

ORDINANCE NO. 123

REPLACES THE PREVIOUS CITY OF WEST OKOBOJI
ZONING ORDINANCE ADOPTED 2007 AND AMENDMENTS THERETO

ZONING ORDINANCE OF THE CITY OF WEST OKOBOJI, IOWA

AN ORDINANCE to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and other purposes; to regulate and restrict the height of buildings and structures, the number and size of buildings and other structures; 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 the 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 planning and zoning commission and board of adjustment; and to prescribe penalties for the violation of its provisions, all in accordance with Chapter 414, Code of Iowa.

WHEREAS, the city council of the City of West Okoboji, Iowa deems it necessary to preserve and protect area lakes, wetlands, waterways, and natural lands; prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, recreational open space, schools, parks, and other public requirements; to conserve the value of property and buildings, to promote the conservation of energy resources; to promote reasonable access to solar and wind energy resources; to control land use in a way that will minimize the number of conflicting land uses while preserving the separate character of developed 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: The West Okoboji Zoning Ordinance was reviewed and updated by the West Okoboji Planning and Zoning Commission. In accordance with Section 380.7 subsection 3 of the Code of Iowa, the following is an accurate and complete synopsis or summary of the essential elements of the updated ordinance. As proposed within the West Okoboji Zoning Ordinance the following articles contain new and revised sections and deletions of text from the previous ordinance.

ARTICLE 1: BASIC PROVISIONS

ARTICLE 2: DEFINITIONS

ARTICLE 3: ZONING DISTRICTS ESTABLISHED

ARTICLE 4: AGRICULTURE DISTRICT (AG)

ARTICLE 5: CONSERVATION DISTRICT (CN)

ARTICLE 6: LAKESHORE RESIDENTIAL DISTRICT (LR)

ARTICLE 7: RESIDENTIAL DISTRICT (R)

ARTICLE 8: COMMERCIAL DISTRICT (C)

ARTICLE 9: SITE PLANS

ARTICLE 10: GENERAL REGULATIONS

ARTICLE 11: BUFFERS REQUIRED
ARTICLE 12: MILFORD FULLER AIRPORT LAND USE & HEIGHT OVERLAY REGULATIONS
ARTICLE 13: OFF STREET PARKING
ARTICLE 14: SIGN REGULATIONS
ARTICLE 15: NONCONFORMING BUILDINGS AND USES
ARTICLE 16: ZONING ENFORCEMENT
ARTICLE 17: VIOLATION AND PENALTY
ARTICLE 18: PLANNING AND ZONING COMMISSION
ARTICLE 19: BOARD OF ADJUSTMENT
ARTICLE 20: VARIANCES
ARTICLE 21: CONDITIONAL USES
ARTICLE 22: CHANGES AND AMENDMENTS
ARTICLE 23: EFFECTIVE DATE

Furthermore, in accordance with Chapters 380.6 and 380.7 subsection 3 of the Code of Iowa, the following is a summary of the significant changes made to the West Okoboji Zoning Ordinance. This summary sets forth the main points of the ordinance in a clear and understandable manner intended to provide the public with the desired conduct required by this ordinance.

Written summary of significant changes to the 2018 West Okoboji Zoning Ordinance

Article 1 – Basic Provisions

- Section 1.5 Conflict with Other Laws – new first sentence
- Section 1.6 General Purpose – new first sentence and parts 6-14
- New Section 1.7 – Comprehensive Plan Relationship

Article 2 – Definitions

- Section 2.1 General Zoning Definitions - for purposes of interpreting terms and words in this zoning ordinance, the following new words are defined: accessory use, attic, basement, carport, curb level, domesticated animals, enclosed structure, engineer (city), factory-built structure, factory-built housing, foundation (permanent), garage (attached), governmental entity, household, impervious surface, lot of record, manufactured housing, manufactured home community, mobile or manufactured home subdivision, modular home, municipal infraction, nuisance, open space, patio, principal building (or structure), recreational vehicle park, sidewalk, sight triangle, site development regulations, steps, story, story (half), structure, swimming pool, townhouse, utility, vehicle, violation, yard (street side), zoning lot, and zoning map.
- Section 2.2 Specific Land Use Definitions – added several new specific land use definitions.
 - 2.2.1 new Agriculture & Conservation Land Use Definitions: agriculture, animal husbandry, critical area, farm, farmstead, floodplain, stables, undeveloped or unimproved land, water control structures or irrigation or retention basins, wetland, and wildlife refuge/preserve
 - 2.2.2 new Residential Land Use Definitions: assisted living facility, congregate/senior housing, cottage/vacation home, family home, personal recreational facilities, residential healthcare facilities
 - 2.2.3 new Commercial Land Use Definitions: boarding or lodging house, building reclamation and retail services, community center, commercial auction yards or barns, commercial garage, condominium or business storage unit, golf course, health recreation facility, hotel or motel, laundry (self-service), lumberyard and associated home improvement services, service station, shopping center, solar panels and devices, solar farm, and wind energy devices

