

Agenda
City of Elk Run Heights
Special Council Meeting
June 29, 2021 - 6:00 p.m.
Located at Eddis Winstead Council Chambers

1. Call to order
2. Pledge of Allegiance
3. Roll call
4. Approval of the June 29, 2021 Agenda
5. Approval of Consent Agenda - All items listed on the consent agenda will be enacted by one motion. *There will be no separate discussion unless a request is made prior to the time the council votes on the motion.*
 - a) Resolution 3087 a Resolution repealing approval of Resolution 3084 authorizing the transfer of certain money as outlaid and authorizing the clerk to make the transfer
 - b) Resolution 3088 authorizing the final payment of bills and transfers for FY21
 - c) Resolution 3089 approving FY22 compensation as budgeted
 - d) Resolution 3090 approving Mayor to sign contract with Building and Grounds LLC of Ossian, Iowa for the Mayor's Park restroom and rain garden project in an amount not to exceed \$37,000
 - e) Approval of Cigarette/Tobacco Products Permit Renewals:
 - i. Casey's #3041
 - ii. Road Ranger #144
6. Motion to adopt Ordinance 273 an ordinance of the City of Elk Run Heights, IA, amending chapter 13.24, sanitary disposal of garbage and refuse, section 13.24.160, schedule of fees, rates, and charges to \$13.25 per month
7. Discussion: Library contract options and compare proposed pricing
8. Discussion: Dead trees on City property
9. Discussion: Location for the speed humps
10. Discussion: Franchise fee customer classifications
11. Discussion/Possible Action: Setting the date of fireworks to include Saturday and Sunday for Independence Day celebrations for 2021
12. Resolution 3091 a resolution of the Elk Run Heights City Council authorizing the use of consumer fireworks, and temporarily amending city code fireworks 9.19 by allowing the use of fireworks to include the 3rd of July
13. Review of City Ordinances:
 - a) MANUFACTURED HOMES: **The city cannot prohibit manufactured homes from locating in town.** Here are the regulations per code of Iowa. We can omit the chapter from the city code if that is the City's preference. Some Cities establish minimum dwelling standards. I attached two examples. Also, if

Zoning Section 17.48 is retained, it needs to align with Code of Iowa regulations shown below in Chapter 146

- b) Building Codes. The city has to adopt the specific year and edition of each Construction code it adopts. This is often done with amendments. At this point it might make sense to adopt, by reference, the codes/versions adopted by Evansdale, because the city uses their inspector. (Building code 2009, Plumbing code 2009, Mechanical code 2009, Electrical code 2014) I have also had Cities adopt the codes based on the inspector recommendations. The inspector reviews the codes and supplies the city with the desired amendments. When you transition to a city employee, the city could then take action to adopt the preferred codes. Another option is to use the Code of Iowa regulations, and not adopt any special building codes. Below is a version where the city has a 28E agreement with the County for enforcement.

(Simmering Cory and City Clerk recommend adopting Evansdale's code as stated due to Building Inspector being certified in those years. Additionally, he practices the modifications. This will be changed once new employee begins testing for current codes)

(It is also recommended to adopt the Iowa code used by electrical inspectors)

- c) Page 168-1 – Chapter 16.04, Any revisions to subdivision regulations?
IC – Subdivision is a City created ordinance. I am forwarding the Evansdale Subdivision that we have. I also am attaching a sample that has some language about major and minor subdivision. The City needs to supply the specific language they want included in the new code.

- e) Planning and Zoning Commission – Here is the standard wording. Is it okay to use? Which alternative is correct?
- f) Board of adjustment

14. Adjournment

RESOLUTION 3088

A RESOLUTION OF THE CITY COUNCIL OF ELK RUN HEIGHTS, IA THAT
THE FOLLOWING BILLS BE PAID AND TRANSFERS ARE HEREBY ALLOWED

6022 AP INDUSTRIAL STEEL	STEEL STRUCTURAL CHANNELS	145.74
6023 CASEY'S	FUEL	87.83
6024 COMPASS BUSINESS SOLUTIONS	CH-UTILITY BILL CARDS	558.18
6025 IA LEAGUE OF CITIES	FY22 MEMBER DUES	924.00
6026 JONES BROTHERS ASPHALT	STREET REPAIR:HIGH ST, ELK RUN	3,100.00
6027 MEDIACOM	PHONE SERVICE	83.00
6028 MID AMERICAN ENERGY	MAY UTILITIES	3,176.99
6029 RICOH USA INC	COPIER CONTRACT	168.89
6030 ROBERTS STEVENS PRENDERGAS	LEGAL SERVICES	625.00
6031 SHRED IT	DOCUMENT SHREDDING	64.04
6032 STANSBERRY ACCOUNTING	ACCOUNTING SERVICES	189.00
6033 THE SHIRT SHACK	COMM. DAY TEE SHIRTS	1,870.25
6034 TURF PRO	LAWN CARE	975.00
6035 WASTE MANAGEMENT	GARBAGE	5,269.22
6036 WATERLOO WATER WORKS	MONTHLY WATER BILL	6,877.22
6037 WEIKERT CONTRACTING INC	CRACK SEALING	11,375.00
6038 WELLMARK BC/BS	HEALTH INSURANCE	3,265.23
		38,754.59

GENERAL	6,815.37
ROAD USE TAX	3,654.17
CAPITAL IMPROVEMENT RESV	11,000.00
WATER	9,863.94
SEWER	2,151.89
LANDFILL/GARBAGE	5,269.22
TOTAL FUNDS	38,754.59

JUNE PAYROLL:

DRAFT	BIWEEKLY PAYROLL	7,489.88
DRAFT	EFTPS	2,060.64
DRAFT	IPERS	1,605.14
6019 IOWA TREASURE	PR LIABILITES	791.00
6020 COLONIAL LIFE	PR LIABILITES	79.94
6021 AVESIS	PR LIABILITES	51.85
	TOTAL PAYROLL:	12,078.45

**PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ELK RUN HEIGHTS, IOWA ON THIS
29TH DAY OF JUNE 2021**

ATTEST:

Kristi Lundy, Mayor

Julie Eastman, City Clerk

RESOLUTION 3089

**A RESOLUTION SETTING THE WAGES FOR THE CITY
EMPLOYEES FOR THE 2020/2021 FISCAL YEAR**

BE IT RESOLVED, by the City Council of the City of Elk Run Heights, Iowa that the following wages be set for the 2021/2022 fiscal year effective July 1, 2021 to June 30, 2022

Julie Eastman	City Clerk.....	\$22.18 per hour
Thomas James	Maintenance.....	\$22.36 per hour
Sarah Peverill	Deputy City Clerk.....	\$15.69 per hour
Wade Jacobs	Maintenance/Code Enforcement.....	\$21.00 per hour
Larry Frost	Part-time Labor.....	\$20.00 per hour
Brian Wirtz	City Inspector.....	65% of permit
Brian Wirtz	Code Enforcement Officer.....	\$20.00 per hour

PASSED AND ADOPTED ON THIS 29TH DAY OF JUNE 2021

ATTEST:

Kristi Lundy, Mayor

Julie Eastman, City Clerk

RESOLUTION 3090

**A RESOLUTION APPROVING A PROFESSIONAL SERVICE AGREEMENT
WITH BUILDING AND GROUNDS, LLC TO PROVIDE CONSTRUCTION ON THE
MAYOR'S PARK RESTROOM AND RAIN GARDEN PROJECT**

WHEREAS, the City of Elk Run Heights desires to further construct the restroom and rain garden at Mayor's Park

WHEREAS, Building and Grounds, LLC proposes to complete restroom and rain garden project at Mayor's Park

NOW THEREFOR the City of Elk Run Heights, Iowa, hereby resolves to enter into an agreement as provided with BUILDING AND GROUNDS, LLC for the restroom and rain garden project at Mayor's Park and authorizes the mayor to sign said agreement

PASSED AND ADOPTED ON THIS 8TH DAY OF JUNE 2021

ATTEST:

Kristi Lundy, Mayor

Julie Eastman, City Clerk

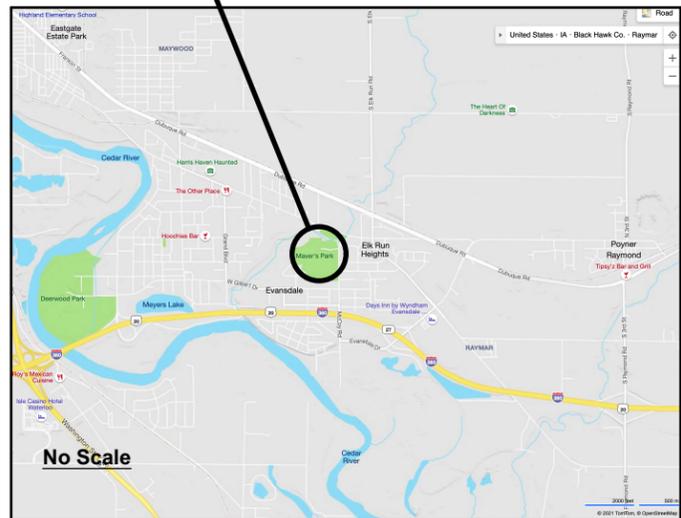
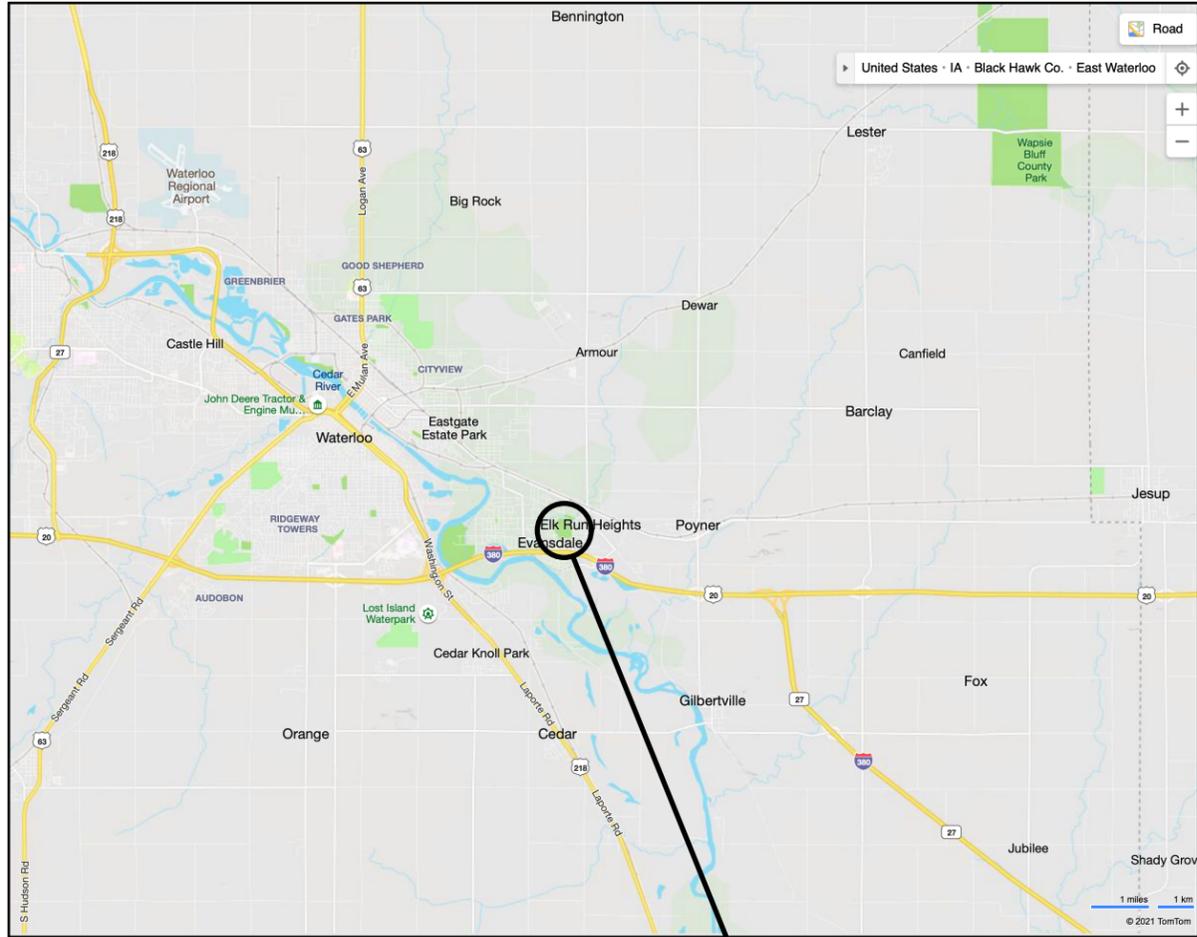
**Mayor's Park
City of Elk Run Heights**

This agreement is made between Building and Grounds LLC and
The City of Elk Run Heights.

- 1) Scope of project in installing two restrooms and rain garden area at Mayor's Park. Project #2018-0040 from Ai Align Architecture & Planning, Larry Kurtz.
- 2) In consideration for the services to be performed by the contractor, Client agrees to pay contractor \$ 37,000.00.
Monthly invoices for completed work will be submitted at the end of the month.
- 3) Contractor will start within 2 weeks of signed agreement to proceed.

CONTRACTOR	<u>Building & Grounds LLC</u>	<u>6-24-2021</u>
SIGNATURE	<u>[Signature]</u>	<u>6-24-2021</u>
CLIENT	_____	_____
SIGNATURE	_____	_____

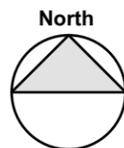
Public Rest Room Project @ Mayor's Park



Elk Run Heights, Iowa

Legend

- 0 Location Map
- 1 Restroom Plan
- 2 Reflected ceiling Plan
- 3 Interior Sections
- 4 Interior Sections
- 5 Elevations
- 6 Mechanical/Plumbing
- 7 Details
- 8 Rain Garden Planting Plan





The portion of this technical submission described below has been prepared under the direct supervision & responsible charge of the undersigned.

Larry Raymond Kurtz
Signature

Discipline: Landscape Architect

Iowa Registration No.: 302

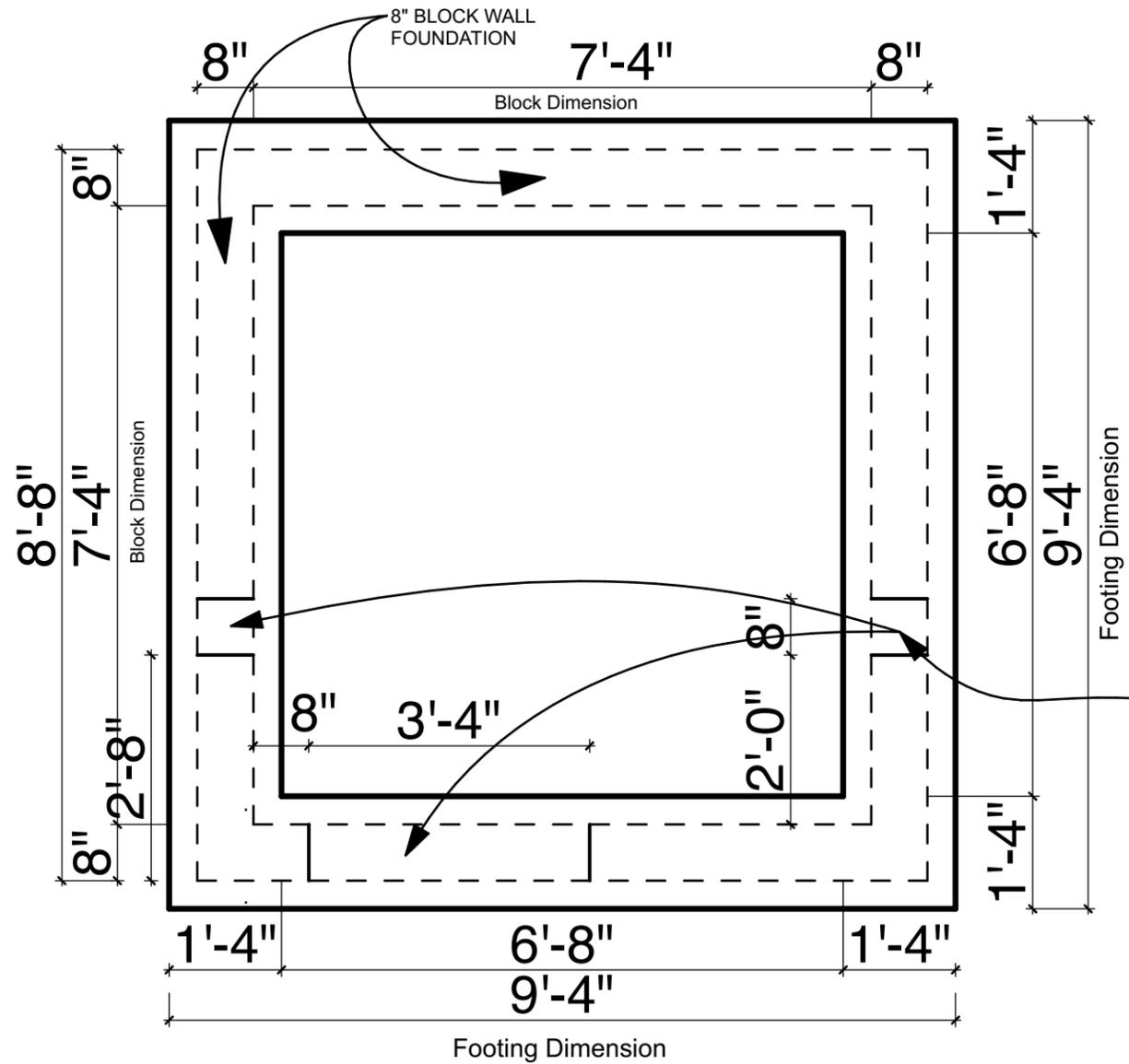
Pages of Sheets covered by this seal: 0-8

