorous gas or matter that is discernable on any adjoining property.

- 11) The use shall not involve any direct or reflected glare that is visible from any adjoining property or from any public street, road, or highway.
- 12) The use shall not involve any pollution of the air by fly-ash, dust vapors, or other substance which is harmful to health, animals, vegetation or other property or which causes soiling, discomfort or irritation.
- 13) The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- 14) The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.
- 15) That the use will not be in conflict with the city's comprehensive plan.
- 16) The use shall not interfere with the use or enjoyment of neighboring permitted uses. If such interference is found, provisions must be made for increased setbacks or screening of incompatible use by the use of fences or hedges.
- 17) The ground coverage shall be such that no additional dust or stormwater run-off is generated by the special exception use.
- 18) The use shall not create a hazard to vehicular traffic. If any such hazard is determined, provisions must be made to increase the required setback.
- 19) The use shall not cause any permanent, irreparable environmental damage to the parcel or neighboring lands.
- 20) The special exception use permit may be reviewed after a specified period of time for compliance and for possible additional conditions.
- 21) Residential uses listed as special exceptions in (C) commercial districts may be required to provide the setbacks required in the (R) residential district for the safety and comfort of residents and for the provision of open space and off-street parking.

Section 19.6. REVOCATION.

The issuance of a special exception use permit by the Board of Adjustment shall entitle the owner to continue to operate the use so long as he remains in compliance with the terms and conditions of this ordinance and the terms, conditions, limitations, requirements and safeguards set forth in the special exception use permit. If such a permit is granted it does expressly grant to the city,

for the enforcement of this ordinance, the power and authority to enter upon the premises at any reasonable time for the purpose of inspection and enforcement of the terms of this ordinance or of the terms of the special exception use permit.

In the event the owner or occupant of the property for which a special exception use permit has been issued, shall violate any provision of this ordinance or any term, condition, limitation, regulation or safeguard contained in the special exception permit, the permit shall become null and void and the owner or occupant shall be deemed to be in violation of this ordinance and the city may proceed to enforce the provisions of this ordinance and the terms, conditions, limitations, and safeguards of the special exception permit as provided in this ordinance. In addition to all other remedies provided herein, in the event that such special exception permit shall become null and void, the compliance bond, if any, given by the owner under the provisions of this ordinance shall be forfeited.

Section 19.7. SUPPLEMENTAL OPEN-AIR STORAGE STANDARDS.

In addition to the general standards outlined in Section 19.5 above, specified uses shall adhere to standards as follows:

All open-air sales display and storage, including used auto sales and storage, new auto sales and storage, new and used farm implement and equipment sales and storage, new and used truck, machinery, or equipment sales and storage, shall require a special use permit. The application shall be accompanied with drawings and other documents describing the intent, layout, and construction or installation in accordance with the following minimum requirements:

- 1) The sides and rear lot lines, when abutting properties used for residential dwellings, may require screening with a wall or fence with its surface at least fifty (50) percent solid and at least seven (7) feet in height. The fence shall not be required to extend beyond the front yard setback;
- 2) All lighting and lighted facilities shall be designed and arranged so that they do not focus or glare directly on adjacent residential properties, or public streets, thereby creating a traffic hazard;
- 3) No lighted flashing signs, or revolving beacon lights shall be permitted closer than seventy-five (75) feet to the street property line or residential properties and less than fifteen (15) feet above ground or more than thirty-five (35) feet above the ground;
- 4) The open-air area shall be maintained to be reasonably free of weeds, debris, trash and other objectionable materials.

**ARTICLE XX
Enforcement**

Article 20: Enforcement

- Section 20.1 Zoning Administrator
- Section 20.2. Zoning Compliance
- Section 20.3. Zoning Permits Required
- Section 20.4. Application for Zoning Compliance Permit
- Section 20.5. Construction or use provided in application, plans and permit
- Section 20.6. Fees
- Section 20.7. Special Exceptions
- Section 20.8. Administrative Appeals

Section 20.1. ZONING ADMINISTRATOR.

The purpose of this section is to confirm the existing Zoning Administrator, and it shall be the duty of said officer to enforce this ordinance. Such officer may be a person holding another appointive office in the city, or in another governmental agency.

Section 20.2. ZONING COMPLIANCE.