2.2.4 new Industrial Land Use Definitions: bulk station/fuel storage, fertilizer or chemical storage and/or processing, renewable energy/renewable resources industries, and recycling plant

2.2.5 new Civic & Public Land Use Definitions: charitable institution, cultural services, and pre-kindergarten or preschool or nursery school

Article 3 – Zoning Districts Established

- Section 3.1 Zoning Districts – No new zoning districts were added to the city’s zoning ordinance. The PUD – Planned Unit Development zoning district was removed from the city’s ordinance.
- Section 3.2 Boundaries and Official Map – new part 1. Boundaries.
- Section 3.3 Interpretation of District Boundaries – new part 5.
- Section 3.5 Annexed Lands – establishes that all new lands annexed into the city will be zoned AG
- Section 3.6. General Regulations – new parts 5 and 6

Article 4 through Article 8 – Agriculture District (AG), Conservation District (CN), Lakeshore Residential District (LR), Residential District (R), and Commercial District (C)

- In each of the defined zoning districts mentioned above, the following are examples of changes made in each district.
 - new and revised permitted uses
 - new and revised conditional uses
 - new accessory uses
 - minor changes or corrections to site development regulations (setbacks) in some districts
 - New reference section for General Zoning Regulations in Article 10

Zoning District	Maximum Height	Minimum Lot Area	Minimum Lot Width	Required Front Yard	Required Rear Yard	Required Side Yard	Street Side Yard (corner lot)
AG Agriculture	35 ft. (dwellings) None for ag uses	1 acre (43,560 sq.ft.)	125 ft.	50 ft.	50 ft.	30 ft.	50 ft.
CN Conservation	35 ft.	None for conservation uses 1 acre for all other uses	None for conservation use 100 ft. for all other uses	50 ft.	50 ft.	30 ft.	50 ft.
LR Residential Lakeshore	35 ft.	10,000 sq.ft. for all uses	50 ft.	25 ft. min. or line of sight on lakeshore	25 ft. street side	5 ft. Unobstructed space	25 ft.
R Residential	35 ft.	10,000 sq.ft. for all uses	75 ft.	25 ft.	25 ft.	5 ft. Unobstructed space	25 ft.
C Commercial	35 ft.	10,000 sq.ft. for all uses	80 ft.	35 ft.	25 ft.	10 ft. Unobstructed space	35 ft.

- In Article 6 Lakeshore Residential District (LR) specifically:
 - New Section 6.6 Lakeshore Yard (Front Yard) Setback Determination
 - New Section 6.7 Additional Development Requirements in LR District

- New Section 6.8 Erosion Control and Silt Control Plan
- Revisions to Section 6.9 Construction within the Lakeshore Bank including new Parts 1 and 6
- New Section 6.14 Residential Purposes in the LR District

Article 9 Site Plans

- Section 9.1 Intent – new text except for first sentence
- Section 9.4 Site Plans – new parts 6, 7, 10, 11, and 13

Elimination of Article for Open Space Requirements

Article 10 General Zoning Regulations

- Section 10.2 Lot of Record – new text except for first sentence
- New Section 10.3 Relocated Residential Dwellings
- New Section 10.5 Multiple Principal Structure Per Lot
- Section 10.6 Basic Yard Regulations – new part 3 and new last sentence in part 6
- Section 10.7 Steps, Decks, Patios & Other Concrete Structures - new text in specific sections for steps, decks, patios, and lakeshore steps/access. New section on Driveways and Parking Areas
- Section 10.8 Fences, Hedges, Walls and Retaining Walls – new parts 1, 3, 5, 7-10 & 12-14
- Section 10.12 Height Exemptions – new last two sentences
- Section 10.13 Accessory Buildings – new parts 2, 8, 15-18.c
- New Section 10.14 Portable Accessory Buildings and Storage Structures
- New Section 10.16 Gas Stations, Service Stations, and Convenience Stores
- Section 10.18 Minimum Residential Dwelling Standards – new part 1 and 4, and changed the minimum required square feet of residential dwelling to 1,200 sq.ft.
- Section 10.19 Adult Entertainment - revised definition of adult entertainment business in Part 1.b.
- New Section 10.20 Solar Collectors
- New Section 10.21 Communication Towers
- New Section 10.22 Apiary Regulations
- New Section 10.23 Site Plans
- Incorporated the recently adopted Section 10.24 Sale of Fireworks Regulations