Date of Issuance: 4/15/2014

1

Footing/Foundation Plan

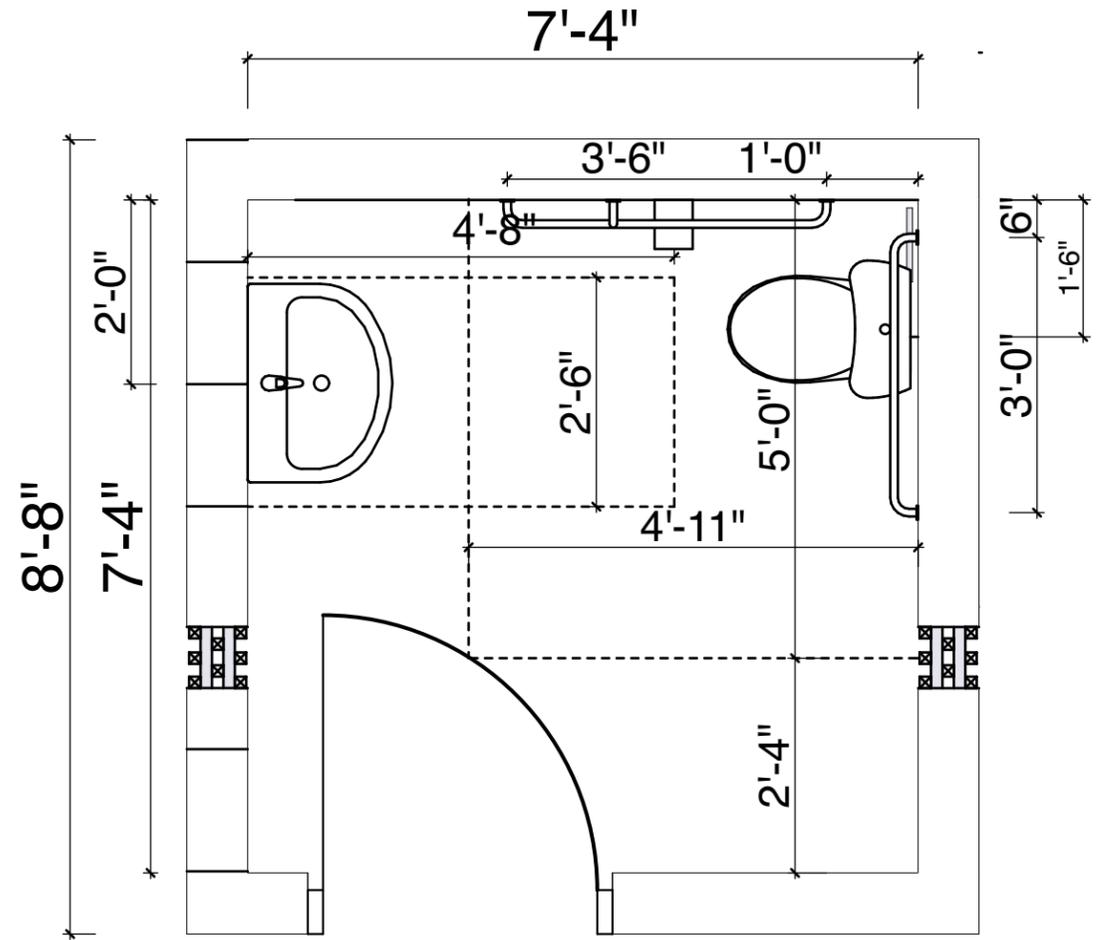
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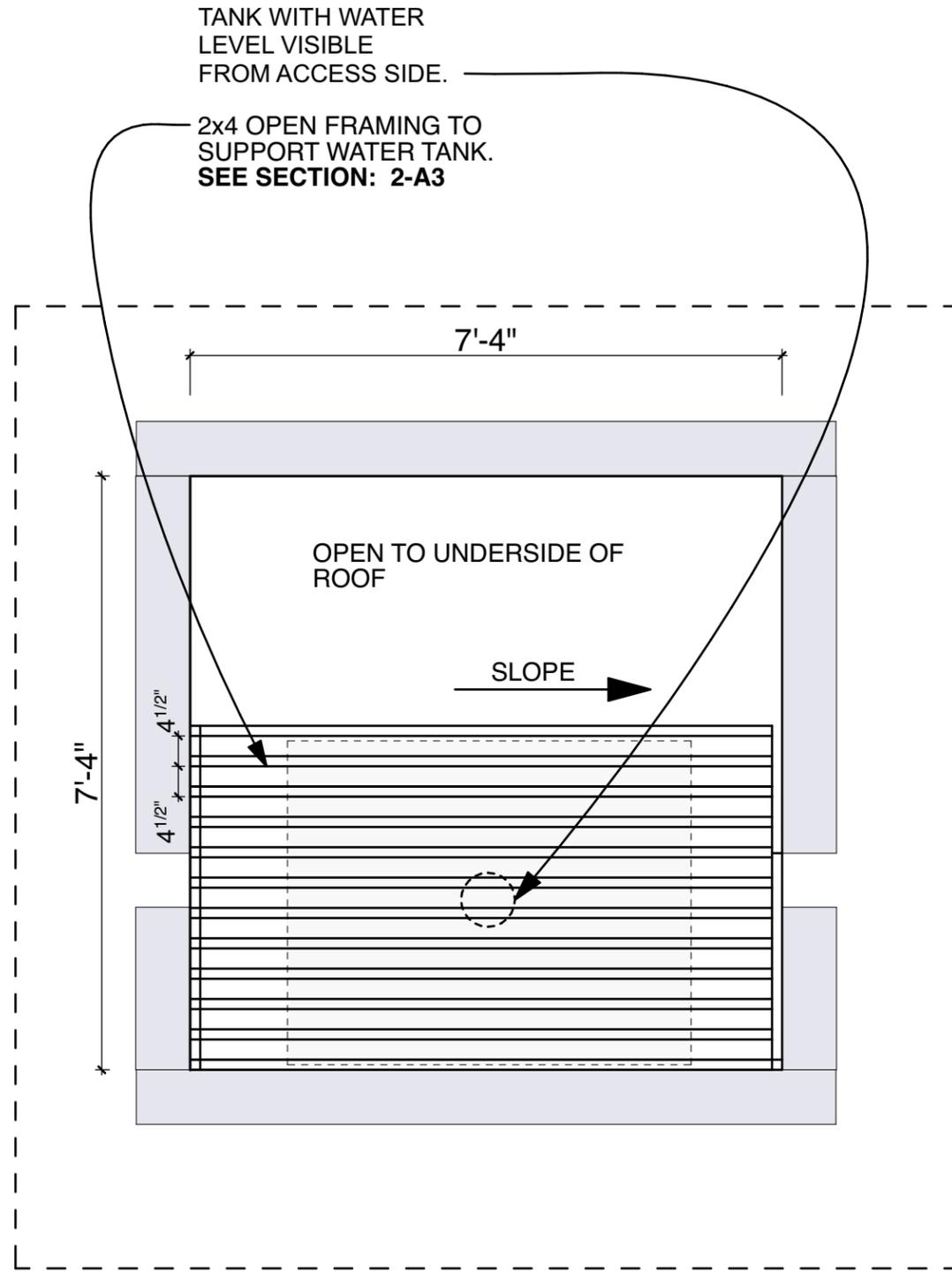
2

Floor Plan

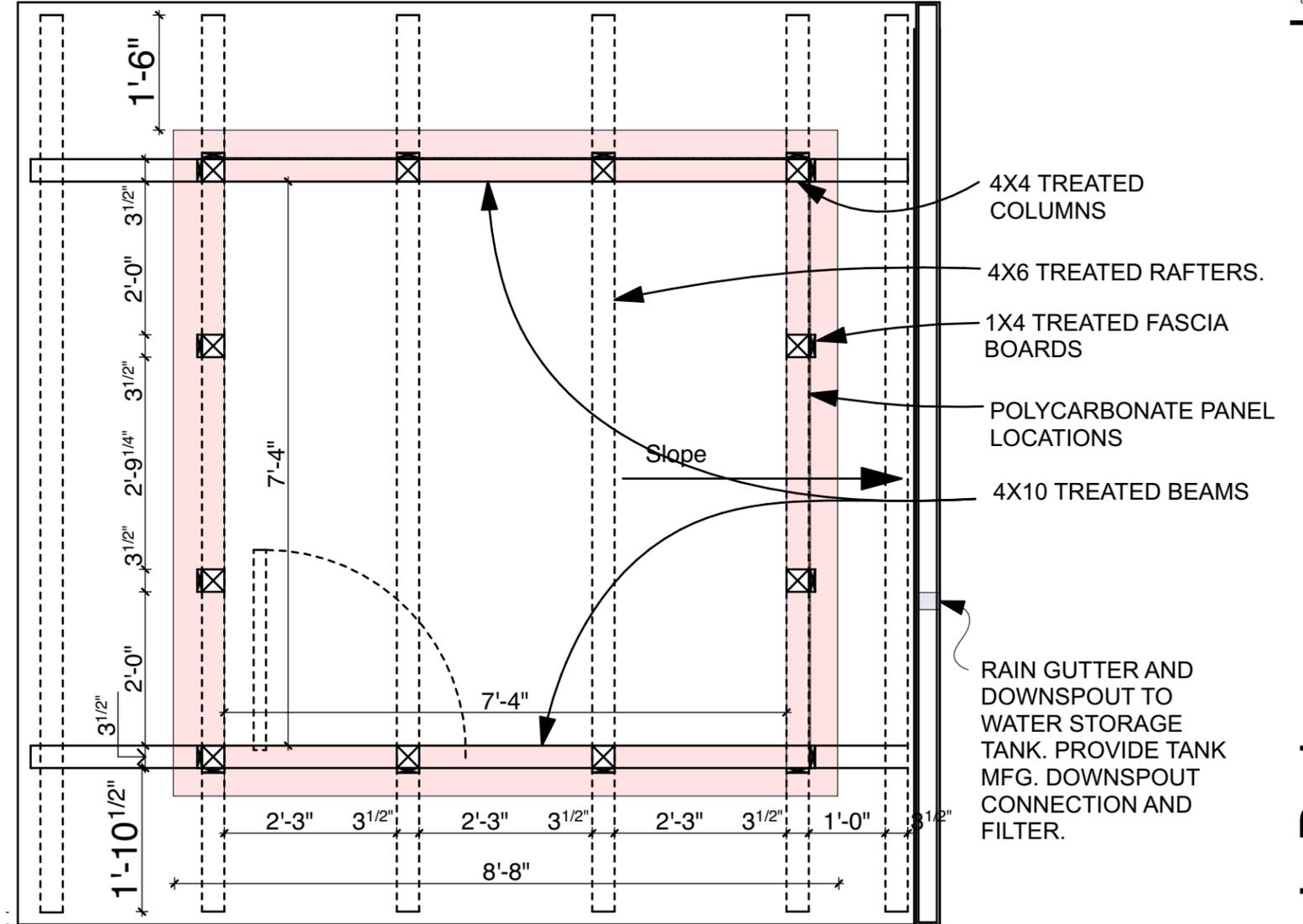
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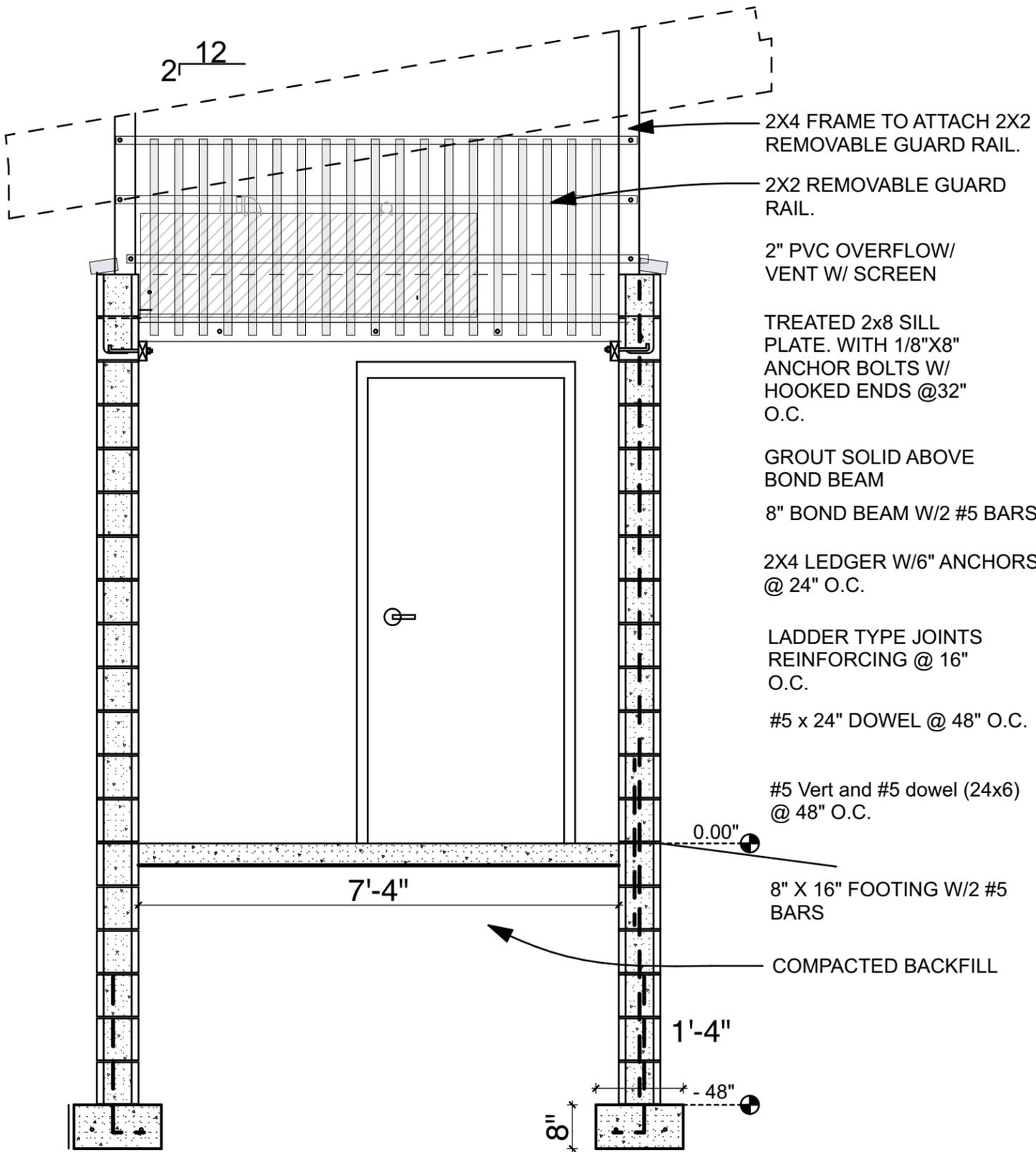
RAIN WATER TOILET
 LOCAL RAINFALL TOTALS
 SURFACE AREA AND STORAGE CAPACITY-
 PLUMBING: LOW PRESSURE SUPPLY VALVE.
 VENTILATION: TOP TO BOTTOM WITH FLOOR SLOPE TO
 LOW POINT FOR EASY CLEAN OUT.
 TIN ROOF
 NATURAL DAY LIGHTING.
 NO ELECTRICITY USED FOR RAINWATER SYSTEM.



1 Reflected Ceiling Plan
SCALE: 1/2" = 1'-0"

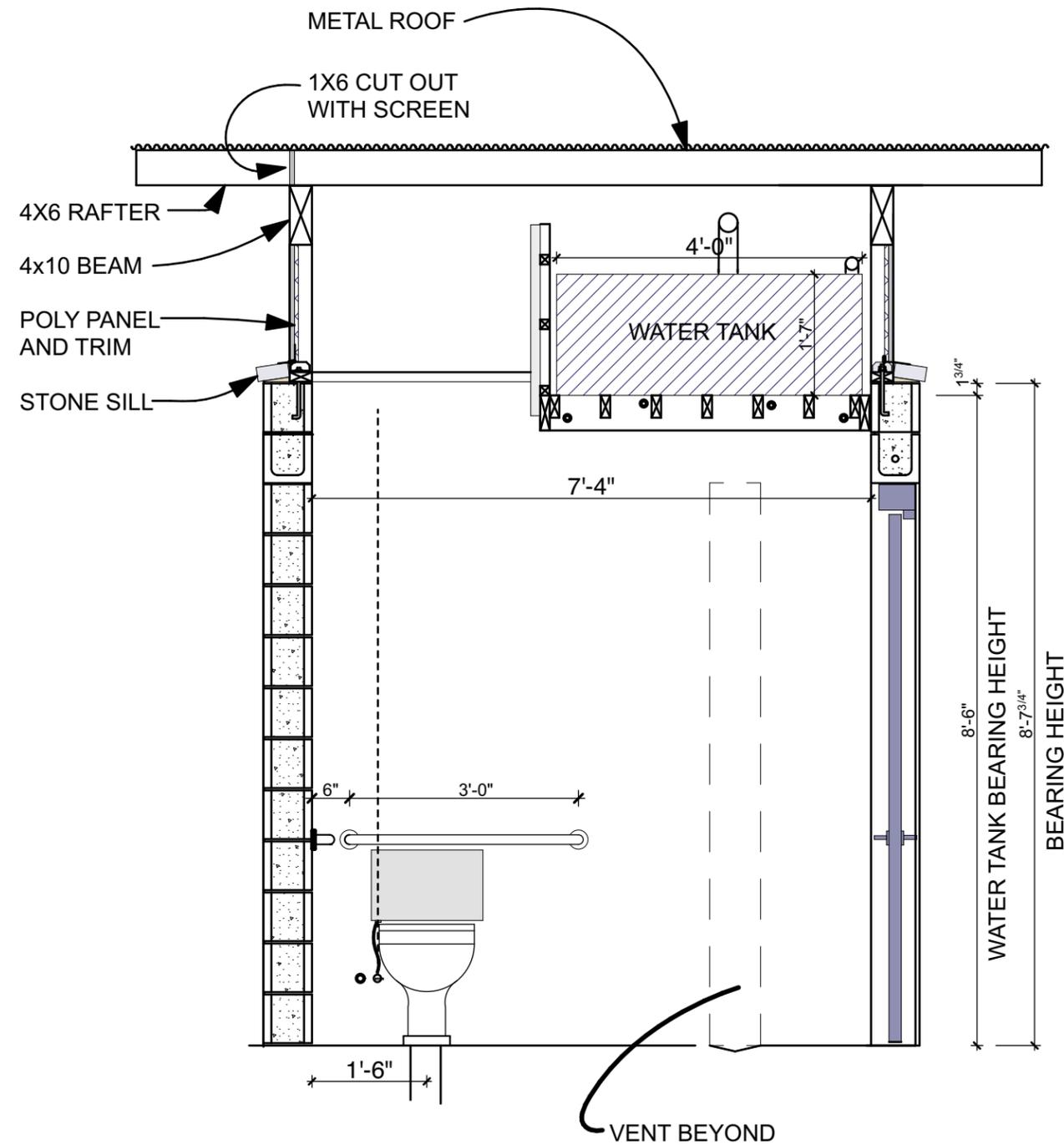


2 Roof Framing Plan
SCALE: 1/2" = 1'-0"

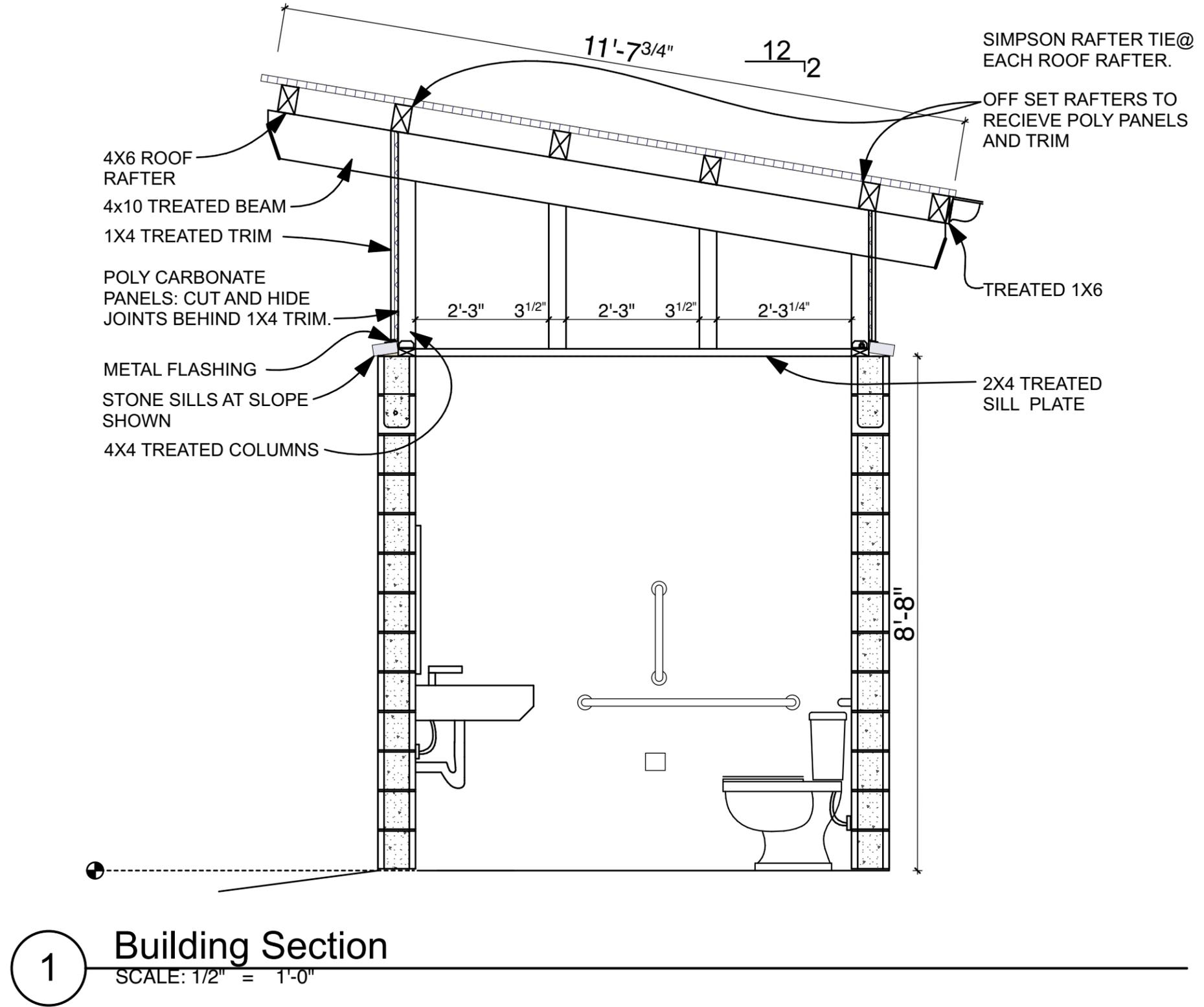


- 2X4 FRAME TO ATTACH 2X2 REMOVABLE GUARD RAIL.
- 2X2 REMOVABLE GUARD RAIL.
- 2" PVC OVERFLOW/ VENT W/ SCREEN
- TREATED 2x8 SILL PLATE. WITH 1/8"X8" ANCHOR BOLTS W/ HOOKED ENDS @32" O.C.
- GROUT SOLID ABOVE BOND BEAM
- 8" BOND BEAM W/2 #5 BARS
- 2X4 LEDGER W/6" ANCHORS @ 24" O.C.
- LADDER TYPE JOINTS REINFORCING @ 16" O.C.
- #5 x 24" DOWEL @ 48" O.C.
- #5 Vert and #5 dowel (24x6) @ 48" O.C.
- 8" X 16" FOOTING W/2 #5 BARS
- COMPACTED BACKFILL