If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, they shall notify in writing the person responsible for such violations indicating the nature of the violation and ordering necessary action to correct it. The Zoning Administrator shall order discontinuance of illegal uses of land or buildings; removal of illegal buildings or devices, alterations or structural changes thereto; discontinuance of any illegal work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions. Nothing in this part shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless discontinuance is necessary for the safety of life or property.

Section 20.3. ZONING PERMITS REQUIRED.

No land shall be occupied or used, and no building hereafter shall be erected, moved, added to, or structurally altered until a permit is issued by the Zoning Administrator. No permit shall be issued to make a change unless the changes are in conformity with provisions of this ordinance. Proof of a certified survey shall be shown by the property owner(s) before any zoning compliance permit shall be issued for any lot of record; such proof may be required for any other parcel of land.

Zoning permits shall be issued in conformance with the provisions of this ordinance, or upon written order from the Board of Adjustment, but shall be null and void if the purpose for which the permit is issued is not begun within six months from date of issuance. The construction, addition, or moving of a building for which a zoning permit is issued must be completed within 18 months of the date the permit is issued. If the project for which the permit was originally issued is not completed in the time allowed, the property owner must reapply for the zoning compliance permit and will be required to pay double the full permit fee.

Section 20.4. APPLICATION FOR ZONING COMPLIANCE PERMIT.

Zoning Compliance permits shall be obtained from the Zoning Administrator before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building including billboards and signs. All applications for zoning permits shall be accompanied by a site plan prepared in accordance with Article XIV of this ordinance. Permits shall be kept on file by the Zoning Administrator, and shall be available for review on request. The Zoning Administrator shall issue compliance permits to complying applicants upon review and approval.

Section 20.5. CONSTRUCTION/USE PROVIDED IN APPLICATION, PLANS AND PERMIT.

Zoning compliance permits issued on the basis of plans and applications that are approved by the Zoning Administrator authorize only that use, arrangement and construction. Uses, arrangement, and construction at variance with the use or buildings authorized in the plans or application shall be deemed a violation of this ordinance and punishable under Article XXI.

Section 20.6. FEES.

Before receiving a zoning compliance permit the owner or their agent shall pay to the city the permit fee as provided by resolution of the City Council. Such fee shall be based upon estimated costs of the project. Fees for permits issued after the

construction, or moving, in the case of house moving, has begun shall double. The city, county, state and federal government shall be exempt from paying any scheduled fees.

Section 20.7. SPECIAL EXCEPTIONS.

A zoning compliance permit for a special exception may be issued by the Zoning Administrator after review by the Planning and Zoning commission and upon order of the Board of Adjustment.

Section 20.8. ADMINISTRATIVE APPEALS.

This procedure is intended to afford review of administrative actions taken pursuant to the Zoning ordinance where such actions may be in error.

- 1) Appeals: Appeals to the Board of Adjustment may be taken by any person aggrieved, or by any officer, department, or board of the City affected by any administrative decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal, which shall specify the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action was taken.
- 2) Stay of Proceedings: An appeal from the action of the Zoning Administrator shall stay all proceedings in furtherance of such action unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In the event the Zoning Administrator shall make and file such certificate, his action shall not be stayed otherwise than by a restraining order that may be granted by the Board of Adjustment, or by a court of record, upon application of the party aggrieved by the action of the Zoning Administrator, and after notice to him and upon due cause shown.
- 3) Action: The Board of Adjustment shall act on the appeal within 30 days following the closing of the public hearing. In exercising the powers set out in this section, the Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may take such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whose action

the appeal was taken. The board shall notify the appellant of its decision by mail.

ARTICLE XXI
Violation and Penalty

Article 21: Violation and Penalty

- Section 21.1. Violation and Penalty
- Section 21.2. Restraining Order

Section 21.1. VIOLATION AND PENALTY.

The violation of any of the provisions of this ordinance shall constitute a misdemeanor. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance, upon conviction shall be subject to a fine of not more than five-hundred dollars (\$500) or imprisonment of not more than thirty (30) days for each offence, as permitted by Iowa Code. Each day that a violation is permitted to exist constitutes a separate offense.

Section 21.2. RESTRAINING ORDER.

In case any building or device is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, device or land is used in violation of this ordinance, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City of West Okoboji to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, conduct, business or use in or about said premises.

