

COUNCIL BLUFFS

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STATE OF IOWA, Polk County
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John Scintino
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PREPARED BY: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

ORDINANCE NO. 5264

AN ORDINANCE to amend Title 15 of the 1995 Municipal Code of Council Bluffs, Iowa, by amending Chapters 15.01 "Title", 15.02 "Interpretation of Standards" and 15.20 "Accessory Uses", and by repealing Chapters 15.04 "Districts and Boundaries", 15.05 "General Provisions", 15.25 "Fees", 15.26 "Administrative enforcement and Interpretation", and 15.29 "Land Use Intensity Provisions" in their entirety.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 15.01 "Title" and by enacting a new Chapter 15.01 "Title and Purpose", to read as follows:

Chapter 15.01
TITLE AND PURPOSE

Sections:

- 15.01.010 Title
- 15.01.020 Purpose

15.01.010 Title. This title shall be known, referred to and cited as the "Zoning Ordinance of the City of Council Bluffs, Iowa".

15.01.020 Purpose. The purpose of this title is to promote the public health, safety and general welfare of the community. It is designed in accordance with the comprehensive plan to encourage the most appropriate use of land, to protect the value of property, to secure safety from fire, flood and other dangers, to provide adequate light and air, to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewage disposal, schools, parks, open space, and other public requirements.

SECTION 2. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 15.02 "Interpretation of Standards" and by enacting a new Chapter 15.02 "Administration and Implementation", to read as follows:

Chapter 15.02
ADMINISTRATION AND IMPLEMENTATION

Sections:

- 15.02.010 Compliance
- 15.02.020 Enforcement
- 15.02.030 Interpretation of standards
- 15.02.040 Districts
- 15.02.050 Zoning of annexed land
- 15.02.060 Amendment
- 15.02.070 Fees
- 15.02.080 Penalties

COMPLAINT

ORDINANCE NO. 5264

PAGE TWO

15.02.010 Compliance. It shall be unlawful for any premises, building or structure or any portion of a building or structure situated in the city, to be used or occupied, erected, moved, reconstructed, extended, enlarged or altered in any manner contrary to the provisions of this title.

15.02.020 Enforcement. It shall be the duty of the mayor, through the community development director to enforce the provisions of this title. Appeals from a decision of the administrative official enforcing this title may be made to the Board of Adjustment in accordance with Section 15.24.

15.02.030 Interpretation of standards. In their interpretation and application, the provisions of this title shall be the minimum requirements. Where this title imposes a greater restriction or higher standard than is imposed by any other statute, ordinance, rule, or regulation, the provisions of this title shall govern. Where another statute, ordinance, rule, or regulation imposes a greater restriction or higher standard than this title, the other provision shall govern.

15.02.040 Districts. For the purpose of this title, the city is divided into zoning districts as outlined below. District boundaries shall be lot lines, other legally described lines or the centerline of streets, alleys, railroad rights-of-way or such lines extended. The location and boundaries of these districts are shown on the official zoning map of the city which is made part of this title by reference.

<u>Districts</u>	<u>Designation</u>
OPEN SPACE/RECREATION DISTRICTS:	
Open space conservation	A-1
Parks, estate and agricultural	A-2
Riverboat docking	A-3
RESIDENTIAL DISTRICTS:	
Single-family residential estates	RE
Single-family residential	R-1
Single-family mobile home residential	R-1M
Two family residential	R-2
Multi-family residential	R-3
Multi-family residential	R-4
COMMERCIAL DISTRICTS	
Administrative/professional	A-P
Neighborhood commercial	C-1
General commercial	C-2
Central business	C-3
Downtown business	C-4
Planned commercial	PC
INDUSTRIAL DISTRICTS:	
Wholesale manufacturing	WM
General manufacturing	GM
OVERLAY DISTRICTS:	
Planned residential	PR
Recreation-tourism	RO
Airport hazard	AZ
Tower overlay	TO

15.02.050 Zoning of annexed land. Any land which has not been zoned by the county shall be zoned A-2/Parks, Estates and Agricultural District when annexed into the city. Annexed land which has been zoned by the county shall be designated as follows:

<u>County</u>	<u>City</u>
A-1	A-1, A-3
A-2, C-3	A-2
R-1, R-2	R-1, RE
R-3	R-2

96-35301

4B

CONFIDENTIAL

ORDINANCE NO. 5264

PAGE THREE

<u>County</u>	<u>City</u>
R-4	R-3
R-5	P-R
R-6	R-1M
C-1, C-2	C-2
I-1	WM
I-2	GM
I-3	PC

15.02.060 Amendment procedure.

01. Authorization for amendment. An amendment to the text of this title or the zoning map may be initiated by the mayor, city council, city planning commission, community development department, or by application of a property owner or an authorized agent.

02. Application for amendment. An application shall be filed with the community development department, accompanied by the required fee. The application and the department's recommendation shall be referred by the community development director to the city planning commission for public hearing.