1 Interior Section/Elevation
SCALE: 1/2" = 1'-0"



2 Interior Section
SCALE: 1/2" = 1'-0"

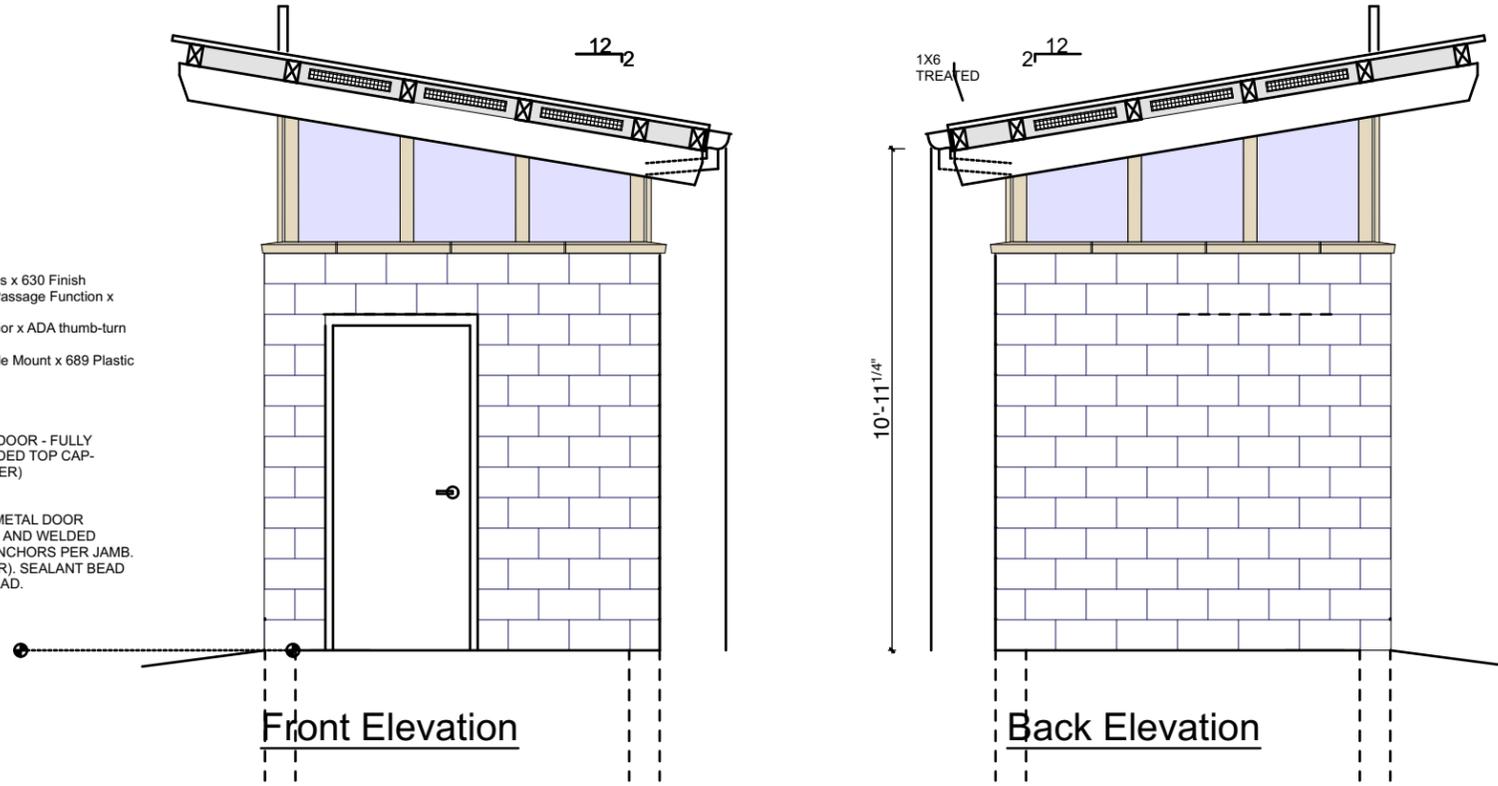


DOOR AND FRAME SPECIFICATION

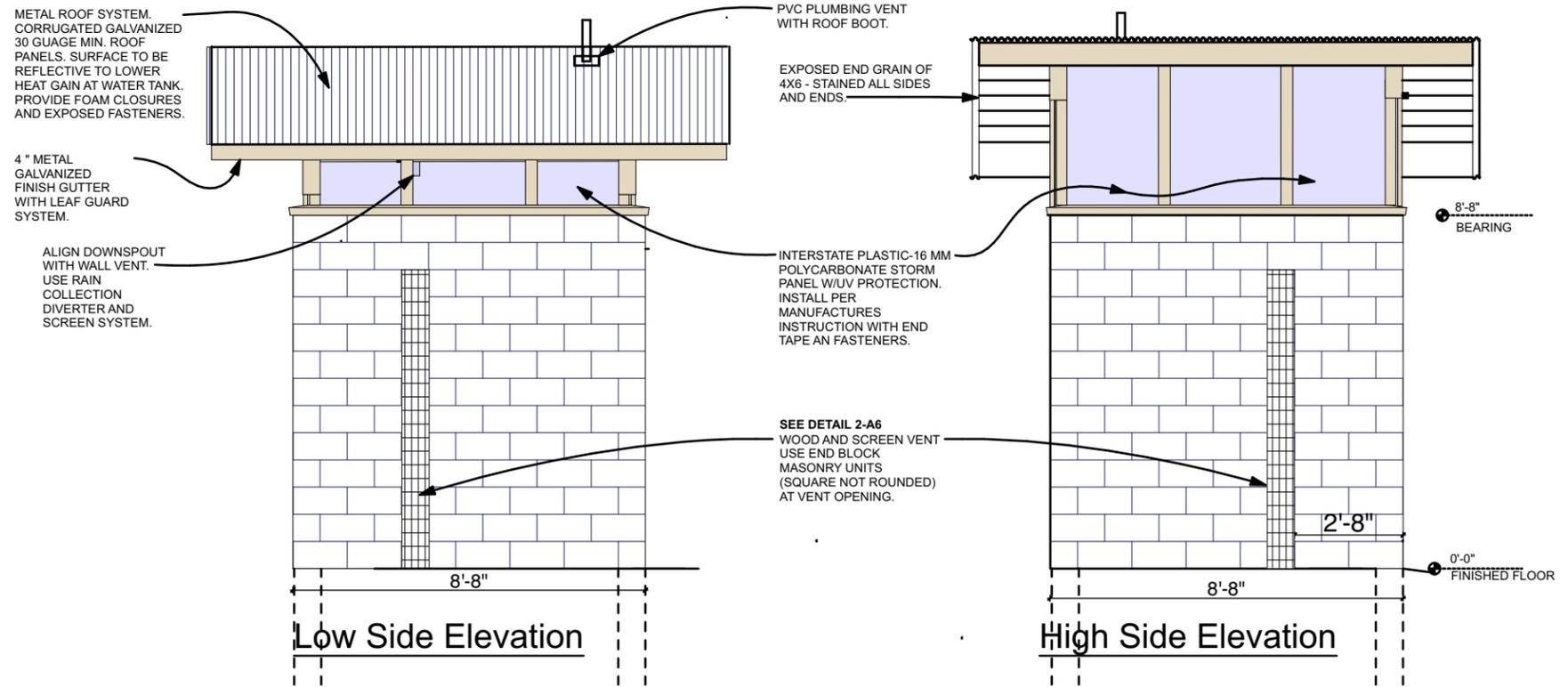
HARDWARE:
 (3) Stainless Steel Ball Bearing Hinges x 630 Finish
 (1) Grade 1 - Cylindrical Latch-set x Passage Function x ADA compliant levers x 630 Finish
 (1) Grade 1 - Deadbolt x Keyed Exterior x ADA thumb-turn Interior x 630 Finish
 (1) Heavy Duty Door Closer x Pull Side Mount x 689 Plastic Cover
 (1) Wall Stop x 630 Finish

DOOR:
 1 3/4" FLUSH GALVANIZED METAL DOOR - FULLY WELDED SEAMS AND FLUSH WELDED TOP CAP-PRIMED (FINAL PAINTING BY OWNER)

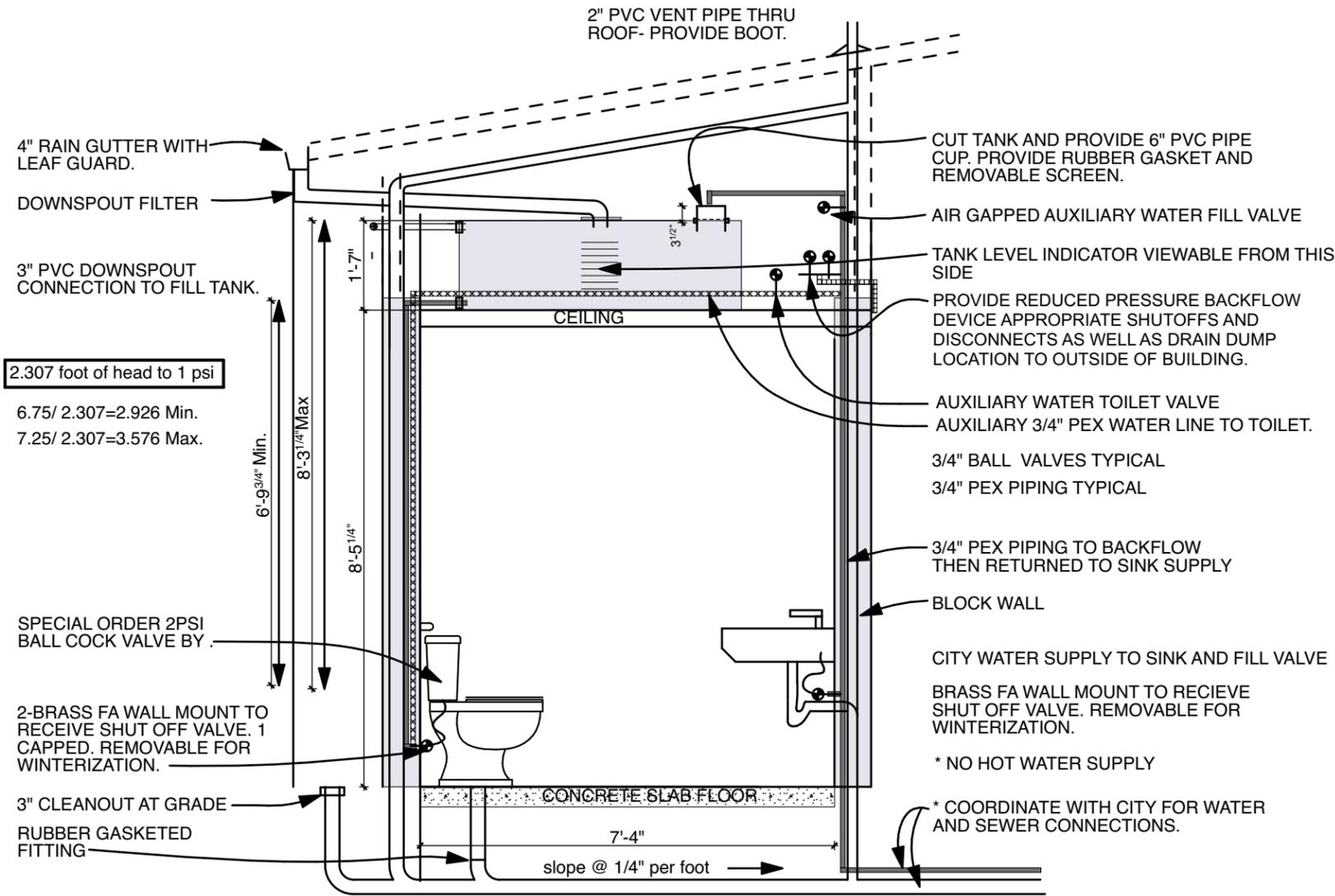
FRAME:
 2" x 5 3/4" GALVANIZED HOLLOW METAL DOOR FRAME. 16 GAUGE WITH MITERED AND WELDED CORNERS GROUND SMOOTH. 3 ANCHORS PER JAMB. PRIME (FINAL PAINTING BY OWNER). SEALANT BEAD BOTH SIDES AT PERIMETER. 2" HEAD.



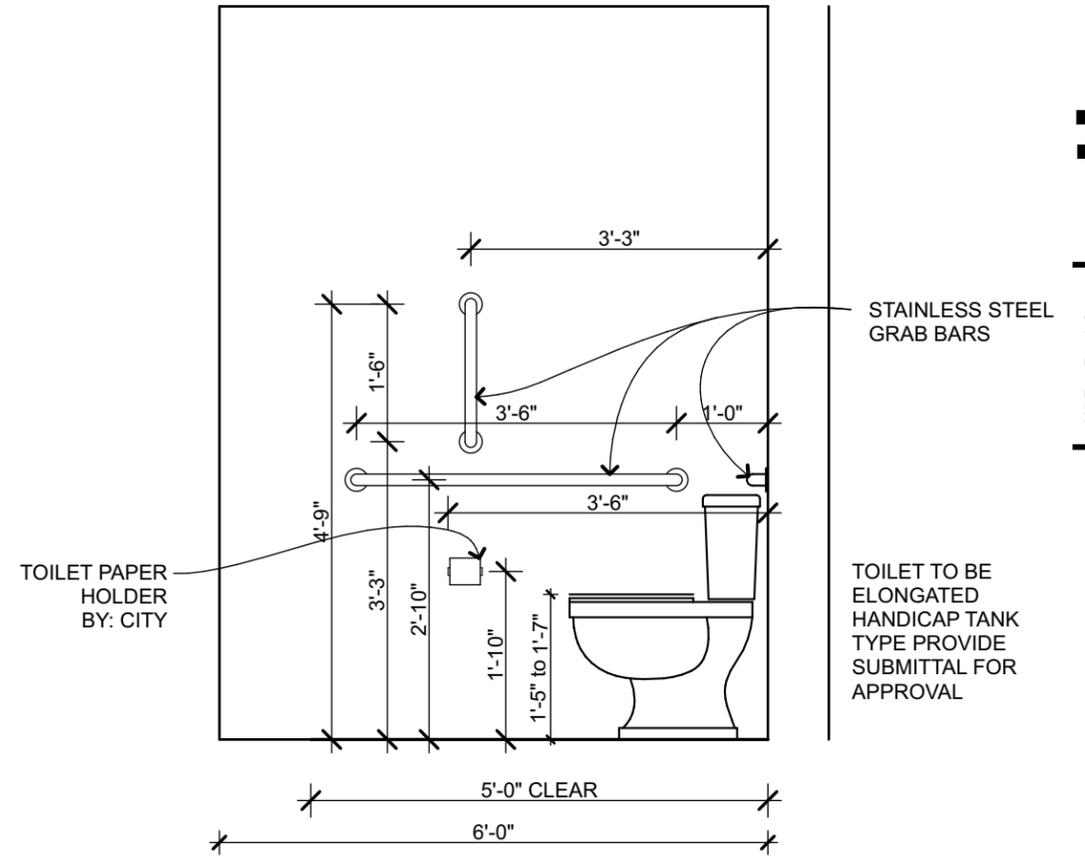
1 Exterior Elevations
 SCALE: 1/4" = 1'-0"



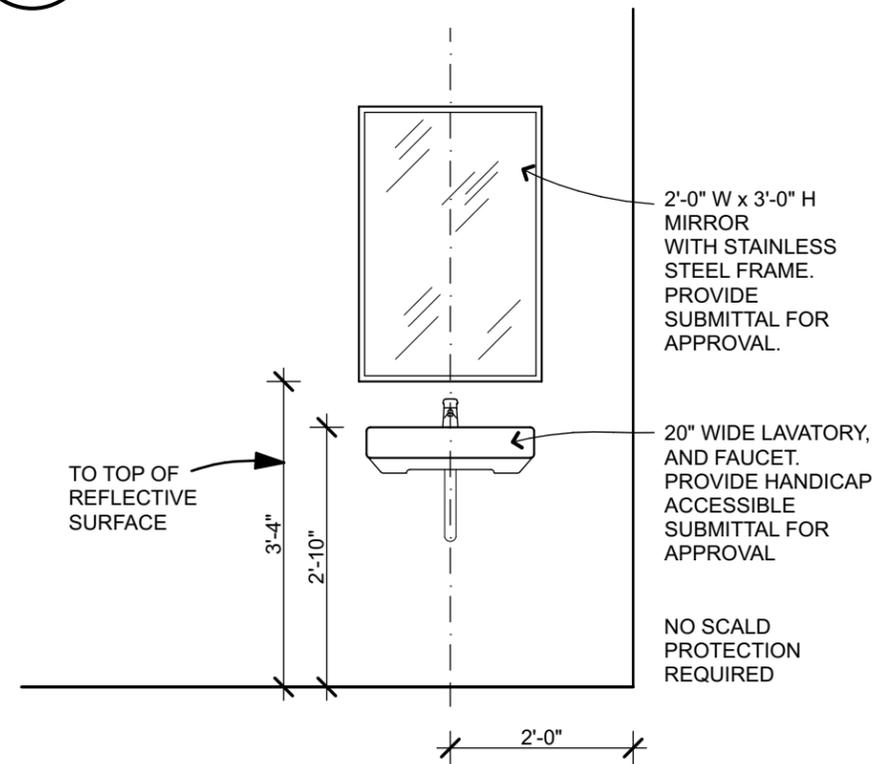
2 Exterior Elevations
 SCALE: 1/4" = 1'-0"