ARTICLE XXII
Planning and Zoning Commission

Article 22: Planning and Zoning Commission

- Section 22.1. Planning and Zoning Commission Created
- Section 22.2. Terms of Office
- Section 22.3. Quorum
- Section 22.4. Meetings
- Section 22.5. Officers
- Section 22.6. Powers and Duties Granted

Section 22.1. PLANNING AND ZONING COMMISSION CREATED.

The members of the existing City of West Okoboji Planning and Zoning Commission are hereby confirmed to continue their appointed terms of office. The commission is hereby composed of five citizens of the city who are qualified by knowledge and experience to act in matters pertaining to the development of city planning and zoning, none of whom shall hold any elective position in the city. All members shall be appointed by the City Council.

Section 22.2. TERMS OF OFFICE.

Future members of the Planning and Zoning Commission shall be appointed by the City Council for a term of five (5) years. The expiration of terms of office shall occur in December following the duration of the designated term, provided that all members shall hold office until their successor is appointed and approved. Vacancies shall be appointed in the same manner as the original appointee. A person appointed to fill an occurring vacancy shall only serve out the remainder of the term of the member replaced. The terms of not more than one-third (1/3) of the members will expire in any one year.

Members of the Planning and Zoning Commission may be removed from office by the City Council for cause upon written charges, and after a majority vote of all council members. Vacancies shall be filled by the City Council for the unexpired term of the resigning member.

Section 22.3. QUORUM.

A majority of the membership of the commission shall constitute a quorum, and a quorum shall be required to conduct the business of the commission. Actions on ordinance adoptions and amendments, rezoning and zoning map changes, and subdivision final plat approval shall require a majority vote of at least three affirmative votes.

Section 22.4. MEETINGS.

The Planning and Zoning Commission shall meet on call of the chairperson or on call of the Zoning Administrator.

Section 22.5. OFFICERS.

The Planning and Zoning Commission shall elect a chairperson and vice-chairperson from among its membership. Terms for officers shall be one (1) year. The election shall take place at the first commission meeting of the calendar year. Officers shall assume their positions immediately following the election.

Section 22.6. POWERS AND DUTIES GRANTED.

Said commission shall have and possess the following powers and such powers as may be incidental to the successful carrying out of the powers invested in it herein or such as may be expressly conferred upon it by law:

- 1) PLANS. To make such surveys, studies, maps, plans, or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of such commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendations and it may publish the same.

No plan for any street, park, parkway, boulevard, traffic-way, lakefront, or other public improvement affecting the city or the character or location thereof determined, unless such proposal shall first have been submitted to the Planning Commission and has forty-five (45) days within which to file its recommendations thereon.

- 2) ZONING PLAN. To prepare a plan for zoning regulations and recommend its approval to the City Council. The Planning Commission shall hold public hearings as necessary to receive comments from the public regarding any of the before mentioned or other land use issues.
- 3) OFFICIAL MAP. To study and make recommendations on subdivisions submitted for approval to the city and to make surveys and plans for an official map as a guideline for such approval.
- 4) SUBDIVISION PLATS. To review and comment on all plats of land embraced in the city or adjacent thereto, laid out in lots with streets, alleys, or other portions of the same to be dedicated to the city. All plats and plans shall be submitted to the commission and its recommendations obtained before approval by the council.
- 5) RECOMMEND CHANGES. To recommend to the City Council, from time to time, as conditions require, amendments, supplements, changes, or modifications in the comprehensive plan prepared by it, and recommend changes to the zoning regulations.
- 6) EXPENSES AND DEBTS. The Planning Commission shall have the full, complete and exclusive authority to expend for and on behalf of the city all sums of money appropriated to it, and to use and expend all gifts, donations or payments whatsoever which are received by the City Council for planning and zoning purposes. The Planning Commission shall have no power to contract debts beyond the amount of its original or amended appropriation as approved by the City Council for the present year.
- 7) TRENDS. To study trends of development in industrial, physical and social aspects of the community and make such reports as it may deem necessary.
- 8) RECOMMENDATIONS. To review and make recommendations on proposed vacations of streets and alleys.
- 9) ANNUAL REPORT. The commission may make a report to the Mayor and City Council of its proceedings, upon request.