Incorporated the previously adopted Article 12. Milford Fuller Airport Land Use & Height Overlay Regulations into the zoning ordinance regulations

Article 13 Off Street Parking

- Section 13.2 General Parking Area and Surface Requirements – new parts 2, 4-7 and 9
- Section 13.4 Off Street Parking Requirements – new & revised requirements for specified land uses
- Section 13.5 Recreational Vehicle Parking – new first paragraph and parts 1 and 3
- Section 13.6 Off Street Loading Requirements – replaced the existing section with new text

Article 14 Sign Regulations

- Section 14.1 Intent – new text except for last sentence
- New Section 14.2 Sign Definitions
- New Section 14.3 Sign Types
- Section 14.4 Exempt Signs – new parts 1-4 and 6-10
- Section 14.5 Sign Requirements – New parts 1b-1d, 1f, 1g(1-5 & 7), 2e-2f, 2h-2o
- Section 14.6 General Sign Regulations – new parts 1 and 3-9
- New Section 14.8 Variances for Signs
- Section 14.9 Nonconforming Signs – new text except for first sentence
- New Section 14.10 Sign Maintenance and Obsolete Signs

Article 15 Nonconforming Buildings and Uses

- New Section 15.1 Intent
- Section 15.3 Nonconforming Uses of Land – new first paragraph and parts 1 and 2
- Section 15.4 Nonconforming Buildings or Structures – new first paragraph and parts 2-6
- New Section 15.6 Change in Tenancy or Ownership

Article 16 Zoning Enforcement

- New Section 16.2 Zoning Compliance
- Section 16.3 Zoning Permits Required – new text throughout this section
- Section 16.7 Fees – new first and last sentence

Article 17 Violation and Penalty

- Section 17.1 New and updated text pertaining to penalties in accordance with Iowa Code

Article 18 Planning and Zoning Commission

- Section 18.3 Quorum – new last two sentences
- Section 18.4 Meetings – new text except for first sentence

Article 19 Board of Adjustment

- Section 19.1 Board of Adjustment – new text except for first and third sentences
- Section 19.2 Proceedings of the Board of Adjustment – new first, fifth and sixth sentences
- Section 19.3 Stay of Proceedings – new last sentence
- Section 19.4 Powers and Duties – new parts 4 and 5
- Section 19.6 Appeals from the Board of Adjustment – new last 3 sentences

New Article 20 Variances

- New Section 20.1 Intent
- Section 20.2 Application – new parts 3-4 and 8
- Section 20.3 Procedures – new parts 1, 4, 8 and 9
- New Section 20.4 Lapse of Variance
- New Section 20.5 Revocation of Variance
- New Section 20.6 Appealing a Variance Decision
- New Section 20.7 Variance to Run with the Land or Structure

Article 21 Conditional Uses

- Section 21.1 Requirements – new first three sentences
- New Section 21.2 Responsibilities
- Section 21.3 Application for Conditional Use Permit – new parts 2, 4, and 6-10
- Section 21.4 Procedures – new parts 2 and 4
- Section 21.5 Standards – new parts 4, 6 and 17-19
- New Section 21.6 Revocation
- New Section 21.7 Conditional Use to Run with the Land
- New Section 21.8 Uses Under Conditional Use Provisions
- New Section 21.9 Supplemental Standards

Article 22 Changes and Amendments

- Section 22.1 Application for Rezoning or Text Amendment – new parts 1a and 1f
- Section 22.2 Procedures – new text added throughout the section
- New Section 22.3 Initiation
- New Section 22.5 New Application

A copy of 2018 West Okoboji Zoning Ordinance, in its entirety, may be reviewed for public inspection in the West Okoboji City Hall at 501 Terrace Park Blvd, Milford, Iowa 51351. Copies of the proposed zoning ordinance or portions thereof, are available for inspection at City Hall at the above listed address during open hours or by contacting the City Administrator for a copy.