Plumbing Schematic Elevation



1 Handicap Toilet
SCALE: 1/2" = 1'-0"



2 Handicap Sink
SCALE: 1/2" = 1'-0"

200 GALLON ACE ROTO-MOLD WHITE LOW PROFILE TRANSPORT TANK
auto detailing tank, portable water storage tank, water transport tank

- Features 8" threaded lid with 1" female npt outlet
- Low profile design allows for flexible transport and storage applications
- Complies with FDA standards 21 CFR 177.1520 (1) 3.1 and 3.2
- Gallon indicators for quick view of liquid level
- 3 year manufacturer warranty

Quick Summary

PART#	MPN: LP0200-RT / Store ID: X7034373
DIMENSIONS	60" Length x 48" Width x 19" Height
LIQUID ACCESS	1 Outlet, 1 Manway / Lid
WEIGHT / SHIP CLASS	84 lbs. / Ship Class 250
SHIPS FROM	IA
DRAWING	Ace Roto-Mold LP0200-RT Drawing

Price: \$401.99 ~~\$357.99~~
 11% Off MSRP Guaranteed for 8 days only

ADD-ONS

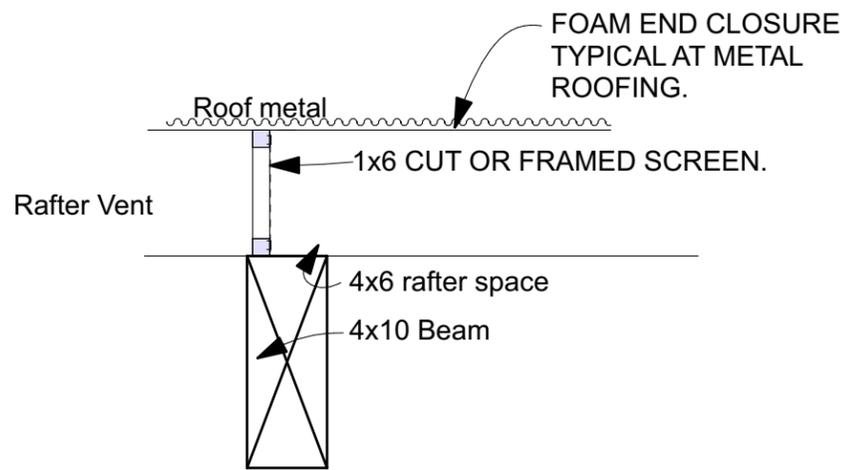
- Bands for Ace Roto-Mold 200 Gallon Low Profile Tank \$69.99
- 1" Garden Hose Adapter Ball Valve \$19.99

TANK WEIGHT=84 LBS
 200 GALLONS WATER = 1,666 LBS
 2 WORKERS @ 250 LBS = 500 LBS
TOTAL WEIGHT = 2,250 LBS

32 SF AT TANK DECK

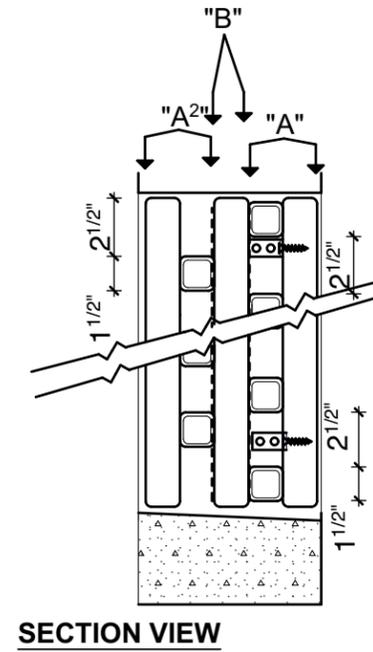
1 Tank Detail

SCALE: 1/2" = 1'-0"



3 Rafter Screen

SCALE: 1 1/2" = 1'-0"



STEP -1

2X2 TREATED TYPICAL WITH 1/4" RADIUS AT ALL EDGES AND ENDS.

STEP -2

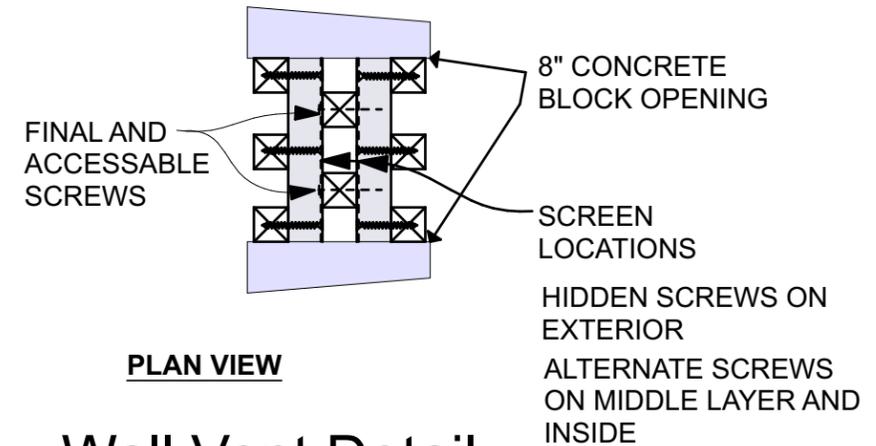
ASSEMBLE PART "A" AND ATTACH TO MASONRY WALL (AT 12 LOCATIONS) WITH GALVANIZED L BRACKET ADD SCREEN TO BACK SIDE AS SHOWN.

STEP -3

ADD PART "B" AS CENTER DIVIDER SCREW TO PART "A"

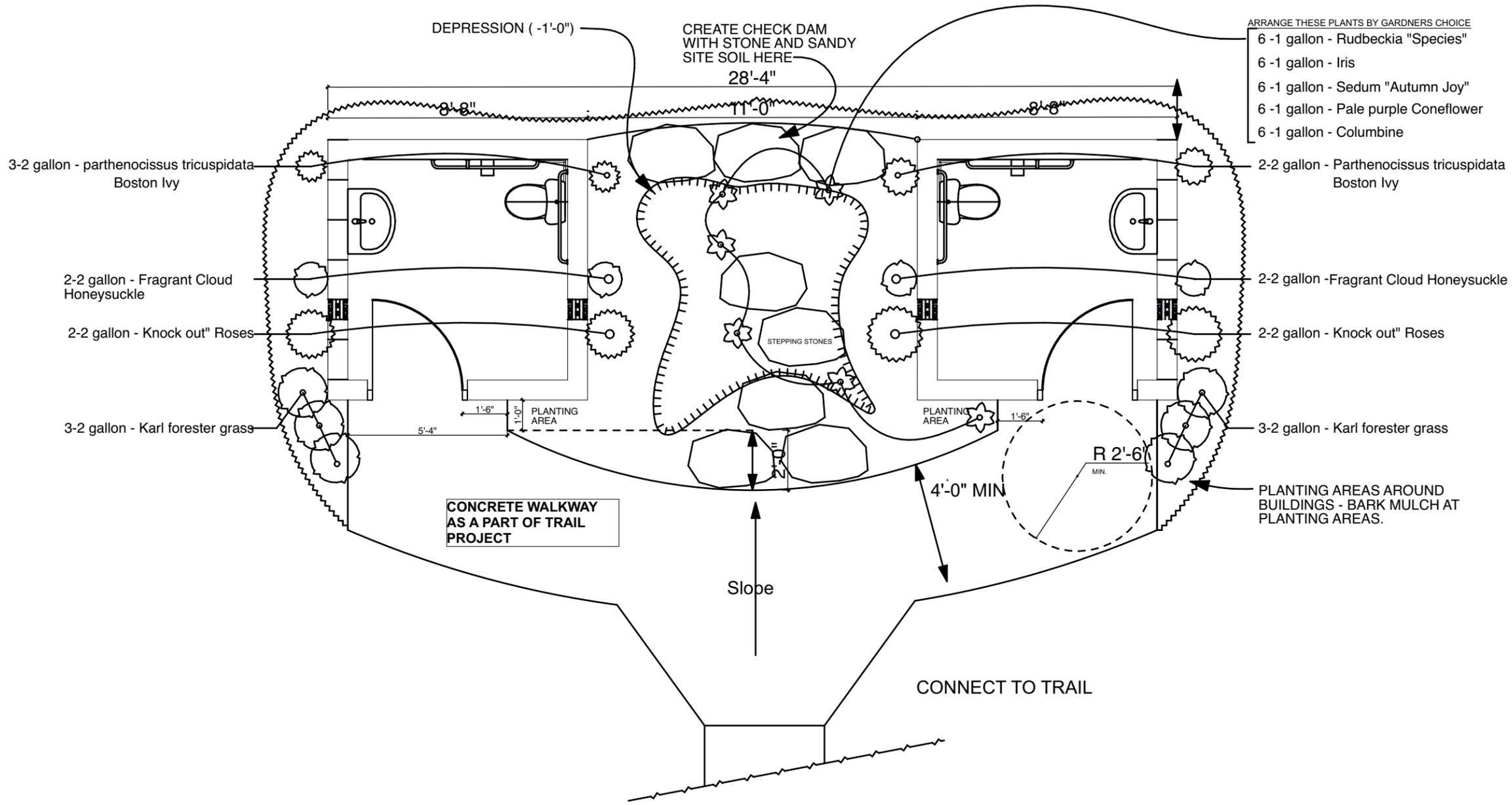
STEP -4

ASSEMBLE PART "A2" AND ATTACH SECOND SCREEN. INVERT AND ANCHOR TO WALL.



2 Wall Vent Detail

SCALE: 1 1/2" = 1'-0"



North



Planting Plan

SCALE: 1/4" = 1'-0"

Instructions on the reverse side

For period (MM/DD/YYYY) 7 / 1 / 2021 through June 30, 2022

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA CASEY'S MARKETING COMPANY/DBA-CASEY'S #3041

Physical Location Address 5202 LAFAYETTE RD City ELK RUN HEIGHTS ZIP 50707

Mailing Address PO BOX 3001 City ANKENY State IA ZIP 50021

Business Phone Number 3192357880

Legal Ownership Information:

Type of Ownership: Sole Proprietor Partnership Corporation LLC LLP

Name of sole proprietor, partnership, corporation, LLC, or LLP CASEY'S GENERAL STORES, INC.

Mailing Address PO BOX 3001 City ANKENY State IA ZIP 50021

Phone Number 515-446-6404 Fax Number 515-965-6205 Email JESSICA.FISHER@CASEYS.COM

Retail Information:

Types of Sales: Over-the-counter Vending machine

Do you make delivery sales of alternative nicotine or vapor products? (See Instructions) Yes No

Types of Products Sold: (Check all that apply)

Cigarettes Tobacco Alternative Nicotine Products Vapor Products

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store Bar Convenience store/gas station Drug store

Grocery store Hotel/motel Liquor store Restaurant Tobacco store

Has vending machine that assembles cigarettes Other

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

Signature of Owner(s), Partner(s), or Corporate Official(s)

Name (please print) JULIA L JACKOWSKI, CASEY'S MARKETING SECRETARY

Name (please print) _____

Signature Julia L Jackowski

Signature _____

Date 4/20/2021

Date _____

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE

Fill in the amount paid for the permit: 75.00

Fill in the date the permit was approved by the council or board: _____

Fill in the permit number issued by the city/county: _____

Fill in the name of the city or county issuing the permit: _____

• New Renewal

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

Email: iapledge@iowaabd.com

Fax: 515-281-7375

Instructions on the reverse side

For period (MM/DD/YYYY) 7 / 1 / 21 through June 30, 2022

I/we apply for a retail permit to sell cigarettes, tobacco, alternative nicotine, or vapor products:

Business Information:

Trade Name/DBA Road Ranger #144
Physical Location Address 100 Plaza Dr City Elk Run Heights ZIP 50707
Mailing Address 1501 Woodfield Rd City Schaumburg State IL ZIP 60173
Business Phone Number 815-387-1700 Suite 300 S

Legal Ownership Information:

Type of Ownership: Sole Proprietor Partnership Corporation LLC LLP
Name of sole proprietor, partnership, corporation, LLC, or LLP Road Ranger LLC
Mailing Address 1501 Woodfield Rd Suite 300 S City Schaumburg State IL ZIP 60173
Phone Number 815-387-1700 Fax Number 815-387-1749 Email legal@roadrangerusa.com

Retail Information:

Types of Sales: Over-the-counter Vending machine
Do you make delivery sales of alternative nicotine or vapor products? (See Instructions) Yes No
Types of Products Sold: (Check all that apply)
Cigarettes Tobacco Alternative Nicotine Products Vapor Products

Type of Establishment: (Select the option that best describes the establishment)

Alternative nicotine/vapor store Bar Convenience store/gas station Drug store
Grocery store Hotel/motel Liquor store Restaurant Tobacco store
Has vending machine that assembles cigarettes Other

If application is approved and permit granted, I/we do hereby bind ourselves to a faithful observance of the laws governing the sale of cigarettes, tobacco, alternative nicotine, and vapor products.

Signature of Owner(s), Partner(s), or Corporate Official(s)

Name (please print) Albe DeArvi Name (please print) _____
Signature _____ Signature _____
Date 5/27/2021 Date _____

Send this completed application and the applicable fee to your local jurisdiction. If you have any questions contact your city clerk (within city limits) or your county auditor (outside city limits).

FOR CITY CLERK/COUNTY AUDITOR ONLY – MUST BE COMPLETE

- Fill in the amount paid for the permit: _____
- Fill in the date the permit was approved by the council or board: _____
- Fill in the permit number issued by the city/county: _____
- Fill in the name of the city or county issuing the permit: _____
- New Renewal

Send completed/approved application to Iowa Alcoholic Beverages Division within 30 days of issuance. Make sure the information on the application is complete and accurate. A copy of the permit does not need to be sent; only the application is required. It is preferred that applications are sent via email, as this allows for a receipt confirmation to be sent to the local authority.

- Email: iapledge@iowaabd.com
- Fax: 515-281-7375

General Instructions

- Fill in the month, day, and year that this application covers.
- All permits expire annually on June 30th.
- A new application must be submitted every year.
- All items must be completed.
- A permit will not be issued until the application is properly completed and approved.

Business Information

- Fill in the trade name/DBA of the business.
- Fill in the physical location address, city, and ZIP.
- Fill in the mailing address or PO Box, city, and ZIP.
- Fill in the 10-digit telephone number of the business.

Legal Ownership Information

- Check the legal ownership type of the business.
- Fill in the name(s) of the sole proprietor, partnership, the corporation, the LLC, or the LLP that is the legal owner of the business. This is not the store manager or the corporate president. Do not fill in the name of a person unless the type of ownership is sole proprietor.
- Fill in the 10-digit telephone number, fax number, and email address of the legal owner.

Retail Information

- Check the box for the type of sales at the business.
- If you make delivery sales of alternative nicotine or vapor products, also complete an Annual Application for Iowa Cigarette Permit, Tobacco Tax License, or Delivery Seller Permit 70-015.
- Check the types of products sold at the business.
- Check the box that best describes the type of business establishment.
- Print the name of the sole proprietor, the partner(s), or corporate official signing this application.
- Sign and date the application. The application must be signed by the owner, one of the partners, or one of the corporate officers listed above. A preparer's or store manager's signature is not acceptable.
- Return this application and fee to your local jurisdiction: city clerk (within city limits) or county auditor (outside of city limits).

Permit Fees

- The price of a retail permit depends on the location of the business and the month issued.

Location	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun
Outside of city limits	\$50.00	\$37.50	\$25.00	\$12.50
City of less than 15,000	\$75.00	\$56.25	\$37.50	\$18.75
City of 15,000 or more	\$100.00	\$75.00	\$50.00	\$25.00

For City Clerk/County Auditor Only

- Send completed/approved applications within 30 days of issuance to:
 Email: iapledge@iowaabd.com
 Fax: 515-281-7375

Visit the Iowa Department of Revenue at (<https://tax.iowa.gov>) to find information regarding minimum price, a list of approved brands, a list of licensed distributors, and answers to frequently asked questions.

All retailers need to sign up for the cigarette/tobacco elist (Listserv).

ORDINANCE 273

AN ORDINANCE OF THE CITY OF ELK RUN HEIGHTS, IA, AMENDING CHAPTER 13.24, SANITARY DISPOSAL OF GARBAGE AND REFUSE, SECTION 13.24.160, SCHEDULE OF FEES, RATES AND CHARGES

BE IT ENACTED BY the CITY COUNCIL OF THE CITY OF ELK RUN HEIGHTS, IA:

SECTION 1. PURPOSE. The purpose of this Ordinance is to increase the garbage rates and amend the Code of Ordinances in accordance herewith.

SECTION 2. SECTION MODIFIED. That Section 13.24.160 Schedule of fees, rates, and charges, is hereby amended to read as follows:

Paragraph A:

For each single-family residence, thirteen dollars and twenty-five cents (\$13.25) per month;

Paragraph B:

For each unit of a two-family dwelling unit, thirteen dollars and twenty-five cents (\$13.25) per

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law. New rates to go into effect July 1, 2021

First Reading: 04/13/21

Second Reading: 05/11/21

Third Reading: 06/08/21

ATTEST:

Kristi Lundy, Mayor

Julie Eastman, City Clerk

CERTIFICATE

I, Julie Eastman, City Clerk of Elk Run Heights, Iowa, do hereby certify that the preceding is true and a complete copy of the Ordinance, as passed and adopted by the City Council of the City of Elk Run Heights, Iowa on this 29th day of June 2021

WITNESS my hand and seal of office this ____ day of ____ 2021

Julie Eastman, City Clerk
Seal

RESOLUTION 3091

**A RESOLUTION OF THE ELK RUN HEIGHTS CITY COUNCIL
AUTHORIZING THE USE OF CONSUMER FIREWORKS, AND
TEMPORARILY AMENDING CITY CODE FIREWORKS 9.19 BY
ALLOWING THE USE OF FIREWORKS TO INCLUDE THE 3RD OF
JULY**

WHEREAS, the City Council of the City of Elk Run Heights, is desirous of temporarily amending the current City Code section 9.19.020 When Allowed, by allowing the use of consumer fireworks on Saturday July 3rd, 2021 and Sunday July 4th, 2021

9.19.020 WHEN ALLOWED.

1. It is unlawful for any person, partnership, or corporation to use or explode any display fireworks; provided the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

Personal Injury: \$250,000 per person

Property Damage: \$50,000

Total Exposure: \$1,000,000

2. It is unlawful for any person to use or explode consumer fireworks on any day other than **July 3rd 2021 and July 4th 2021**. On such date, it is unlawful for any person to use or explode consumer fireworks at times other than between the hours of 12:00 p.m. (noon) and 11:00 p.m.