03. City planning commission hearing. The planning commission shall hold a public hearing on proposed amendments. Notice of public hearing shall be given by the community development department in the following manner:

a. If an amendment to the text of this title or to the zoning map is proposed, notice shall be given by one publication in a newspaper of general circulation in the city, not less than four nor more than twenty days before the date of the hearing. The notice shall state the time and place of the hearing and generally describe the proposed amendment.

b. If an amendment to the zoning map is proposed, additional notice shall be given as follows. The notice by publication shall include a legal description and common address of the property proposed to be rezoned. The community development department shall mail written notice by ordinary mail to the owners of record of property any part of which lies within two hundred feet of the exterior boundaries of the property proposed to be rezoned. The written notice shall contain the same information as the published notice and shall be deposited in the mail not less than four nor more than twenty days before the date of the hearing. Failure to mail notice to a person as specified in this section, or failure of a person to receive notice by mail, or failure to mail notice within the time limits required in this section, shall not invalidate any proceedings or action by the planning commission or city council in connection with the proposed zoning map amendment.

04. Continued hearing. The planning commission may continue a public hearing to obtain additional information or to serve further notice upon other property owners or persons the commission determines may be interested in the proposed amendment. Upon recessing for this purpose, the commission shall announce the date and time when the hearing shall be resumed.

05. Referral to city council. The community development department shall forward the commission's recommendation on the amendment to the city council no later than thirty days after the date of the commission's public hearing or continued public hearing.

06. City council hearing. The council shall publish notice of the time and place of its public hearing on the proposed amendment at least seven days before the hearing, and in no case shall the public hearing be held earlier than the next regularly scheduled city council meeting following the published notice.

07. Record of amendment. The community development director and city clerk shall maintain a current record of amendments to the text and zoning map in a form convenient for use by the public.

COMPARED

ORDINANCE NO. 5264

PAGE FOUR

15.02.070 Fees. A fee shall be charged and submitted with each petition or application for rezoning, plan review, zoning text amendment, variance, conditional use, or appeal of an administrative decision. The fee shall be as set forth in the prevailing schedule of fees most recently adopted by the city council.

15.02.080 Penalties. Any person, firm, partnership, corporation or any legal entity found guilty of a violation of any of the provisions of this title shall upon conviction be subject to a fine not exceeding one hundred dollars or be imprisoned for a term not exceeding thirty days. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the city attorney, any violation of the provisions of this title may be pursued as a municipal infraction according to the terms of Chapter 1.95 in lieu of criminal prosecution.

SECTION 3. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 15.04 "Districts and Boundaries" in its entirety.

SECTION 4. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 15.05 "General Provisions" in its entirety.

SECTION 5. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 15.20 "Accessory Uses" and by enacting a new Chapter 15.20 "Accessory Uses", to read as follows:

CHAPTER 15.20 ACCESSORY USES

Sections:

- 15.20.010 Home occupations.
- 15.20.020 Fences, walls and hedges.
- 15.20.030 Lighting controls.
- 15.20.040 Yard exceptions and permitted intrusions into required yards.

15.20.010 Home occupations. The establishment and continuance of a home occupation shall be subject to the following requirements:

- 01. Such use shall be conducted entirely within the dwelling or principal building and carried on only by the inhabitants thereof and no others;
- 02. Such use shall be incidental and secondary to the residential use of the dwelling and shall not change the residential character thereof;
- 03. There shall be no signs, radio, television, newspaper, handbill or other similar types of advertising linking the address of the premises with the home occupation except as provided by Section 15.08.050 and such sign shall be attached to dwelling;
- 04. Home occupations shall be limited to performance of services only and that no commodity directly or incidentally shall be sold on the premises;

05. There shall be no exterior storage of equipment or materials used in home occupations;

06. There shall be no indication of offensive noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line.

15.20.020 Fences, walls and hedges. Fences (i.e. masonry walls, ornamental iron, chain link, open wood, solid wood or metal, vegetation, etc.) placed on private property, used for any purpose shall conform to the following requirements:

01. General requirements for all zoning districts.

(a) No fence placed on any lot shall project over the property line. No fence or obstruction shall be placed in the public right-of-way.

(b) The height of a fence shall be measured from the grade on which the fence is placed.

(c) The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.

(d) No fence or any other obstruction shall be placed within an equilateral triangle having sides of 35 feet each running along the edge of the pavement, or curb if present, of each abutting street. The apex of this triangle shall be at the point of the intersection of the edges of the pavement or curbs of such streets when extended out to a point.

(e) No fence shall be placed within 3 feet of a fire hydrant. No fence shall block visibility or access to a fire hydrant from the street.

02. General requirements for A-1, A-2, W-M, and G-M Districts.

(a) A fence placed in any yard shall not exceed 8 feet in height.

(b) Barbed wire fences 0 to 6 feet in height are permitted in A-1 and A-2 districts for agricultural uses only.