Additionally, since the updated zoning ordinance has proposed changes to provisions of imposing fines and penalties; in accordance with Section 380.7 subsection 3 of the Code of Iowa the following is a narrative of the full text of the section that applies to such fines or penalties.

Section 17.1. VIOLATION AND PENALTY.

Unless provided elsewhere in this ordinance or the city's municipal code, any person, firm, corporation or agent responsible for such building or land who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance or amendment thereof; or who shall build or alter any building in violation of any detailed statement or approved plan with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor; or a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa, is a municipal infraction and punishable by civil penalty as provided herein. Each day that a violation is permitted to exist constitutes a separate offense.

A municipal infraction for a zoning violation in West Okoboji, Iowa is punishable under the following civil penalties: (*Code of Iowa, 2016, Sec. 455A.22 and Sec. 123.49*)

First offense – no less than \$250 and not to exceed \$750.00, plus court costs

Second and repeat offenses – no less than \$250 and not to exceed \$1,000.00, plus court costs

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation, may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

JURISDICTION.

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

REPEAL AND SAVINGS CLAUSE.

Effective on the effective date of this ordinance, the previous West Okoboji Zoning Ordinance and amendments thereto are hereby repealed. 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 remaining in force for instituting or sustaining any proper action or prosecution for enforcement of such penalty, forfeiture, or liability.

VALIDITY AND SEVERABILITY CLAUSE.

If any court of competent jurisdiction shall declare any section or provision of this ordinance to be invalid, such ruling shall not affect the validity of the ordinance in its entirety or any part thereof 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, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building or structure not specifically included in said ruling.

CONFLICT WITH OTHER LAWS.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where any condition imposed by any provision of this ordinance imposes a greater restriction than is imposed or required by law or other rules or regulations or ordinances, the provision which is more restrictive, or which imposes a higher standard or requirements shall apply. This ordinance is not intended to abrogate or annul any easement, covenant, or other private agreement provided 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.

EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its adoption and publication as required by law and as provided for in Chapter 380.6 and 380.7 of the Code of Iowa.
(Code of Iowa, Sec. 380.6[1]; Sec. 380.7[3]; and Sec. 362.3)

ZONING ORDINANCE OF THE CITY OF WEST OKOBOJI, IOWA

Passed and approved the first consideration on January 14, 2019

Passed and approved the second consideration on January 14, 2019

Passed and approved the third and final consideration on January 14, 2019

Adopted on January 14, 2019

Published on January 23, 2019

Barbara Lynch
Mayor, City of West Okoboji

Attest:

Lissa Ballis
West Okoboji City Administrator

1st Reading – January 14, 2019

Motion by Council Member Hein, seconded by Council Member Sieh, first reading of Ordinance No. 123.

AYES: Hein, Paxton, Petersen, Sieh

NAYS: None

ABSENT: Olson

2nd Reading and 3rd Reading Waived – January 14, 2019

Motion by Council Member Paxton, seconded by Council Member Sieh, waiving second and third readings of Ordinance No. 123.

AYES: Hein, Paxton, Petersen, Sieh

NAYS: None

ABSENT: Olson

Adopt Ordinance No. 123 – January 14, 2019

Motion by Council Member Paxton, seconded by Council Member Petersen, to adopt Ordinance No. 123.

AYES: Hein, Paxton, Petersen, Sieh

NAYS: None

ABSENT: Olson

The Mayor declared Ordinance No.123 was passed on January 14, 2019.

I certify that the foregoing was published as Ordinance No.123 on the 23rd day of January, 2019.