(Code of Iowa, Sec. 727.2)

NOW THEREFORE BE IT RESOLVED BY THE ELK RUN HEIGHTS CITY COUNCIL that authorizes the use of consumer fireworks on July 3rd, 2021 and July 4th, 2021

PASSED AND ADOPTED THIS 30TH DAY OF JUNE 2021

ATTEST:

Kristi Lundy, Mayor

Julie Eastman, City Clerk

1. – The City cannot prohibit manufactured homes from locating in town. Here are the regulations per code of Iowa. We can omit the chapter from the City code if that is the City’s preference. Some Cities establish minimum dwelling standards. I attached two examples. Also, if Zoning Section 17.48 is retained, it needs to align with Code of Iowa regulations shown below in Chapter 146.

CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

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

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

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being

placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. **Retailer's Stock.** Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

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

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

Samples

RESIDENTIAL DWELLING STANDARDS. All residential dwelling units shall meet the following minimum standards:

1. The dwelling unit must have a minimum width of 22 feet for at least 65 percent of the length of the dwelling unit, said dimension to be exclusive of attached garages, porches or other accessory structures.
 2. All dwelling units including attached garages shall be placed on a permanent frost-free foundation.
 3. All dwelling units shall provide for a minimum of _____ square feet of floor space.
 4. All dwelling units shall have a minimum roof pitch of 3:12. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 U.S.C. Sec. 5403.
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RESIDENTIAL DWELLING STANDARDS. All residential dwelling units shall meet the following minimum standards:

1. The dwelling unit must have a minimum width of 22 feet for at least 65 percent of the length of the dwelling unit, said dimension to be exclusive of attached garages, porches or other accessory structures.
2. All dwelling units including attached garages shall be placed on a permanent frost-free foundation. (optional: The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures.)

3. All dwelling units shall provide for a minimum of _____ square feet of floor space.
4. All dwelling units shall have a minimum roof pitch of 3:12. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 U.S.C. Sec. 5403.
5. All dwelling units shall have an exterior wall covering that is either:
 - A. Wood or masonry finish or its appearance, and/or
 - B. Vertical or horizontal grooved siding or lap siding or its appearance.

The use of flat or corrugated sheet metal for the exterior walls or roof covering is prohibited.

1. Building Codes. The City has to adopt the specific year and edition of each Construction code it adopts. This is often done with amendments. At this point it might make sense to adopt, by reference, the codes/versions adopted by Evansdale, because the City uses their inspector. (Building code 2009, Plumbing code 2009, Mechanical code 2009, Electrical code 2014) I have also had Cities adopt the codes based on the inspector recommendations. The inspector reviews the codes and supplies the City with the desired amendments. When you transition to a City employee, the City could then take action to adopt the preferred codes. Another option is to use the Code of Iowa regulations, and not adopt any special building codes.

CHAPTER 155

CONSTRUCTION CODES

155.01 Construction Codes

155.02 Permit Required

155.01 CONSTRUCTION CODES. ~~Pursuant to a 28E Agreement by and between the City Evansdale, as it may be amended from time to time, is applicable to all construction within the City and shall be administered by the Evansdale City Inspector, except for the legal enforcement of violations thereof.~~

155.02 PERMIT REQUIRED. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure in the City or cause the same to be done without first obtaining a separate building permit for each such building or structure from the County Planning and Development Department, Polk County Courthouse, and unless such work is completed in accordance with this Construction Code.

CHAPTER 155

INTERNATIONAL BUILDING CODES

155.01 Adoption of Codes

155.02 Amendments

155.01 ADOPTION OF CODES.

1. Pursuant to published notice and public hearing as required by law, the *International Building Code*, 2009 Edition, including future amendments to the same, and the *International Residential Code*, 2009 Edition, both of which have been published by the International Code Council, are hereby adopted in full except for such portions as may be hereinafter deleted, modified or amended.

2. An official copy of the *International Building Code*, 2009 Edition, and an official copy of the *International Residential Code*, 2009 Edition, both as adopted by the International Code Council, are on file in the office of the Clerk.

155.02 AMENDMENTS.

The following amendments, modifications, additions, and deletions to the *International Building Code*, 2009 Edition, are hereby made:

1. Fees. Any and all fees associated with this chapter shall be set by resolution of the City Council, the fee schedule contained in the adopted version of the *International Building Code* notwithstanding.

2. Section 204. Board of Appeals. Any person feeling aggrieved by an order or ruling of the Building Inspector shall have the right to appeal from such order or ruling in the following manner:

A. By appealing such rule or order of the Building Inspector by causing to be served on the Mayor or Clerk a notice in writing of the intention to appeal within 30 days after the person feeling so aggrieved has been served with notice of the rule or order in question.

B. Such appeal shall contain the following:

- (1) The nature of the dispute or disagreement that the aggrieved party has with the Building Inspector.
- (2) The location of the property in question.
- (3) The date, as nearly as can be determined, that the rule or order was made.

C. Upon receipt of an appeal, the Mayor shall appoint an ad hoc appeal board which shall consist of three members who have a background and knowledge of the building trade. No member may have an interest, direct or indirect, in the outcome of the matter to be considered.

D. An aggrieved party who has filed an appeal shall have the right to object to individual members of the appeal board. Such objection must be made within five days after the appeal board has been named and the aggrieved party has been so informed. The aggrieved party shall state to the Mayor the member or members of the appeal board that said party objects to and the reasons therefor. Valid objections shall consist of the following grounds:

- (1) That the appeal board member has an interest in the outcome of the litigation;
- (2) That the appeal board member cannot serve as a fair and impartial hearing officer;
- (3) That the appeal board member in question does not have the necessary background, experience, and training to be qualified to serve.

If the Mayor determines that such an objection is valid, then the Mayor shall appoint another person who is qualified to serve on the appeal board. The party feeling aggrieved shall have the same right to object to new appointees as to original appointees and as set forth herein. In the event that the Mayor does not accept the objection to appointment of an appeal board member, that member shall serve. Both the Building Inspector and the party feeling aggrieved by the Building Inspector's rule or order shall have the right to suggest names of potential members to the Mayor for consideration as appeal board members. The Mayor shall not be bound or obligated to accept these nominations.

E. The appeal board shall set a time and place for a hearing on an appeal filed and at such hearing shall hear arguments and evidence that either the aggrieved party or the Building Inspector desires to present. Within 30 days after their appointment, the appeal board shall hold the hearing as prescribed by this section and within 20 days after the date of the hearing, the person appealing shall be notified in writing of the decision of the appeal board.

F. The appeal board shall have the right to reverse, suspend, modify, or uphold the rules and orders of the Building Inspector. They may grant in their discretion the aggrieved party an opportunity to comply with the rules and orders as upheld, suspended, modified, or reversed.

G. The Building Inspector shall, upon being informed of the appeal board's decision, take such action as is required by this Code of Ordinances and the laws of the State.

3. Section 2907(b). Exceptions. Any accessory building as defined in the Zoning Ordinance of the City not over 900 square feet in floor area may be constructed without frost footings in any R-1, R-2, R-3, R-MH District as defined in the Zoning Ordinance.

CHAPTER 160

PLUMBING CODE

160.01 Purpose	160.07 Conflicts
160.02 Scope	160.08 Correction of Defects
160.03 Work to Conform	160.09 Exemptions
160.04 Uniform Plumbing Code Adopted	160.10 Applicability of State Code
160.05 Amendments Generally	160.11 Board of Appeals
160.06 Specific Amendments	

160.01 PURPOSE.

It is the purpose of this chapter to adopt a complete plumbing code, including provisions for the inspection and regulation of plumbing installations, issuance of permits, and collection of fees, and to provide penalties for violations of this chapter in order to protect public safety, health, and welfare.

160.02 SCOPE.

The provisions of this chapter apply to and govern the plumbing system, which includes all potable water supply and distribution pipes from the City main, all plumbing fixtures and traps, all drainage and vent pipes and all building drains and house sewers, including their respective joints and connections, devices, receptacles, and appurtenances within the property lines of the premises and shall include potable water piping, potable water treating or using equipment, fuel gas, piping, water heaters, and vents for the same. For the purpose of this section, the term "plumbing fixture" means an approved type installed receptacle, device, or appliance which is supplied with water or which receives liquid or liquid-borne wastes and discharges such wastes into the drainage system to which it may be directly or indirectly connected. Industrial or commercial tanks, vats, and similar processing equipment are not plumbing fixtures when and as otherwise provided for elsewhere in this chapter.

160.03 WORK TO CONFORM.

All plumbing work shall be performed in accordance with the provisions of this chapter.

160.04 UNIFORM PLUMBING CODE ADOPTED.

The *Uniform Plumbing Code*, 2009 Edition, including future amendments to the same, as published by the International Association of Plumbing and Mechanical Officials, and which includes appendices "A," "B," "C," "D," "E," and "G," is hereby adopted as though fully set forth and is incorporated and made a part of this section by reference. A copy of this chapter, certified as required by law, and a copy of the *Uniform Plumbing Code* adopted by this chapter shall at all times be on file in the office of the Clerk.

160.05 AMENDMENTS GENERALLY.

This chapter, including the *Uniform Plumbing Code*, shall not be altered, repealed, or amended except as provided by law. The *Uniform Plumbing Code* as adopted by this chapter shall be subject to this provision, and alterations of the *Uniform Plumbing Code* by the International Association of Plumbing and Mechanical Officials shall have no force and effect unless affirmed by the Council as required by law.

160.06 SPECIFIC AMENDMENTS.

The following additions and changes are hereby made to the 2009 Edition of the *Uniform Plumbing Code* as adopted by this chapter and all references to sections or chapters in this section refer to specific sections or chapters of the 2009 Edition of the *Uniform Plumbing Code*:

1. Administrative Authority. Whenever the term "administrative authority" is used in this code it shall mean the City Building Inspector or an authorized representative.
2. Cleanouts. Section 1107. Cleanouts, is amended to add a paragraph (g) to read as follows:

(g) There shall be a cleanout near the junction of the building drain and building sewer or a cleanout with Y branch inside the building wall unless the cleanout at the base of the stack is within five feet of the point where the

sewer enters the building and in such case the stack cleanout will be sufficient.

3. Fees. Any and all fees associated with this chapter shall be set by resolution of the City Council, the fee schedule contained in the adopted version of the *International Building Code* notwithstanding.

160.07 CONFLICTS.

If portions of this chapter are found to be at variance or inconsistent with the *Uniform Plumbing Code* adopted by this chapter, the variance or inconsistency shall first be reconciled; however, should such variance between portions of this chapter and *Uniform Plumbing Code* be irreconcilable, the portion of the *Uniform Plumbing Code* shall control and govern.

160.08 CORRECTION OF DEFECTS.

1. When a complaint in writing is made by an owner, agent or lessee in regard to a licensed plumbing contractor's work that a sewer or water connection is faulty or defective, the master plumber, under whose bond such work has been done, within one year of such construction, shall be notified in writing by the Building Inspector to correct such faulty or defective work within 10 days from date of such notification. In the event that the owner, agent, or lessee shall have such work corrected on such faulty or defective sewer or water connection before the expiration of the period of time specified in such notification, such action shall be deemed a waiver of right of any damages sustained by such faulty or defective work.

2. When the master plumber so notified to correct such faulty or defective work has complied with such notification, and when, upon examination of such faulty or defective work, it is found that the cause for such correction shall have originated from other causes than faulty or defective construction, the owner, agent, or lessee filing such complaint shall pay for all the cost of said work caused by such complaint, and shall not be entitled to any damages or attorney fees.

3. Should the property owner be dissatisfied with the determination by the contractor and/or the Building Inspector as to the cause of the plumbing problem, then and in that event the property owner shall have the right to commence an action upon such bond in his or her own name without joining the City to recover the costs of such reconstruction and damages sustained thereby, and in case the property owner recovers damages therefor, is entitled also to recover a reasonable attorney's fee for the prosecution of such action.

160.09 EXEMPTIONS.

The following activities are exempt from the provisions of this chapter:

1. The installation, alteration, or repair of potable water systems owned and operated by the City for which a set of plans and construction specifications have been prepared by the City Engineer;
2. The installation, alteration, or repair of the public sewer system, which includes both sanitary and storm sewer, owned and operated by the City for which a set of plans and construction specifications have been prepared by the City Engineer, or which have been prepared under the direction and approval of the City Engineer;
3. Any work involved in the manufacturing or testing of plumbing fixtures or equipment but not including permanent plumbing fixtures or equipment;
4. No permit or license shall be required by an industry, gas utility, commercial building owner, or a manager of properties who employs a regular full-time employee who, in the course of said employee's duties, does plumbing maintenance work for that industry, gas utility, commercial building owner, or manager of properties for the following plumbing maintenance work inside the property line: the repairing of leaks or clearing of stoppage in soil, waste, gas, water or vent pipes, valves, drains, traps or fixtures and the replacement of the same with new, approved materials in any part or parts thereof.

160.10 APPLICABILITY OF STATE CODE.

This chapter and the *Uniform Plumbing Code*, 2009 Edition, adopted by this chapter shall not be construed to supersede the minimum requirements of the *State Plumbing Code*, rules and regulations of the State Department of Health governing the installation of plumbing published by the State, except that the higher and more stringent, but not lower, standards as set forth in the *State Plumbing Code* will be established as the minimum requirements under this chapter.

160.11 BOARD OF APPEALS.

1. Any person feeling aggrieved by an order or ruling of the Building Inspector shall have the right to appeal from such order or ruling in the following manner:

A. By appealing such rule or order of the Building Inspector by causing to be served on the Mayor or Clerk a notice in writing of the intention to appeal within 30 days after the person feeling so aggrieved has been served with notice of the rule or order in question.

B. Such appeal shall contain the following:

- (1) The nature of the dispute or disagreement that the aggrieved party has with the Building Inspector.
- (2) The location of the property in question.
- (3) The date, as nearly as can be determined, that the rule or order was made.

2. Upon receipt of an appeal, the Mayor shall appoint an ad hoc appeal board which shall consist of three members who have a background and knowledge of the building trade. No member may have an interest, direct or indirect, in the outcome of the matter to be considered.

3. An aggrieved party who has filed an appeal shall have the right to object to individual members of the appeal board. Such objection must be made within five days after the appeal board has been named and the aggrieved party has been so informed. The aggrieved party shall state to the Mayor the member or members of the appeal board that said party objects to and the reasons therefor. Valid objections shall consist of the following grounds:

A. That the appeal board member has an interest in the outcome of the litigation;

B. That the appeal board member cannot serve as a fair and impartial hearing officer;

C. That the appeal board member in question does not have the necessary background, experience, and training to be qualified to serve.

If the Mayor determines that such an objection is valid, then the Mayor shall appoint another person who is qualified to serve on the appeal board. The party feeling aggrieved shall have the same right to object to new appointees as to original appointees and as set forth herein. In the event that the Mayor does not accept the objection to appointment of an appeal board member, that member shall serve. Both the Building Inspector and the party feeling aggrieved by the Building Inspector's rule or order shall have the right to suggest names of potential members to the Mayor for consideration as appeal board members. The Mayor shall not be bound or obligated to accept these nominations.

4. The appeal board shall set a time and place for a hearing on an appeal filed and at such hearing shall hear arguments and evidence that either the aggrieved party or the Building Inspector desires to present. Within 30 days after their appointment, the appeal board shall hold the hearing as prescribed by this section and within 20 days after the date of the hearing, the person appealing shall be notified in writing of the decision of the appeal board.

5. The appeal board shall have the right to reverse, suspend, modify, or uphold the rules and orders of the Building Inspector. They may grant in their discretion the aggrieved party an opportunity to comply with the rules and orders as upheld, suspended, modified, or reversed.

6. The Building Inspector shall, upon being informed of the appeal board's decision, take such action as is required by this Code of Ordinances and the laws of the State.

CHAPTER 161

UNIFORM MECHANICAL CODE

161.01 Adoption of Code

161.02 Amendments

161.01 ADOPTION OF CODE.

Pursuant to published notice and public hearing as required by law, the *Uniform Mechanical Code*, 2009 Edition, including future amendments to the same, published by the International Conference of Building Officials, is hereby adopted in full except for such portions as may be hereinafter deleted, modified, or amended. An official copy of the aforementioned *Uniform Mechanical Code*, 2009 Edition, and a certified copy of the ordinance codified in this chapter are on file in the office of the Clerk, being marked and designated as *Uniform Mechanical Code*, including Appendix Chapter A, published by the International Conference of Building Officials, and is hereby adopted by reference as the code of the City for regulating the design, construction, quality of material, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of heating, ventilation, cooling, refrigeration systems, incinerators or other miscellaneous heat producing appliances in the City, providing for the issuance of permits, Certificates of Competency, collection of fees, and authorizing a Hearing Board and providing payment therefor.

161.02 AMENDMENTS.

The following amendments, modifications, additions, and deletions to the *Uniform Mechanical Code*, 2009 Edition, are hereby made:

1. Board of Appeals. Any person feeling aggrieved by an order or ruling of the Building Inspector shall have the right to appeal from such order or ruling in the following manner:

A. By appealing such rule or order of the Building Inspector by causing to be served on the Mayor or Clerk a notice in writing of the intention to appeal within 30 days after the person feeling so aggrieved has been served with notice of the rule or order in question.

B. Such appeal shall contain the following:

- (1) The nature of the dispute or disagreement that the aggrieved party has with the Building Inspector.
- (2) The location of the property in question.
- (3) The date, as nearly as can be determined, that the rule or order was made.

C. Upon receipt of an appeal, the Mayor shall appoint an ad hoc appeal board which shall consist of three members who have a background and knowledge of the building trade. No member may have an interest, direct or indirect, in the outcome of the matter to be considered.

D. An aggrieved party who has filed an appeal shall have the right to object to individual members of the appeal board. Such objection must be made within five days after the appeal board has been named and the aggrieved party has been so informed. The aggrieved party shall state to the Mayor the member or members of the appeal board that said party objects to and the reasons therefor. Valid objections shall consist of the following grounds:

- (1) That the appeal board member has an interest in the outcome of the litigation;
- (2) That the appeal board member cannot serve as a fair and impartial hearing officer;
- (3) That the appeal board member in question does not have the necessary background, experience, and training to be qualified to serve.

If the Mayor determines that such an objection is valid, then the Mayor shall appoint another person who is qualified to serve on the appeal board. The party feeling aggrieved shall have the same right to object to new appointees as to original appointees and as set forth herein. In the event that the Mayor does not accept the objection to appointment of an appeal board member, that member shall serve. Both the Building Inspector and the party feeling aggrieved by the

Building Inspector's rule or order shall have the right to suggest names of potential members to the Mayor for consideration as appeal board members. The Mayor shall not be bound or obligated to accept these nominations.

E. The appeal board shall set a time and place for a hearing on an appeal filed and at such hearing shall hear arguments and evidence that either the aggrieved party or the Building Inspector desires to present. Within 30 days after their appointment, the appeal board shall hold the hearing as prescribed by this section and within 20 days after the date of the hearing, the person appealing shall be notified in writing of the decision of the appeal board.

F. The appeal board shall have the right to reverse, suspend, modify, or uphold the rules and orders of the Building Inspector. They may grant in their discretion the aggrieved party an opportunity to comply with the rules and orders as upheld, suspended, modified, or reversed.

G. The Building Inspector shall, upon being informed of the appeal board's decision, take such action as is required by this Code of Ordinances and the laws of the State.

H. The owner-occupant of a single-family dwelling house may, with the assistance of any member of his or her family and household, personally carry on, in such house, any work governed by this code, provided that such owner shall obtain a permit for any such work and shall call for inspection as hereinafter provided, and providing further that all work so performed shall fully comply with the provisions of this code.