(c) Security fences with sharp or pointed projections or containing barbed wire strands are allowed in the A-2, W-M and G-M Districts if placed atop a conforming fence of at least 6 feet in height.

(d) Electrically-charged fences located within the boundaries of a conforming fence are permitted in A-1, A-2, W-M and G-M districts for agricultural uses only.

03. General requirements for R-1M, R-1, R-2, R-3, R-4, A-P, C-1, C-2, C-3, C-4, and PC Districts.

(a) In a front yard or a street side yard, the height of a fence shall not exceed 4 feet, unless its placement meets the setback requirements for principal and accessory structures. Exception: Ornamental iron fences located in front or street side yards may exceed 4 foot in height, but are limited to six feet in overall height.

(b) No solid fence shall be placed within a front yard or street side yard which creates a safety hazard by obstructing the clear view of pedestrians or vehicles.

(c) In an interior side yard or rear yard, the height of a fence, excepting vegetation fences, shall not exceed 6 feet. Fences in residential areas proposed to exceed 6 feet in height shall be reviewed on a case by case basis by the Chief Building Official. Any person aggrieved by the Chief Building Official's decision, may appeal it to the Zoning Board of Adjustment as a variance request pursuant to Section 15.24.030 of the Council Bluffs Municipal Code upon payment of the required fee and submission of the grievant's application.

04. Required fences.

(a) A fence shall be required where any conforming commercial or industrial use abuts a residential district. The fence shall be provided at the abutting side and rear property lines. A fence shall also be required for any open storage area

in an industrial district which blocks all view of the storage area at or beyond the property line. The fence shall be provided by one of the following methods:

- (1) a wood and/or masonry fence, at least 50% opaque, 6 feet in height;
- (2) a vegetation fence capable of providing a substantially opaque barrier and attaining a height of 6 feet within 3 years of planting;
- (3) a landscaped earth berm with a maximum slope of 3 to 1 vertical/horizontal, no more than 6 feet above the existing grade of the property line separating the zoning districts; or
- (4) any combination of the described methods that achieves a cumulative height of 6 feet.

05. Maintenance. Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

15.20.030 Lighting controls. Any light used for the illumination of signs, parking areas, swimming pools or for any other purpose shall be arranged in such a manner as to direct the light away from neighboring residential properties and away from the vision of passing motorists and pedestrians.

15.20.040 Yard exceptions and permitted intrusions into required yards. The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

01. The following building features may project into the required front yard no more than six feet and into the required side yards no more than three feet, provided that such projections are no closer than three feet to any side yard line;

- (a) Chimneys and fireplaces;
- (b) Porches, as defined in Chapter 15.03, platforms and landings which do not extend above the level of the first floor of the building.

02. The following building features may project into the required front yard no more than three feet and into the required side yard no more than three feet, provided that such projections are no closer than three feet to any side yard line:

- (a) Eaves, cornices, belt courses, leaders, sills, awnings, lintels, gutters, and other similar features.

03. Ramps constructed to make a structure accessible to persons with disabilities may project into the required yard(s) to the extent necessary for access, if, upon review by the Director of the Community Development Department, it is determined that the ramp has been designed to minimize the intrusion into the required yard(s) and creates no hazard to the public.

15.20.050 Height exceptions. The following types of structures are not subject to the height limitations of this title: chimneys, church spires, cupolas, elevator shafts, fire and hose towers, observation towers and water towers.

SECTION 6. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 15.25 "Fees" in its entirety.

SECTION 7. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by

COMPARED

ORDINANCE NO. 5264

PAGE SEVEN

repealing Chapter 15.26 "Administration, Enforcement and Interpretation" in its entirety.

SECTION 8. That Title 15 "Zoning" of the 1995 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by, repealing Chapter 15.29 "Land Use Intensity Provisions" in its entirety.

SECTION 9. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are:

Ordinance No. 3968, Section 1 (part), 1972,
Ordinance No. 4095, Section 1, 1975
Ordinance No. 4303, Section 1, 1979
Ordinance No. 4404, Section 1 (part) 1985
Ordinance No. 4455, Section 1, 1983
Ordinance No. 4457, Section 1, 1983
Ordinance No. 4929, Section 1, 1990
Ordinance No. 4956, Section 6, 1990
Ordinance No. 4984, Section 1, 1990
Ordinance No. 5072, Section 1, 1992
Ordinance No. 5135, Section 1, 1993
Ordinance No. 5156, Section 1, 1994

SECTION 10. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 11. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED May 20, 1996


THOMAS P. HANAFAN Mayor

Attest:


CHERYL PUNTNEY Deputy City Clerk

FIRST CONSIDERATION: April 22, 1996
SECOND CONSIDERATION: May 6, 1996
PUBLIC HEARING: May 20, 1996
THIRD CONSIDERATION: _____

Planning Case No. ZT-96-002

96-35306