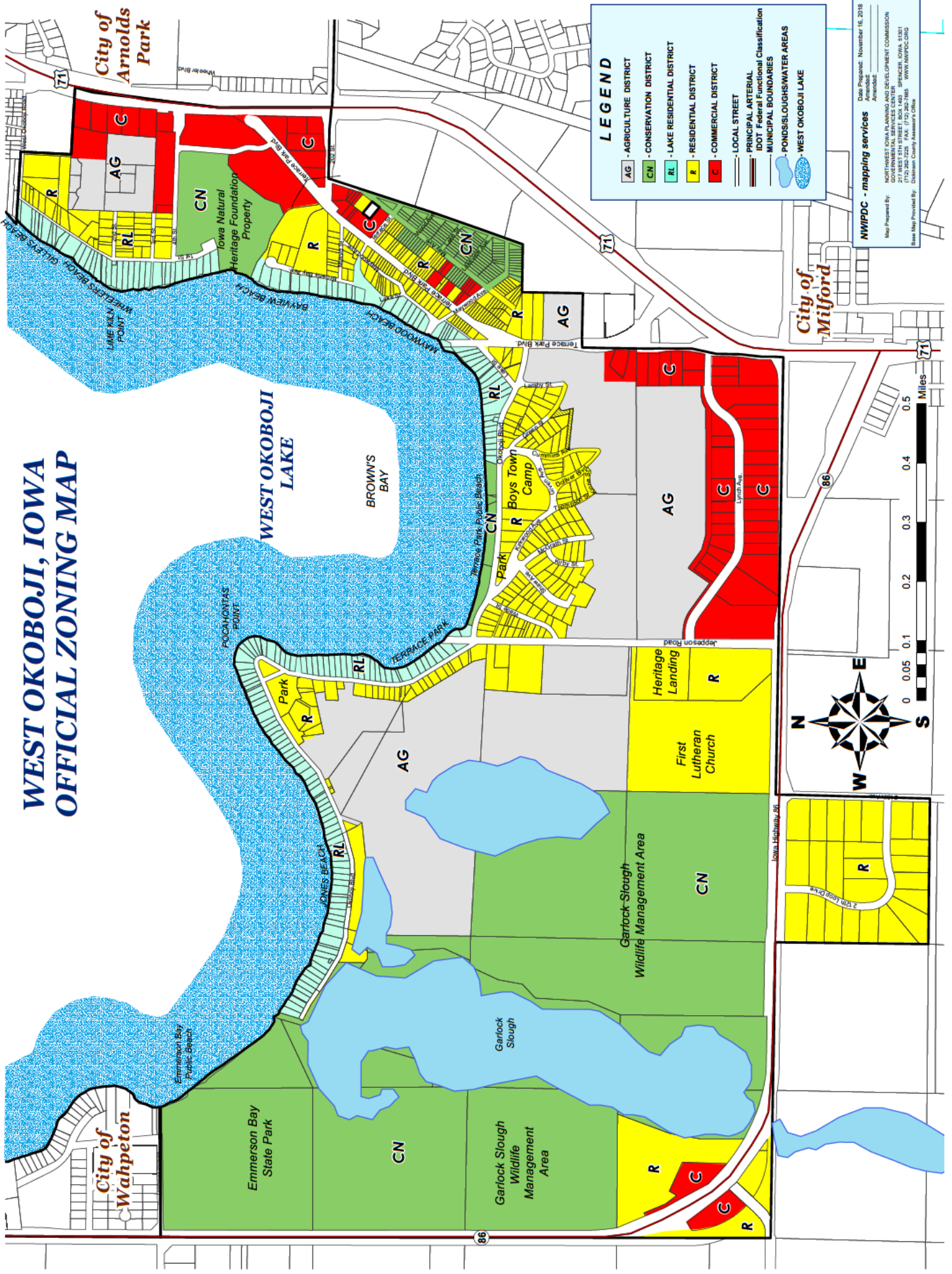
Lissa Ballis, City Administrator

CERTIFICATION

I, Lissa Ballis, herby certify that I am the duly appointed, qualified and acting City Clerk of West Okoboji, Iowa, and that foregoing Ordinance No. 123 was duly adopted by the City Council of West Okoboji, Iowa, on the 12th day of March, 2018, and thereafter on the 23rd day of January, 2019, the same was published in the *Dickinson County News*.

Lissa Ballis, City Administrator

WEST OKOBOJI, IOWA OFFICIAL ZONING MAP



LEGEND

- AG - AGRICULTURE DISTRICT
- CN - CONSERVATION DISTRICT
- RL - LAKE RESIDENTIAL DISTRICT
- R - RESIDENTIAL DISTRICT
- C - COMMERCIAL DISTRICT
- LOCAL STREET
- PRINCIPAL ARTERIAL
- IDOT Federal Functional Classification
- MUNICIPAL BOUNDARIES
- PONDS/SLOUGHS/WATER AREAS
- WEST OKOBOJI LAKE

NWFPDC - mapping services
 Date Prepared: November 16, 2018
 Amended:
 Map Prepared By:
 NORTHWEST IOWA PLANNING AND DEVELOPMENT COMMISSION
 GOVERNMENTAL SERVICES CENTER
 1000 W. 13TH ST., OKOBOJI, IOWA 50571
 (712) 262-7225 FAX: (712) 262-7265 WWW.NWFPDC.ORG
 Base Map Provided By: Datascope County Assessor's Office



City of Arnolds Park
 City of Milford
 City of Wapeton