I. Fees. Any and all fees associated with this chapter shall be set by resolution of the City Council, the fee schedule contained in the adopted version of the *International Building Code* notwithstanding.

CHAPTER 504
STANDARDS FOR ELECTRICAL WORK

661—504.1(103) Installation requirements. The provisions of the National Electrical Code, 2020 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to Iowa Code chapter 103 with the following amendments, which shall expire on January 1, 2022:

504.1(1) Delete section 210.8(A) and insert in lieu thereof the following new section:

210.8(A) Dwelling Units.

All 125-volt, single-phase, 15- and 20-ampere receptacles installed in locations specified in 210.8(A)(1) through 210.8(A)(11) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms

(2) Garages and also accessory buildings that have a floor located at or below grade level not intended to be habitable rooms and limited to storage areas, work areas or similar use

(3) Outdoors

Exception to (3): Receptacles that are not readily accessible and are supplied branch circuit dedicated to electrical snow-melting, deicing, or pipeline and vessel heating equipment shall be permitted to be installed in accordance with 426.28 or 427.22, as applicable.

(4) Crawl spaces – at or below grade level

(5) Basements

Exception to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Informational Note: See 760.41B and 760.121(B) for power supply requirements for fire alarm systems.

Receptacles installed under the exception to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G)

(6) Kitchens – where the receptacles are installed to serve the countertop surfaces

(7) Sinks – where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink

(8) Boathouses

(9) Bathtubs or shower stalls – where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall

(10) Laundry areas

Exception to (1) through (3), (5) through (8), and (10): Listed locking support and mounting receptacles utilized in combination with compatible attachment fittings installed for the purpose of serving a ceiling luminaire or ceiling fan shall not be required to be ground-fault circuit-interrupter protected. If a general-purpose convenience receptacle is integral to the ceiling luminaire or ceiling fan, GFCI protection shall be provided.

(11) Indoor damp and wet locations

504.1(2) Delete section 210.8(F).

This rule is intended to implement Iowa Code chapter 103.

[ARC 9825B, IAB 11/2/11, effective 1/1/12; ARC 1715C, IAB 11/12/14, effective 1/1/15; ARC 3466C, IAB 11/22/17, effective 12/27/17; ARC 5287C, IAB 11/18/20, effective 1/1/21; See Delay note at end of chapter; ARC 5523C, IAB 3/24/21, effective 4/1/21]

[Filed emergency 12/17/07—published 1/16/08, effective 1/1/08]

[Filed 10/29/08, Notice 9/24/08—published 11/19/08, effective 1/1/09]

[Filed ARC 9825B (Notice ARC 9630B, IAB 7/27/11), IAB 11/2/11, effective 1/1/12]

[Filed ARC 1715C (Notice ARC 1557C, IAB 7/23/14), IAB 11/12/14, effective 1/1/15]

[Filed ARC 3466C (Notice ARC 3153C, IAB 7/5/17), IAB 11/22/17, effective 12/27/17]

[Filed ARC 5287C (Notice ARC 5152C, IAB 8/26/20), IAB 11/18/20, effective 1/1/21]¹

[Filed Emergency ARC 5523C, IAB 3/24/21, effective 4/1/21]

¹ January 1, 2021, effective date of Chapter 504 [ARC 5287C] delayed 70 days by the Administrative Rules Review Committee at its meeting held December 8, 2020.

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Rule making related to standards for electrical work

The Electrical Examining Board hereby amends Chapter 504, “Standards for Electrical Work,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 103.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 17A.3 and 103.6.

Purpose and Summary

The purpose of this rule making is to update the Standards for Electrical Work to the National Electrical Code, 2020 edition. Consistent with recent rule making in this chapter, the entire National Electrical Code (NEC) is adopted, with the time-limited amendments included in this chapter. It is the intention of the Department and the Board not to make further amendments, regardless of new additions to the NEC, until it is necessary for the state of Iowa. A significant effect of the adoption of the 2020 edition of the NEC would have been the requirement for 250-volt receptacles, but the Board, in addition to adopting the 2020 edition of the NEC by reference, is amending the 2020 edition to postpone that requirement until January 1, 2022.

Two typographical errors in the amendments are corrected as well, and language has been added to better describe the receptacles that would require GFCI protection.

Reason for Adoption of Rule Making without Prior Notice and Opportunity for Public Participation

Pursuant to Iowa Code section 17A.4(3), the Department of Public Safety finds that notice and public participation are unnecessary or impractical because this rule making was originally proposed with the aforementioned amendments remaining in the rules indefinitely as part of Iowa’s adoption of the NEC 2020 code. The rule making was adopted and filed on October 15, 2020 and published on November 18, 2020. However, when the Department came before the ARRC on December 8, 2020 for the final step of the rule making process, the committee had serious concerns about the proposed amendments. As a result, the committee imposed a 70-day delay. In that time, House File 97 was introduced in the 2021 legislative session with an amendment that would have delayed the implementation of the entire 2020 NEC until January 1, 2022. As an alternative and in the interest in getting the code adopted as soon as possible for the myriad benefits it offers, the Electrical Examining Board proposed the compromise of coming forward with an emergency rule making that adopts the 2020 NEC with the previous amendments concerning 250-volt receptacles, with the proviso that those amendments shall expire on January 1, 2022. The expiration of the amendments was offered in the interest of safety and to otherwise comport with the purpose of House File 97.

In compliance with Iowa Code section 17A.4(3)“a,” the Administrative Rules Review Committee at its February 26, 2021, meeting reviewed the Department’s determination and this rule making and approved the emergency adoption

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department of Public Safety also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the

rule making made effective on April 1, 2021, because it confers the benefits of the 2020 NEC Code on the industry and the public as soon as possible without having to wait for the legislative process or any other delays. The rule making implementation date also gives the industry time to adapt before the full implementation of the code without amendment on January 1, 2022. This rule making has also, save for the time limitation on the amendments, already been through the rule making process.

Adoption of Rule Making

This rule making was adopted by the Department of Public Safety on February __, 2021.

Concurrent Publication of Notice of Intended Action

In addition to its adoption on an emergency basis, this rule making has been initiated through the normal rule-making process and is published herein under Notice of Intended Action as _____ to allow for public comment.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any. Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making becomes effective on April 1, 2021.

The following rule-making actions are adopted:

Amend **661—Chapter 504** as follows:

CHAPTER 504
STANDARDS FOR ELECTRICAL WORK

661—504.1(103) Installation requirements. The provisions of the National Electrical Code, 2020 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to Iowa Code chapter 103 with the following amendments, which shall expire on January 1, 2022:

504.1(1) Delete section 210.8(A) and insert in lieu thereof the following new section:

210.8(A) Dwelling Units.

All 125-volt, single-phase, 15- and 20-ampere receptacles installed in locations specified in 210.8(A)(1) through 210.8(A)(11) shall have ground-fault circuit-interrupter protection for personnel.

(1) Bathrooms

(2) Garages and also accessory buildings that have a floor located at or below grade level not intended to be habitable rooms and limited to storage areas, work areas or similar use

(3) Outdoors

Exception to (3): Receptacles that are not readily accessible and are supplied branch circuit dedicated to electrical snow-melting, deicing, or pipeline and vessel heating equipment shall be permitted to be installed in accordance with 426.28 or 427.22, as applicable.

(4) Crawl spaces – at or below grade level

(5) Basements

Exception to (5): A receptacle supplying only a permanently installed fire alarm or burglar alarm system shall not be required to have ground-fault circuit-interrupter protection.

Informational Note: See 760.41B and 760.121(B) for power supply requirements for fire alarm systems.

Receptacles installed under the exception to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G)

(6) Kitchens – where the receptacles are installed to serve the countertop surfaces

(7) Sinks – where receptacles are installed within 1.8 m (6 ft) from the top inside edge of the bowl of the sink

(8) Boathouses

(9) Bathtubs or shower stalls – where receptacles are installed within 1.8 m (6 ft) of the outside edge of the bathtub or shower stall

(10) Laundry areas

Exception to (1) through (3), (5) through (8), and (10): Listed locking support and mounting receptacles utilized in combination with compatible attachment fittings installed for the purpose of serving a ceiling luminaire or ceiling fan shall not be required to be ground-fault circuit-interrupter protected. If a general-purpose convenience receptacle is integral to the ceiling luminaire or ceiling fan, GFCI protection shall be provided.

(11) Indoor damp and wet locations

504.1(2) Delete section 210.8(F).

This rule is intended to implement Iowa Code chapter 103.

Title 16

SUBDIVISIONS

Chapters:

- 16.04 General Provisions**
- 16.08 Definitions**
- 16.12 Subdivision Design Standards**
- 16.16 Preliminary Plat Requirements and Procedures
(Major Subdivision)**
- 16.20 Final Plat Requirements and Procedures (Major
Subdivision)**
- 16.24 Minor Subdivisions**
- 16.28 Places**
- 16.32 Building Permits and Occupancy Permits**
- 16.36 Vacation of Plats, Streets, and Other Public
Lands**
- 16.40 Fees**
- 16.44 Variations and Exceptions**
- 16.48 Enforcement**
- 16.52 Changes and Amendments**

Chapter 16.04

GENERAL PROVISIONS

Sections:

- 16.04.010 Title.**
- 16.04.020 Purpose.**
- 16.04.030 Application.**
- 16.04.040 Plats within two miles of the city of Elk Run Heights.**
- 16.04.050 Subdivision classification.**
- 16.04.060 Zoning.**
- 16.04.070 Review by agencies.**

16.04.010 Title.

The following subdivision ordinance shall be known as the "Elk Run Heights, Iowa subdivision ordinance, "Ordinance Number 178 is an ordinance creating subdivision regulations for the purpose of protecting public health, welfare, and safety within the incorporated areas of Elk Run Heights, Iowa. (Ord. 178 § I, 1999)

16.04.020 Purpose.

To provide procedures and guidance for the review and consideration of subdivisions, resubdivision, or dedications in the incorporated areas of Elk Run Heights as well as a formal review procedure for subdivisions proposed in the unincorporated area in the two mile area around the corporate limits of Elk Run Heights; implementing the comprehensive plan; prescribing minimum standards for the design layout and development thereof; providing for the preliminary and final approval or disapproval thereof; providing for the enforcement and penalties for the violation thereof; all for the purpose of promoting adequacy,

safety and efficiency of the street and road system, and for the purpose of improving the health, safety, and general welfare of the citizens; and repealing all other ordinances or resolutions in conflict herewith. This title is permitted and specifically authorized in Chapter 354, Platting — Division and Subdivision of Land, Code of Iowa, as amended. (Ord. 178 (part), 1999)

16.04.030 Application.

This title shall apply to all plats, replats, and divisions of land into parcels lying in the incorporated area of Elk Run Heights, Iowa, as well as the subdivision of land within two miles of the city's corporate boundaries. The provisions of this title shall apply to the division of any lot or parcel of land entered of record in the office of the county recorder as a single lot or parcel after the effective date of the ordinance codified in this title. (Ord. 178 § III(A), 1999)

16.04.040 Plats within two miles of the city of Elk Run Heights.

In accordance with the provisions of Section 354.9 of the 1997 Code of Iowa, as amended, a proprietor or other agent, shall file a copy of all preliminary and final subdivision plats including minor plats, for the unincorporated area within two miles of the city. The city may review and comment on the proposed subdivision. The city may either approve, disapprove, or waive their right to review all plats within the extraterritorial area defined herein. The plat(s) shall be filed with the city prior to or at the same time as filing with the county. Approval by one political entity does not automatically constitute approval by the others unless the

political entities have so agreed. (Ord. 178 § III(B), 1999)

16.04.050 Subdivision classification.

Any proposed subdivision or resubdivision shall be classified as a minor subdivision or a major subdivision by the zoning administrator. To aid in this, the proprietor shall submit in written or other appropriate documentation the principle features of access, relationship and location of existing roads, proposed water and sanitary sewer systems, public utilities and improvements, the number and location of the proposed lots and other pertinent data or information. Any subdivision may be classified as a major subdivision at the proprietor's request. (Ord. 178 § III(C), 1999)

16.04.060 Zoning.

Any property proposed for subdivision shall be correctly zoned to accommodate the proposed use(s) before the subdivision process is begun. (Ord. 178 § III(D), 1999)

16.04.070 Review by agencies.

All plats shall be submitted to the zoning administrator for review prior to recording. The zoning administrator shall refer one copy of each to the city engineer, building inspector, and planning and zoning commission. Each of the aforementioned offices shall examine the plat as to its compliance with the zoning ordinances and regulations of Elk Run Heights, as well as Black Hawk County and the State of Iowa, and submit their findings to the zoning administrator as soon as is possible but within ten days of receipt of the copy. (Ord. 178 § III(E), 1999)

Chapter 16.08

DEFINITIONS

Sections:

16.08.010 Definitions.

16.08.010 Definitions.

For the purpose of this title, certain words and terms are defined. The following terms are intended to be consistent with Chapter 354 of the Code of Iowa, as amended, and any changes to the Code of Iowa shall automatically be assumed to be part of this title. Words used in the present tense shall include the future, the singular number shall include the plural and the plural the singular; the word "shall" is mandatory; the word "may" is permissive.

"Acquisition plat" means the graphical representation of the division of land or rights in land, created as a result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

"Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fraction parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

"Alley" or "lane" means a public or private way not more than twenty feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.

"Auditor's plat" means a subdivision plat required by either the county auditor or the county assessor, prepared by a surveyor under the direction of the county auditor.

"Block" means an area of land within a subdivision that is entirely bounded by streets, highways, or the exterior boundary or boundaries of the subdivision, except alleys.

Building Line. Building lines shall be shown on all lots whether intended for residential, commercial, or industrial use. Such building lines shall not be less than required by the zoning ordinance of Elk Run Heights, Iowa.

"City council" means the city council of Elk Run Heights, Iowa.

"Commission/planning and zoning commission" means the Elk Run Heights planning and zoning commission.

"Conveyance" means an instrument filed with the county recorder as evidence of the transfer of title to land, including any form of deed or contract.

"County" means Black Hawk County, Iowa.

"Cul-de-sac" means a street having one end open to motor traffic, the other end being permanently terminated by a vehicular turn-a-round.

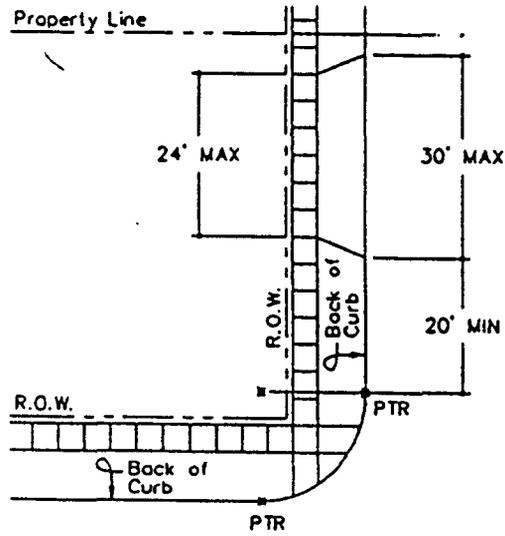
"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purposes of this title.

"Driveway" means a private property access to either a private or public street, road, alley, highway, or freeway. A typical driveway is shown in Figure 1.

Figure 16.08.010

Typical Driveway*



* Or current standard available in the city engineer's office.

“Easement” means a grant, by the proprietor, for a specific purpose of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the proprietor shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easements which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.

“Engineer” means an engineer is a registered civil engineer authorized and licensed to practice engineering in the state of Iowa.

“Final plat” means the final map or plan of record of a subdivision and any accompanying material, as described in Chapter 16.12 of this title.

“Improvements” means addition of any facility or construction on land necessary to prepare land or building sites including road paving, drainageways, sewers, water mains, wells, and other works and appurtenances.

Lot. For the purpose of this title, a “lot” is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Said lot shall have frontage on or access to a public street or private street and may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; or (d) a parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this title or any ordinance of the city of Elk Run Heights.

“Major subdivision” means all subdivisions not classified as minor subdivisions, including, but not limited to, any size subdivision requiring any new public or private street, extension of local government facilities, to the creation of any public improvements.

“Metes and bounds” means the method used to describe a tract of land that uses distance and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to survey monuments or physical features of the land.

“Minor plat” means a plat replacing a preliminary and final subdivision plat in the case of minor subdivisions to enable the proprietor to save time and expense in reaching a general agreement as to the form of the plat and the objectives of Chapter 16.24 of this title.

“Minor subdivision” means any subdivision that creates not more than three parcels fronting an existing road, not involving any new road or street or the extension of municipal facilities or the creation of any public improvements or the dedication of lands to the city, and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision of the comprehensive plan, zoning ordinance, or this title may be classified as a minor subdivision and must meet the appropriate provisions of this title.

“Nonresidential subdivision” means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of this title.

“Official plat” means either an auditor’s plat or a major or minor subdivision plat that meets the requirements of the Code of Iowa and has been filed for record in the

offices of the county recorder, county auditor and county assessor.

“Outlot” means a portion of a subdivision or other parcel or tract intended as a unit for the proposed, whether immediate or future, transfer of ownership. An outlot shall be an unbuildable lot, in and of itself. Typically a proprietor may use an outlot for the following reasons: (a) to reserve a portion of a final plat for future development or sale; (b) to reserve a portion of a final plat for construction of and future dedication of a detention basin to the city or private association; or (c) for construction of a private street or access that will be owned and maintained by a private association.

“Parcel” means a part of a tract of land.

“Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.

“Plat of survey” means the geographical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

“Preliminary plat” means the proposed map or plan of record of a subdivision and any accompanying material, as described in Chapter 16.16 of this title.

“Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest. This definition shall also include a person or persons designated to act on behalf of a proprietor.

“Resubdivision” means a change on a map of an approved or recorded subdivision plat of such change affects any street layout

on such map or area reserved thereon for public use or at any lot line, or is such a change affects any map or plan legally recorded prior to the effective date of the ordinance codified in this title.

“Right-of-way” means the land area the right to possession of which is secured or reserved by the contracting authority for road purposes.

“Street line” means a dividing line between a lot, tract or parcel of land and a contiguous street.

“Street, road, drive, alleys or entrance (private)” means all property intended for use by vehicular traffic, but not dedicated to the public, nor controlled and maintained by a political subdivision.

“Street, road, alleys, drive or entrance (public system)” means all property intended for use by vehicular traffic which has been dedicated to the public or deeded to a political subdivision.

“Subdivision” means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcel, sites, units, plots, or interests for the purpose of sale, including a sale on contract or the making of a gift, or lease, or development, including resubdivision. “Subdivision” includes the division or development of residential or nonresidential zoned land, whether by deed, sale on contract, devise, intestate succession, lease, map, plat or other recorded instrument.

“Surveyor” means a registered land surveyor authorized and licensed to practice surveying in the state of Iowa, pursuant to Chapters 355 and 542B of the Code of Iowa.

“Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

“Zoning administrator” means the administrative officer designated or appointed by the city council to administer and enforce the regulations contained in this title. (Ord. 178 § II, 1999)

Chapter 16.12

SUBDIVISION DESIGN STANDARDS

Sections:

- 16.12.010 Intent of chapter.**
- 16.12.020 General requirements.**
- 16.12.030 Blocks.**
- 16.12.040 Lots.**
- 16.12.050 Improvements.**

16.12.010 Intent of chapter.

The standards and details of design herein contained are intended only as the minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the plat, the proprietor should use standards consistent with the site conditions so as to assure an economical, pleasant and desirable neighborhood, and shall conform with design standards as approved by the city council. (Ord. 178 § IV(part), 1999)

16.12.020 General requirements.

A. Land Suitability. No land shall be subdivided for residential purposes that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other features likely to be harmful to the health, safety or general welfare unless such suitable conditions are corrected to the satisfaction of the city.