ARTICLE XXIII
Board of Adjustment

Article 23: Board of Adjustment

- Section 23.1. Confirmation of Existing Board of Adjustment
- Section 23.2. Terms of Office
- Section 23.3. Quorum
- Section 23.4. Meetings
- Section 23.5. Officers
- Section 23.6. Proceedings of the Board of Adjustment
- Section 23.7. Hearings, Appeals, and Notice
- Section 23.8. Stay of Proceedings
- Section 23.9. Powers and Duties
- Section 23.10. Variances
- Section 23.11. Decisions of the Board of Adjustment
- Section 23.12. Appeals from the Board of Adjustment

Section 23.1. CONFIRMATION OF EXISTING BOARD OF ADJUSTMENT.

The members of the existing Board of Adjustment are hereby confirmed to continue their appointed terms of office. Future members of the Board of Adjustment shall be appointed by the City Council for a term of five (5) years. The Board of Adjustment shall consist of five members. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges, after a public hearing, and after a majority vote of all council members. Vacancies shall be filled by the City Council for the unexpired term of the resigning member.

Section 23.2. TERMS OF OFFICE.

All members shall be citizens of the city. All members shall be appointed by a resolution of the City Council. The term of office of the Board members shall be five (5) years. The expiration of all terms of office shall occur at the January City Council meeting following the duration of the designated term, provided that all members shall hold office until their successor is appointed and approved. Vacancies shall be appointed in the same manner as the original appointee. A person appointed to fill an occurring vacancy shall only serve out the remainder of the term of the member replaced. The terms of not more than one-third of the members will expire in any one year.

Section 23.3. QUORUM.

A majority of the membership of the board shall constitute a quorum, and a quorum shall be required to conduct the business of the board. The Board of Adjustment 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 examination and other official actions of the Zoning Administrator. The presence of three (3) members shall constitute a quorum.

Section 23.4. MEETINGS.

The Board of Adjustment shall meet on call of the chairperson or on call of the Zoning Administrator.

Section 23.5. OFFICERS.

The Board of Adjustment shall elect a chairperson and vice-chairperson from among its membership. Terms for Officers shall be one (1) year. The election shall take place at the first Board meeting of the calendar year. Officers shall assume their positions immediately following the election.

Section 23.6 PROCEEDINGS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this ordinance. The chairperson, or in his/her absence the acting or vice-chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Zoning Administrator may be an ex-officio member and act as secretary for the Board of Adjustment, and 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 examination and other official actions.

Section 23.7. HEARINGS, APPEALS, AND NOTICE.

Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved or by any officer or bureau of West Okoboji affected by a decision of the Zoning Administrator. Such appeals should be made within a reasonable time, not to exceed sixty (60) days, by filing with the Zoning Administrative and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record from which the action appealed was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notices thereof, as well as due notice to the parties of interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney.

A fee to be determined by resolution of the City Council shall be paid to the Zoning Administrator at the time the notice of appeal is filed, which the Zoning

Administrator shall forthwith pay to the credit of the general revenue fund of the city.

Section 23.8. STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action which was appealed, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him/her, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent threat to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on the application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

Section 23.9. POWERS AND DUTIES.

The Board of Adjustment shall have the following powers and duties:

- 1) Administrative Review: To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance.
- 2) Special Exceptions: To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance, and as provided for in Article XIX of this ordinance.
- 3) Variances: To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

Section 23.10. VARIANCES.

A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:

- 1) An application for a variance may be initiated by a property owner or his authorized agent by filing an application with the Zoning Administrator upon forms prescribed for the purpose. The application shall be accompanied by an abstractor's certificate which shows the legal description, the names, and last known mailing address of the owners of all property within 200 feet of the property for which the variance is requested, a site plan in conformance with Article XVI of this ordinance, and other such plans and data showing the

dimensions, arrangements, descriptive data, and other materials constituting a record essential to an understanding of the proposed use and proposed modification in relation to the standards set forth herein. A fee which is to be determined by the City Council shall also accompany the application.

2. The public hearing shall be held. Any party may appear in person, by agent or attorney. Within fifteen days of receipt of the application, the Board shall schedule a public hearing in relation to the request for variance. Notice shall be given of the public hearing as required by state statute by publication in the newspaper of general circulation in the city. Notice shall be given by certified mail to all property owners located within 200 feet by mailing such notice to the last known address of those to be thus notified by depositing such notice with sufficient postage in the United States mail at least fifteen (15) days prior to the public hearing. An affidavit of mailing shall be obtained for each notice mailed.
3. The Board of Adjustment may grant a variance if it makes affirmative findings of fact on each of the following criteria.
 - a. That special conditions and circumstances exist which are peculiar to the land, device, or building involved and which are not applicable to other lands, devices, or buildings in the same district;
 - b. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - c. That the special conditions and circumstances do not result from the actions of the applicant;
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, devices, or buildings in the same district. No nonconforming use of neighboring lands, devices or buildings in other districts shall be considered grounds for the issuance of a variance.
4. The Board of Adjustment shall make findings that the applicant for a variance has met the requirements of this section.
5. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land,

building or device.

6. A fee to be determined by resolution of the City Council shall accompany the application for a variance.
7. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Additional Variance Conditions: In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article XXI of this ordinance.

Lapse of Variance: Unless a longer time period shall be specifically established as a condition of approval, a variance shall lapse and shall become void one (1) year following the date on which the variance became effective, unless prior to the expiration of one year a building permit is issued and construction has begun and diligently pursued toward completion on the site which was the subject of the variance application, or a certificate of occupancy is issued for the site or building which was the subject of the variance application, or the site is occupied if no building permit or certificate of occupancy is required.

Revocation of Variance: Upon violation of any applicable provision of this ordinance, or if granted subject to the conditions, upon failure to comply with conditions, a variance shall be revoked upon notification to the owner of the use or property subject to the variance.

Variance to Run with Land or Building: Unless otherwise specified at the time a variance is granted, a variance shall run with the land and shall continue to be valid upon a change of ownership of the site or building to which it applies.

Section 23.11. DECISIONS OF THE BOARD OF ADJUSTMENT.

- 1) In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance and Chapter 414, Code of Iowa, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination as ought to be made and to that end shall have powers of the Zoning Administrator from whom the appeal

is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to affect any variation in application of this ordinance.

The action of the board shall not become effective until it has filed a written decision describing the action, the vote of each member participating therein and the reasons for such action, specifying the manner in which the applicant either satisfied or failed to satisfy each of the applicable standards, conditions or elements set forth in this article. Decisions shall be filed promptly following the board's action and shall be open to public inspection.

- 2) Every variation and exception granted or denied by the board shall be supported by a written testimony or evidence submitted in connection therewith.
- 3) If any application for a variance or exception shall have been denied by the Board of Adjustment, no new application for the same relief shall be considered for one (1) year by the board unless the board shall find that conditions have changed.
- 4) Any taxpayer or any officer, department, board, or bureau of the City or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition for writ of certiorari, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. The petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. All decisions of the Board, except decisions granting use variances or a variance from any separation requirement shall be final immediately upon filing. Each decision granting a use variance or a variance from separation requirement shall be referred to the City Council for review pursuant to Chapter 414.7, Code of Iowa. The City Council shall review such decision within 30 days after the decision is filed. After such review, the Council may remand the decision to the Board for further study. If the City Council does not act to review the decision within 30 days after it is filed, the decision shall become effective on the 31st day. If the City Council declines to remand a decision, that decision shall become final on the date of the Council's action. If the City Council remands a decision to the Board, the effective date of the decision is delayed for 30 days from the date of remand.

Section 23.12. APPEALS FROM THE BOARD OF ADJUSTMENT.

Any person or persons, or any board, taxpayer, department, board or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board of Adjustment by a court of record in the manner provided by the laws of the State of Iowa and particularly by Chapter 414, Code of Iowa.

**ARTICLE XXIV
Changes and Amendments**

Article 24: Changes and Amendments

Section 24.1. Procedures

Section 24.2. Initiation

- Section 24.3. Application for Change in Zoning District Boundaries
Section 24.4. Protest Provision
Section 24.5. New Application

Section 24.1. PROCEDURES.

This ordinance and the district map created by said ordinance may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Planning Commission shall have forty-five (45) days in which to submit its report to the City Council. If the commission fails to submit a report within the forty-five (45) day period, it shall be deemed to have approved the proposed amendment.