1. If a subdivision is found to be unsuitable for any of the reasons cited in this section the planning and zoning commission or city council shall state its reasons in writing and afford the proprietor an opportunity

to present data regarding such unsuitability. Thereafter, the planning and zoning commission or city council may re-affirm, modify or withdraw its determination of unsuitability.

2. Floodland. All lots located within a floodplain shall contain adequate area above the elevation of flooding for essential and planned installations. All land in a subdivision that lies in a floodplain shall be:

a. Shown on the individual lots in the preliminary plat; and

b. Encouraged to remain as open space for use by all proprietors of lots in the subdivision with an appropriate instrument providing for its care by such proprietors.

3. Subdivisions (including mobile home parks) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards.

B. Streets.

1. Private Streets. Private streets, not dedicated to and accepted by the city, proposed after the effective date of the ordinance codified in this title are discouraged. If existing private streets are utilized they shall be built to public standards, and they shall be platted as such and be under the control of the subdivision, homeowners association and/or proprietor.

2. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property, at equal or greater width, but not less than a sixty foot right-of-way width, and in similar alignment, unless variations are recommended by the planning and zoning

commission and approved by the city council.

3. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the city council. In a case where a street will eventually be extended beyond the plan, but is temporarily dead-ended, an interim turn-a-round shall be required.

4. Street Intersection. Street intersections shall be as near to right angles (ninety degrees) as possible. There shall be a minimum of one hundred fifty feet between centerlines of intersecting streets.

5. Cul-de-sac. If a cul-de-sac is permitted, such street shall be no longer than six hundred sixty feet and shall be provided at the closed end with a turn-a-round having a street property line diameter of at least one hundred feet in the case of residential subdivisions. The right-of-way width of the street leading to the turn-a-round shall be a minimum of sixty feet. The property line at the intersection of the turn-a-round into the lead-in portion of the street shall be rounded at the radius of not less than thirty feet. A paved cul-de-sac with concrete curb and gutter shall have a minimum paved diameter of seventy-one feet measured from the back of the curb to back of curb.

6. Street Names. All newly platted streets shall be named in a manner consistent with the present street name system. A proposed street that is obviously in alignment with other existing streets, or with a street that may be logically extended through the various portions shall bear the same name. New street names shall be subject to the recommendation of the planning and zoning commission and approval

by the city council so as to avoid duplication or similarity of names.

7. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded area, and other natural features which should lend themselves to attractive treatment.

8. Half Streets. Dedication of half streets will be prohibited unless there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if recommended by the planning and zoning commission and approved by the city council.

9. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead-end thereof.

10. Easements.

a. Permanent structures, excluding landscaping and fencing, are not allowed to be constructed on an easement.

b. Easements for utilities, when necessary, shall be provided along rear or side lot lines or along alleys. The width of such easement shall be not less than ten feet in total width. In the event that there exists an easement in an adjacent subdivision, the ten foot requirement may be reduced to five feet to allow for a minimum of ten foot total easement.

c. Whenever subdivision is traversed by a water course, channel, drainageway, stream, sanitary sewer, or stormwater drainage structure, a stormwater easement or drainage easement may be required. The

width of such easement shall be adequate for the anticipated drainage but not less than twenty feet and shall be shown on the plat.

d. Any lot that has no frontage upon a public or private street shall be provided with an easement for access to a public or private street. The width of such easement shall not be less than twenty feet.

e. Easements to the city for street purposes shall not be allowed.

11. Neighborhood Plan. If any overall plan has been approved by the city for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.

12. Unsubdivided Portion of Plat. Where the plat is to be submitted includes only part of the tract owned by the proprietor, the planning and zoning commission may require a sketch of the prospective future system of the unsubmitted part. The street system of the part submitted shall be correlated with the street system of the part not submitted.

13. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy traffic way, limited accessway, freeway, or parkway, the street layout shall provide motor access to such frontage by one of the following means:

a. Be so arranged as to permit, where necessary, future grade separations at highway crossings.

b. Border the highway with a parallel street at a sufficient distance from it to permit deep lots to go back onto the highway; or form a buffer strip for park, commercial, or industrial use.

14. Street Right-of-Way Width. The width of minor or residential street right-of-way shall not be less than sixty feet.

15. Street Alignments. Streets and alleys shall be completed to grades which have been officially determined or approved by the city council. All streets shall be graded to within two feet of the right-of-way and adjacent sides slopes graded to blend with the natural ground level. The maximum grade shall not exceed seven percent for main and secondary thoroughfares, or eight percent for minor or local service streets. A minimum centerline radius of one hundred fifty feet shall be required of all streets. All street alignments, both horizontally and vertically, shall meet design criteria as specified in the current American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets. (Ord. 178 § IV(A), 1999)

16.12.030 Blocks.

A. No block shall be longer than six hundred sixty feet.

B. At street intersections, block corners shall be rounded with a radius of not less than twenty-five feet. However, where a curve radius has been previously established, such radius shall be used as standard if greater than twenty-five feet. (Ord. 178 § IV(B), 1999)

16.12.040 Lots.

A. Corner lots shall have a minimum width that will permit required building setbacks on both front and side streets.

B. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major street or highway.

C. Minimum lot sizes and dimensions, as defined in the Elk Run Heights zoning ordinance, shall be met.

D. Side lot lines shall be approximately at right angles (ninety degrees) to the street or radial to curved streets. On large size lots and except when indicated by topography, lot lines shall be straight.

E. All out-lots shall be noted as unbuildable on plats. (Ord. 178 § IV(C), 1999)

16.12.050 Improvements.

A. Streets and Roads. In addition to Section 16.12.020(B) of this chapter, all streets or roads intended to be dedicated to public use and accepted into the city street system shall meet the following criteria:

1. All streets shall be built to grade and standard cross-section according to the plans approved by the city engineer and city council prior to construction. An urban (see Figure 16.12.050) type cross-section shall be used. Both plan and profile view details shall be drawn on twenty-four inch by thirty-six inch sheets to a scale of one inch equals fifty feet horizontal and one inch equals five feet vertical. If feasible, eleven inch by seventeen inch plans drawn to a scale of one inch equals sixty feet horizontal and one inch equals ten feet vertical shall be acceptable.

2. All streets shall be paved and have portland cement concrete (PCC) curb and gutter. The minimum width of a residential street shall be twenty-six feet measured from the back of curb to back of curb, and the minimum width of a commercial street shall be thirty-one feet measured from the back of curb to back of curb (see Figure 16.12.050).

3. All streets shall be paved with one of the following in accordance with specifications approved by the city council and city engineer:

a. Portland cement concrete (PCC) paving with a minimum seven inch thickness with a two percent crown measured from the centerline of the street to the gutter. The sub-base course shall be four inches of granular material.

b. Asphalt cement concrete (ACC) paving with a minimum eight inch thickness, as follows, with a two percent crown measured from the centerline of the street to the gutter. The sub-base course shall be six inches of soil aggregate sub-base.

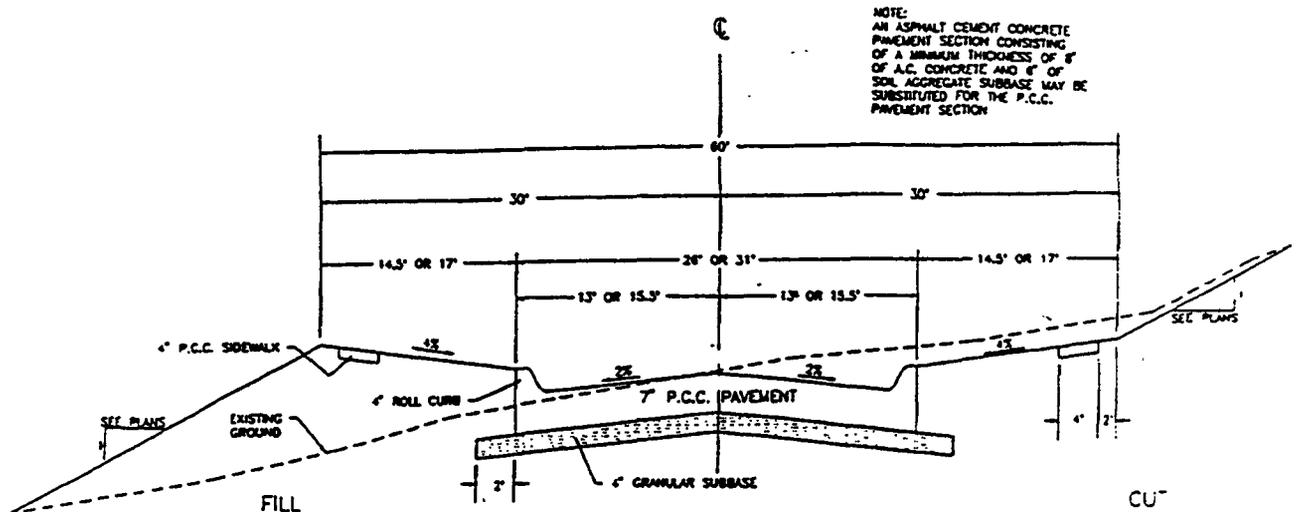
4. All construction and materials shall conform to the current Iowa Department of Transportation standard specifications and special provisions.

5. Forty-eight hour advance notice of construction is required.

6. All designs, specifications, material, inspection results, and procedures shall be certified to the city engineer by a licensed engineer. All roads to be dedicated to the city shall be inspected by the city, with the cost of said inspection being reimbursed to the city.

Figure 16.12.050

Typical Urban Road Cross-Section



B. Utility Service Systems.

1. Public sanitary sewers and water systems shall be installed within the street or right-of-way or established easements as required by the state and local ordinances.

2. Gas mains shall be installed within the street right-of-way or an established easement.

3. Electric and telephone lines shall be installed within the street right-of-way or established easements.

4. All subdivisions, and their lots, that are located within the incorporated boundaries of Elk Run Heights shall be required to connect to municipal utilities.

5. All utility service systems shall be subject to approval by the city engineer and city council.

C. Storm Drainage.

1. Adequate storm sewers and inlets shall be provided where necessary. All stormwater intakes shall be capable of handling a five year storm, and the pipe shall be capable of handling a ten year storm. In addition, the subdivision shall have one hundred year overland conveyance capacity.

2. Natural waterways shall be maintained and protected.

3. All stormwater facilities shall be subject to approval by the city engineer and city council.

4. If the development covers an area of five or more acres, the applicant must have the necessary Iowa Department of Natural Resources permit(s).

D. Utility Locations. The proposed location, alignment, and sizes of all existing public utilities shall be shown on the preliminary plat. All utilities shall be located underground. Approval of the preliminary plat will form the basis of final designs of all improvements.

All underground utilities that will be located within the street right of way shall be constructed, and service provided to each lot, before acceptance of the improvements by the City.

E. Signs and Traffic Control Devices. To insure uniformity with Elk Run Heights's street signage system, all street name signs and traffic control signs shall be erected in conformance with the Manual of Uniform Traffic Control Devices (MUTCD) and the Black Hawk County E-911 requirements. The proprietor will be responsible for all costs associated with sign erection. Maintenance of all signs will remain the responsibility of the proprietor until, or unless, the streets or roads are accepted into the Elk Run Heights street system.

F. Mailboxes, Including Newspaper Boxes. Mailboxes and mailbox construction shall conform to United States Postal Service standards.

G. Parking. The depth and width of properties reserved and designed for residential, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Elk Run Heights zoning ordinance.

H. Sidewalks. Sidewalks shall be required in all subdivisions, per Figure 16.12.050. (Ord. 178 § IV(D), 1999)

Chapter 16.16

PRELIMINARY PLAT REQUIREMENTS AND PROCEDURES (MAJOR SUBDIVISION)

Sections:

- 16.16.010** Pre-preliminary plan.
- 16.16.020** Number of copies.
- 16.16.030** Referral of preliminary plat.
- 16.16.040** Contents of preliminary plat.
- 16.16.050** Review by the planning and zoning commission.
- 16.16.060** Review by the city council.

16.16.010 Pre-preliminary plan.

Each proprietor of land is encouraged to confer with the zoning administrator before preparing the preliminary plat in order to become familiar with city regulations affecting the territory in which the proposed subdivision lies. A pre-preliminary plat may be presented at that time. (Ord. 178 § V(A), 1999)

16.16.020 Number of copies.

Whenever the proprietor of any tract or parcel of land within the incorporated area of the city wishes to subdivide or plat the same, the proprietor shall cause to be prepared a preliminary plat of said subdivision, and shall submit ten copies of said preliminary plat and supportive information to the zoning administrator for preliminary study and approval. The preliminary plat shall be submitted to the zoning administrator a minimum of twenty-one days prior to city

council consideration. (Ord. 178 § V(B), 1999)

16.16.030 Referral of preliminary plat.

The zoning administrator shall refer one copy each to the city engineer, building inspector and planning and zoning commission. Each of the aforementioned offices shall examine the plat as to its compliance with the laws and regulations of Elk Run Heights and submit their findings to the zoning administrator as soon as possible, but within thirty days. (Ord. 178 § V(C), 1999)

16.16.040 Contents of preliminary plat.

Preliminary plats shall contain, include, or show the following requirements:

A. Name of subdivision, date, an arrow indicating the northern direction and the legal description of the property being platted;

B. Plats shall be drawn in sheets not larger than twenty-four inches by thirty-six inches. The scale of the plat, preferable one inch equals one hundred feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references;

C. Name and address of the proprietor, if different than the owner;

D. Name and address of proprietor's engineer or surveyor;

E. Existing buildings, railroads, utilities, and other rights-of-way;

F. Location, names and widths of all existing and proposed roads, alleys, streets, and highways in or adjoining the area being subdivided;

G. Location and names of adjoining subdivisions as well as a list of proprietors within two hundred feet of the property to be subdivided;

H. Proposed lot lines with approximate dimensions and the square foot area of each lot;

I. Areas dedicated for public use, such as schools, parks, and playgrounds;

J. Contour lines shown at intervals of two feet;

K. Building setback lines;

L. Boundaries of the proposed subdivision shall be indicated by a heavy black line;

M. Existing zoning of the proposed subdivision, as well as the existing zoning of the adjoining property or properties;

N. Proposed utility service:

1. Source of water supply,
2. Provision for sewage disposal, stormwater drainage, and flood control, if applicable;

O. A vicinity sketch at a legible scale showing the relationship of the plat to its general surroundings;

P. Lots shall be numbered in a way that is acceptable to the county auditor's office;

Q. Existing and proposed easements showing widths and purposes of said easements;

R. If applicable, the regulatory flood elevation data limits of the one hundred year floodplain boundaries, original and revised, must be shown;

S. Environmental studies may be required if a proposed subdivision is located in, or near, an environmentally sensitive area. (Ord. 178 § V(D), 1999)

16.16.050 Review by the planning and zoning commission.

A. Upon receipt of the report of the various offices referred to in Section 16.16.030 of this chapter, the planning and zoning commission shall review said plat consider said reports, negotiate with the proprietor on changes deemed advisable and the kind and extent of improvements to be made, and take action upon the preliminary plat as originally submitted or modified. If a subdivision is not recommended for approval, the planning and zoning commission shall give written reasons therefor. A preliminary plat may require more than one planning and zoning commission review.

B. Before approving a preliminary plat, the planning and zoning commission may at its discretion hold a public hearing, notice of which shall be given by publication in a local newspaper at least seven, but not more than twenty, days before said public hearing.

C. If a public hearing is scheduled, as a courtesy, proprietors within two hundred feet may be notified of said public hearing. (Ord. 178 § V(E), 1999)

16.16.060 Review by the city council.

A. The city council shall then take action upon the preliminary plat not more than sixty days after the initial receipt by the zoning administrator. The council may certify its approval or disapproval. If the preliminary plat is disapproved by the council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within twenty days, the failure of the council to issue approval of the preliminary plat as provided in this title.

If approved, the preliminary plat shall be certified by resolution.

B. The approval of the preliminary plat by the city council does not constitute acceptance of the subdivision, but shall authorize the proprietor to proceed with the preparation of the final plat.

C. The approval of a preliminary plat by the city council shall be valid for a period of one year from the date of such approval, except upon application for and approval of an extension of such period of validity, by the city council. After one or more lots have been final platted, the preliminary plat is valid until such time that it is superseded by another preliminary plat. (Ord. 178 § V(F), 1999)

Chapter 16.20

FINAL PLAT REQUIREMENTS AND PROCEDURES (MAJOR SUBDIVISION)

Sections:

- 16.20.010** Number of copies.
- 16.20.020** Referral of final plat.
- 16.20.030** Contents of final plat.
- 16.20.040** Accompanying material.
- 16.20.050** Review by the planning and zoning commission.
- 16.20.060** Action by the city council.
- 16.20.070** Improvements.

16.20.010 Number of copies.

Within one year of approval of the preliminary plat, or extension thereto, by the city council, the proprietor shall submit ten copies of the final plat for review by the zoning administrator. Final plat review shall not begin until, or unless, all copies of the final plat and accompanying material have been submitted to the zoning administrator a minimum of twenty-one days prior to city council consideration. (Ord. 178 § VI(A), 1999)

16.20.020 Referral of final plat.

The zoning administrator shall refer one copy each to the city engineer, building inspector and planning and zoning commission. Each of the aforementioned offices shall examine the plat as to its compliance with the laws and regulations of Elk Run Heights and submit their findings to the zoning administrator as soon as possible, but within thirty days. (Ord. 178 § VI(B), 1999)

***16.20.030 Contents of final plat.**

Final plats shall contain, include, or show the following requirements:

- A. Name of subdivision and proprietor;
- B. Plats shall be drawn on sheets not larger than twenty-four inches by thirty-six inches. The scale of the plat, preferably one inch equals one hundred feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references;
- C. An arrow indicating the northern direction;
- D. Curve data including delta angle, length of arc, degree of curve and length and direction of the chord;
- E. Boundary lines of subdivided area with accurate distances, bearings, and boundary angles. The unadjusted error of closure shall not be greater than one in ten thousand for subdivision boundaries and shall not be greater than one in five thousand for an individual lot. The areas of irregular lots within the plat shall be shown and may be expressed in either acres to the nearest one-hundredth acre, or square feet to the nearest ten square feet;
- F. Exact name, location, width, and designation of all streets within the subdivision. Additionally alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and have the proposed use clearly designated;
- G. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage or access easements as are deemed neces-

*fee 16.040.010
\$100 plus \$10
per lot*

sary for the orderly development of the land encompassed within the plat. All such easements relative to their usage and maintenance shall be recommended by the planning and zoning commission and approved by the city council prior to the recording of the plat;

H. Building setback lines with dimensions;

I. Legal description of the property being subdivided;

J. Lot numbers;

K. Certificate of Survey;

L. Description and location of all permanent monuments set in the subdivision, including ties to original government corners;

M. A table that lists coordinate values for all property corners. (Ord. 178 § VI(C), 1999)

X 16.20.040 Accompanying material.

A. The documents required by Chapter 354.11 of the Code of Iowa;

B. A copy of any proposed restrictive covenants, which shall be submitted for the purpose of review and recommendation by the city attorney;

C. Any dedication or easement to the city for any property intended for public use. (Ord. 178 § VI(D), 1999)

16.20.050 Review by the planning and zoning commission.

The planning and zoning commission shall review the final plat in the same manner that they addressed preliminary plats, Section 16.16.050 of this title, and forward its recommendation to the city council. (Ord. 178 § VI(E), 1999)

16.20.060 Action by the city council.

A. Upon receipt of the final plat and the required documents from the planning and zoning commission, the city council will consider the recommendations from the reviewing offices. The city council shall approve or disapprove of the final plat. If the final plat is disapproved by the council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within twenty day, the failure of the council to issue approval of the final plat as provided in this title. If approved, the final plat shall be certified by resolution.