Not more than 25 days following receipt of the recommendation of the Planning and Zoning Commission, the City Council shall hold at least one public hearing on any proposed text amendment or rezoning. A notice shall be given of the public hearing as required by State Statute by Publication in the newspaper of general circulation in the city. Such notice shall include the time and place for the public hearing. Following the closing of a public hearing, the City Council shall make a specific finding as to whether the change is consistent with the objectives of this ordinance.

If the City Council finds that the change is consistent, it shall introduce an ordinance amending the text of the zoning regulations or amending the zoning map, whichever is appropriate.

The City Council shall not modify a recommendation of the Planning and Zoning Commission on a rezoning or change until it has requested and considered a report of the Commission on the modification. Failure of the commission to report within 30 days after receipt of the City Council request shall be deemed concurrence.

Section 24.2. INITIATION.

Requests for rezoning of property or zoning text amendments may be initiated by one of three ways.

- 1) The Planning and Zoning commission or the City Council may initiate a text amendment.
- 2) The Planning and Zoning Commission or the City Council may initiate a rezoning request

- 3) The owner or the authorized agent of the owner of property may initiate a rezoning request by filing an application for a change in district boundaries (rezoning) as prescribed in this Article. If the property for which rezoning is proposed be in more than one ownership, all the owners or their authorized agents shall join in filing the application.

Section 24.3. APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES.

Application for Rezoning initiated by a property owner shall be filed with the Zoning Administrator on a form and shall include the following data and maps:

- A. Each application shall be filed with the administrative officer accompanied by a fee as determined by resolution by the City Council and shall contain the following information:
 1. The name and address of the owner and applicant.
 2. The legal description and local address of the property.
 3. If the applicant is not the legal owner of the property, statement that the applicant is the authorized agent of the owner.
 4. The present zoning classification and the zoning classification requested for the property.
 5. The existing use and proposed use of the property.
 6. An abstractor's certificate which shows the names and last known mailing address of the owners of all property within 200 feet of the property for which the change is requested.
 7. A statement of the reasons why the applicant feels the present zoning classification is no longer appropriate.
 8. A plat showing existing and proposed locations, dimensions and use of the applicant's property and all property within two-hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.

The Zoning Administrator may require additional information or maps if they are necessary to enable the commission to determine whether the change is consistent with the objectives of this ordinance.

- B. All fees shall be deposited in the general revenue fund of the city. Failure to

approve the requested change shall not be deemed cause to refund the fee to the applicant.

C. Upon receipt of the application by the administrative officer a copy shall be forwarded immediately to the Planning and Zoning Commission for study and recommendation. The commission shall, prior to making a recommendation, determine the following:

1. Whether or not the current district classification of the property to be rezoned is valid.
2. Whether there is a need for additional land zoned for the purpose requested.
3. Whether the proposed change is consistent with the comprehensive land use plan, considering such factors as:
 - a. Whether the rezoning would result in a population density or development which would in turn cause demand for services and utilities in excess of the capacity planned for the area;
 - b. Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
 - c. Whether the rezoning would result in environmental damage to area lakes and rivers.
4. Whether there is intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

Section 24.4. PROTEST PROVISION.

In case the Planning and Zoning Commission does not approve the change, or in a case of a protest filed with the City Council against a change in district boundaries signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within two hundred (200) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the City Council.

Section 24.5. NEW APPLICATION.

Whenever a petition requesting an amendment, supplement or change of any regulations prescribed by this Title has been denied by the City Council such petition cannot be renewed for one year thereafter unless it is signed by the owners

of at least fifty percent (50%) of the property owners who previously objected to the change; this provision, however, shall not prevent the City Council from acting on its own initiative in any case or at any time provided in this section.

ARTICLE XXV
Effective Date

Section 25.1. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage, approval, and publication, as provided by Iowa Code Chapter 380.6.

**ARTICLE XXVI
Adoption**

Passed and adopted this _____ day of _____, 2007,

By the CITY COUNCIL OF WEST OKOBOJI, IOWA.

SIGNED:

Mayor, City of West Okoboji

ATTEST:

West Okoboji City Clerk

I hereby certify that the foregoing was published as Ordinance No. ____
in the City of West Okoboji, Iowa on the ____ day of _____,
2007.