B. The city council may refuse to approve any plats for proposed subdivisions, which include improvements or facilities that are subject to regulations and ordinances of the county board of health unless such improvements or facilities have been approved by that department. The city council may deny approval of a final plat where the lots have an area less than the minimum area required by such applicable regulations and ordinances.

C. The passage of a resolution by the city council accepting the plat shall constitute final platting approval for the area shown on the final plat. The proprietor shall cause such plat to be recorded as required by Chapter 354, Code of Iowa, before the county shall recognize the plat as being in full force and effect. In addition, eight copies of the approved final plat and adopting resolution as well as one copy of the completed plat proceedings with restrictive covenants shall be submitted to the zoning administrator by the proprietor. (Ord. 178 § V(F), 1999)

16.20.070 Improvements.

A. All standards and improvements described in Chapter 16.12 of this title shall be installed in accordance with the approved plans and specifications before acceptance of the final plat by the city council. All improvements shall be inspected by the proprietor's engineer and city engineer and certified to the city council with the cost of said inspection by the city engineer being reimbursed to the city.

B. Subdivisions may be developed in phases.

C. Before acceptance of the improvements by the city council, the proprietor may enter into an agreement with the city council to ensure the completion of the improvements within a specified time period. The agreement shall specify the improvements to be constructed, the schedule for completion of the construction (each phase not to exceed three years) and shall be accompanied with a performance bond, corporate surety bond, cash, or other surety approved by the city attorney in an amount equal to one hundred percent of the estimated cost of said improvements. X

D. The proprietor of the land being platted shall be required to provide to the city property maintenance bonds, or other means satisfactory to the city engineer and city attorney, so as to insure that for a period of two years from the date of acceptance and completion of any improvement, the proprietor shall be responsible for maintaining the improvements in good repair. (Ord. 178 § V(G), 1999) Y

Chapter 16.21

**STAMP OR SIGNATURE BLOCK—
REQUIRED**

Sections:

**16.21.010 Recording subdivision
plats or plats of survey.**

16.21.020 Language.

**16.21.010 Recording subdivision plats
or plats of survey.**

All subdivision plats or plats of survey involving the division of land shall be reviewed for compliance with the regulations contained in this chapter prior to being recorded. Each subdivision plat or plat of survey shall have a completed stamp or signature block, which indicates that the subdivision plat or plat of survey was reviewed by the city zoning administrator or their designee for compliance with this chapter.

Plats of survey or America Land Title Surveys or boundary location surveys not involving the division of land will be clearly stamped as such on the survey or plat of survey.

In accordance, with 354.8 of the Iowa Code (2005), governing bodies shall apply reasonable standards and conditions in accordance with applicable statutes and ordinances for the review and approval of subdivisions. Pursuant to Section 354.18 of the Iowa Code (2005), the recorder shall refuse to record a subdivision plat or plat of survey that does not bear the appropriate stamp or signature block signed by the (title of the ordinance administrator) or designee, unless such subdivision plat or plat of survey is accompanied by a resolution from the city council approving the subdivision plat or plat of survey or waiving the right to review, or unless such plat is clearly stamped as a plat of survey or an America Land Title Survey not involving a division of land. (Ord. 207 § 1 (part), 2006)

16.21.020 Language.

Stamp #1 (For use when a division is involved):

“This Plat or Subdivision has been reviewed by the City of Elk Run Heights.

Signature of City Zoning or designee

Date

Stamp #2 (For use by Surveyors and Engineers when a division is not involved):

“This Plat or Survey is not a division of land.

Reference: Book _____ Page # _____ or Document # _____

Signature of Surveyor

Date

(Ord. 207 § 1 (part), 2006)

Chapter 16.24

MINOR SUBDIVISIONS

Sections:

16.24.010 Requirements and procedures.

16.24.010 Requirements and procedures.

A. The proprietor shall prepare the proposed minor subdivision plat and shall submit five copies to the zoning administrator. Said plat shall contain such information as required by this title, specifically the requirements in Sections 16.20.030 and 16.20.040 of this title, or as may be specified by the zoning administrator.

B. If the zoning administrator shall determine that the "minor subdivision plat" contains sufficient data and elements to furnish a basis for review, then the zoning administrator shall forward copies of the submitted plat to the city engineer, building inspector, and to such other agencies or persons as may be deemed appropriate and necessary.

C. Review by Agencies. Within ten working days following receipt of an application by the zoning administrator:

1. The city engineer shall notify the zoning administrator that access onto the city street will, or will not, be granted and that other improvements do, or do not, conform to current standards.

2. The city engineer and/or the public works personnel shall notify the zoning administrator that the land so proposed to be subdivided will comply with all applicable Elk Run Heights, Black Hawk County, and state of Iowa standards, and that the proposed or existing system of water supply

complies with applicable Elk Run Heights, Black Hawk County, and state of Iowa standards.

3. Other agencies or persons shall inform the zoning administrator on factors deemed appropriate and necessary.

D. Within twenty working days following the date of receipt of an application, or such additional period as the proprietor may authorize, the zoning administrator may schedule a public hearing on the subdivision request with the city council.

E. The city council may approve or disapprove of the subdivision request, or they may refer the request to the planning and zoning commission for their recommendation prior to considering the minor plat. If the minor plat is disapproved by the council, such disapproval shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal, within twenty days to district court, the failure of the council to issue final approval of the minor plat as provided in this title. If approved, the minor plat shall be certified by resolution.

F. Limitation. This section shall not be applicable to a parcel of land of any size which has previously had a subdivision severed from it. For definition purposes of this section only, a parcel of land shall mean any sized contiguous piece of property under same ownership as shown on the Black Hawk County auditor's plat books as of the effective date of the ordinance codified in this title. (Ord. 178 § VII, 1999)

*fee to 16.24.010
\$50 + \$10 per lot*

Chapter 16.28**PLACES****Sections:****16.28.010 Establishment of places.****16.28.010 Establishment of places.**

Where it is desired to subdivide a parcel of land, which because of its size or location, does not permit a normal lot or street area, there may be established a "place." Such a place may be in the form of a court, nonconnecting street or other arrangement, provided, however, that proper access shall be given to all lots from a dedicated place (street or court). If any dead-end place, court or cul-de-sac is more than two hundred fifty feet in length, it shall terminate in an open space, preferably circular having a minimum radius of sixty feet. Except in unusual instances, no dead-end street or place shall exceed six hundred feet in length. (Ord. 178 § VIII, 1999)

Chapter 16.32

**BUILDING PERMITS AND
OCCUPANCY PERMITS**

Sections:

16.32.010 Issuance.

16.32.010 Issuance.

A. No occupancy permit for any building in a subdivision shall be issued prior to the completion of the improvements in a manner which shall be adequate for vehicular access by the prospective occupant and by law enforcement and fire equipment.

B. No building permits shall be issued in the subdivision prior to the time that the streets and easements affecting such lot are brought to the grade established in the construction plans.

C. No building permit shall be issued for the final ten percent of lots, or the final five lots of a subdivision, whichever is greater, until all public improvements required by the city council for the plat have been fully completed and dedicated to the city. (Ord. 178 § IX, 1999)

Chapter 16.36

VACATION OF PLATS, STREETS, AND OTHER PUBLIC LANDS

Sections:

- 16.36.010** Intent of chapter.
16.36.020 Vacation of plats.
16.36.030 Vacation of streets and other public lands.

16.36.010 Intent of chapter.

The following chapter is intended to be consistent with Sections 354.22 and 354.23 of the Code of Iowa, as amended, and any changes to the Code of Iowa shall automatically be assumed to be part of this title. Prior to consideration by the city council, all vacations of plats, streets, and other public lands shall be reviewed by the planning and zoning commission. A recommendation from the planning and zoning commission shall be forwarded to the city council. (Ord. 178 § X (part), 1999)

16.36.020 Vacation of plats.

The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition with the planning and zoning commission for review and recommendation after review by the commission, the petition and recommendation are filed with the city council, and they shall set a time and place for a public hearing on the petition. Written notice of the public hearing shall be provided by the petitioner to proprietors and mortgagees within three hundred feet of the area to be vacated. If a portion of the official plat adjoins a river or state-owned lake, the Iowa Department of Natural Resources shall be served written notice of the proposed

vacation. Notice of the proposed vacation shall be published twice, with fourteen days between publications, stating the date, time, and place of the public hearing.

The official plat or portion of the official plat shall be vacated upon recording of all the following documents:

A. An instrument signed, executed, and acknowledged by all the proprietors and mortgagees within the area of the official plat to be vacated, declaring the plat to be vacated. The instrument shall state the existing lot description for each property along with an accurate description to be used to describe the land after the lots are vacated.

B. A resolution by the city council approving the vacation and providing for the conveyance to those areas included in the vacation which were previously set aside for dedicated public use.

C. A certificate of the county auditor that the vacated part of the plat can be adequately described for assessment and taxation purposes without reference to the vacated lots.

No part of this chapter authorizes the closing or obstructing of public highways.

The vacation of a portion of an official plat shall not remove or otherwise affect a recorded restrictive covenant, protective covenant, building restriction, or use restriction. Recorded restrictions on the use to property within an official plat shall be modified or revoked by recording a consent to the modification or removal, signed and acknowledged by the proprietors and mortgagees within the official plat. (Ord. 178 § X(A), 1999)

16.36.030 Vacation of streets and other public lands.

The city may vacate a part of an official

plat that had been conveyed to the city or dedicated to public which is deemed by the planning and zoning commission and city council to be of no benefit to the public. The city council shall vacate by resolution following a public hearing or by ordinance and the vacating instrument shall be recorded. The city may convey the vacated property by deed to may convey the property to adjoining proprietors through the vacation instrument. If the vacating instrument is used to convey property then the instrument shall include a list of adjoining proprietors to whom the vacated property is being conveyed along with the corresponding legal description of each parcel being conveyed. A recorded vacation instrument that conforms to this chapter is equivalent to a deed of conveyance and the instrument shall be filed and indexed as a conveyance by the county recorder and county auditor. A vacation instrument recorded pursuant to this subsection shall not operate to annul any part of an official plat except as provided for in Section 16.36.020 of this chapter. (Ord. 178 § X(B), 1999)

Chapter 16.40**~~FEES~~****Sections:****16.40.010 Fee schedule.****16.40.010 Fee schedule.**

Nonrefundable fees pertaining to permits and actions required by this title shall be in accord with the following schedule of fees. Said fees shall include, but not be limited to, the following:

A. ~~Major~~ subdivisions: ~~one hundred dollars plus ten dollars per lot.~~

B. ~~Minor~~ subdivisions: ~~fifty dollars plus ten dollars per lot.~~

C. Vacation of plats, streets, and other public lands: fifty dollars. This fee shall not be administered and collected if the dedication or vacation is processed in the form of a plat and either minor or major subdivision fees are paid in lieu thereof.

D. Recording fees, per a schedule on file in the county recorder's office. (Ord. 178 § XI, 1999)

Chapter 16.44**VARIATIONS AND EXCEPTIONS****Sections:****16.44.010 Generally.****16.44.010 Generally.**

Whenever the tract proposed to be subdivided is of such unusual topography, size, or shape, or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in substantial hardships or injustices, the city council, upon recommendation of the planning and zoning commission, may vary or modify such requirements to allow the proprietor to develop in a reasonable manner with due regard for the public health, welfare, and safety so that the interests of the city and surrounding area are protected and the general intent and spirit of this title is preserved. (Ord. 178 § XII, 1999)

Chapter 16.48

ENFORCEMENT

Sections:

16.48.010 Enforcement regulations—Penalty.

16.48.010 Enforcement regulations—Penalty.

A. After the date of adoption of the ordinance codified in this title, no plat or any subdivision in or within two miles of the corporate limits of Elk Run Heights, shall be recorded in the county recorder's office or have any validity until it has been approved in the manner prescribed herein.

B. No street hereafter created in the incorporated area of Elk Run Heights shall become a part of any street system as defined in the Code of Iowa; and no improvements shall be made by the city of Elk Run Heights, nor shall the city of Elk Run Heights incur any expense for maintenance or repair of roads or other facilities on land that had been subdivided after the date of adoption of the ordinance codified in this title unless such road or other facility shall have been first approved and accepted by the city council in accordance with the provisions of this title and the dedication thereof accepted as a public road or improvement.

C. The city of Elk Run Heights shall not issue building, occupancy, or repair permits for any structure located on a lot in any subdivision developed after the date of adoption of the ordinance codified in this title that is located within the city unless the plat of such subdivision has been first approved in accordance with the provisions contained herein.

D. Violations of the provisions of this title or failure to comply with any of its requirements shall constitute a Municipal Infraction, the conviction of which shall constitute a misdemeanor authorizing a fine of not more than one hundred dollars or imprisonment for not more than thirty days. Each day such violation continues shall be considered a separate offense. Nothing contained herein shall prevent the city of Elk Run Heights from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. 178 § XIII, 1999)

Chapter 16.52

CHANGES AND AMENDMENTS

Sections:

16.52.010 Procedure established.

16.52.010 Procedure established.

Any provisions of these regulations may be changed and amended from time to time by the city council provided, however, that such changes and amendments shall not become effective until after study and recommendation by the planning and zoning commission and in accordance with the regulations and provisions of the city of Elk Run Heights and the Code of Iowa. (Ord. 178 § XIV, 1999)

CHAPTER 175

SUBDIVISION REGULATIONS

175.01 Definitions	175.06 Procedure for Approval of Final Plat
175.02 Preliminary Plat; Information Required	175.07 Minimum Design Standards
175.03 Procedure for Approval of Preliminary Plat	175.08 Plats Situated Outside Corporate Limits
175.04 Construction Plans	175.09 Amendment or Revision
175.05 Final Plat; Information Required	

175.01 DEFINITIONS.

For use in this chapter, the following terms are defined:

1. "Building line" means a line on a plat between which line and the nearest street or alley no building or structure may be erected or placed.
2. "Lot" means a portion of a subdivision individually numbered or designated on the plat for facility of description, conveyance, and taxation.
3. "Major street" means any thoroughfare, boulevard, parkway, or highway designated by the Council to be used by persons and vehicles for through traffic in, by, or through the City.
4. "Minor street" means any street which has not been designated by the Council as a major street.
5. "Plat" means a map, drawing, or chart on which the subdivider's plan of the subdivision is presented and which the subdivider submits for approval and intends in final form to record.
6. "Street width" means that horizontal distance between property lines.
7. "Subdivision" means: (a) the division of any tract of land into three or more lots, which division may or may not establish streets and alleys; or (b) the redivision of land heretofore platted into lots; provided, however, the sale or exchange of small parcels of land to or between adjoining property owners is not considered as a subdivision.

175.02 PRELIMINARY PLAT; INFORMATION REQUIRED.

In seeking to subdivide land into lots and/or to dedicate streets, alleys, or other land for public use, the owner shall submit four copies of a preliminary plat to the City Planning and Zoning Commission (the "Commission"). The preliminary plat, plainly marked "preliminary plat," shall be drawn to a scale of not less than one inch to 100 feet and shall show:

1. The legal description of the property to be platted.
2. Contours with intervals of not more than two feet.
3. The location of such surface features as property lines, buildings, railroads, utilities, tree masses, watercourses, and other existing features affecting the development; the location and size of such subsurface features as existing or nearest available public sanitary and storm sewers, water mains, gas mains, culverts, and drain pipes; the location and size of the nearest water main, gas main, and public sewers are to be indicated in a general way on the plat.
4. The location and width of proposed and existing streets, alleys, and lots included in the development. The names of the proposed streets and the type of proposed surfacing. The plat shall also show how the streets and alleys in the proposed developments shall connect with existing and proposed streets and alleys in adjacent subdivisions or undeveloped property to produce the most advantageous development of the entire neighboring areas.
5. The name and location of adjoining subdivisions.
6. The proposed location of building lines and easements, if any.
7. The title under which the proposed subdivision is to be recorded, with the name and address of the owner.
8. The scale, date, north point, and name of surveyor or engineer.
9. The above requirements for the preliminary plat shall conform to the minimum standards of design and development set forth in Section 175.07 of this chapter.
10. Any restrictions proposed to be included in the owner's declaration of plat shall accompany the preliminary plat. When the property proposed to be platted is in the corporate limits of the City, neither the Commission nor the Council shall require any building restrictions to be included in a plat that are more restrictive than the provisions of the Zoning Ordinance of the City, except for the building lines provided in Section 175.05 of this chapter.
11. When the plat or subdivision proposed for immediate development is a part of an overall development of a larger area and in which streets and other improvements are indicated, such future plat development shall appear on all plat drawings in dotted lines; the smaller area to be developed immediately as a plat shall be bounded by a heavy line. When any such extended future development shall have been accepted by the Council, such plan may be changed or altered only on the consent of the Council.
12. Any plat not containing all the information specified above shall not be approved by the Commission.

175.03 PROCEDURE FOR APPROVAL OF PRELIMINARY PLAT.

1. The Commission shall refer two copies of the preliminary plat to the Clerk, who shall carefully examine the plat as to its compliance with the laws and ordinances of the City, the existing street system, the major street plan, and good engineering practices and shall submit findings in duplicate to the Commission, together with one copy of the plat received.

2. When the Clerk's report is received by the Commission, it shall then set forth its recommendations in writing, whether of approval, modification, or disapproval. In case of modification or disapproval, it shall give its reasons therefor. The Commission shall forthwith submit the three copies of the preliminary plat to the Council, together with a signed copy of its recommendations.

3. The Council shall then take action upon the preliminary plat, certifying its approval or disapproval. In case of disapproval, it shall give its reasons therefor. Any requirements for improvements or alterations in the preliminary plat of the Council shall be given to the person who prepared the plat, in writing. One certified copy shall be filed with the Clerk, one with the Commission, and the third shall be returned to the owner or subdivider. The approval of the preliminary plat by the Council does not constitute acceptance of the subdivision but constitutes approval of all proposals and plans submitted with the preliminary plat.

175.04 CONSTRUCTION PLANS.

1. When the preliminary plat of a subdivision has been approved by the Council, the owner shall thereupon prepare detailed construction plans for the improvement and the arrangement for the improvements in accordance with the standards set forth by the Clerk's office.

2. Three sets of such detailed construction plans, together with an outline of the order in which the proposed improvements are to be constructed, are to be submitted to the Clerk for consideration.

3. The Clerk shall then submit the detailed construction plans, together with recommendations to the Council for their approval. Construction of any type shall not be started within the development until construction plans are approved by the Council.

175.05 FINAL PLAT; INFORMATION REQUIRED.

1. Filing. The final plat shall be filed within 12 months of the date of the approval of the preliminary plat and shall comply with the provisions of Section 175.07 of this chapter and shall conform to the preliminary plat as approved or modified by the Council.

2. Information Required. The final plat shall be made from an accurate survey, drawn to 100 feet to the inch or larger scale by a licensed surveyor and shall include the following information:

A. The boundaries of the property, the lines of all proposed streets and alleys, with the widths and names and the lines and dimensions of any other portions intended to be dedicated to the public use.

B. All lot lines and an identification system for all lots and blocks with figures showing their dimensions.

C. Building lines and easements for any rights-of-way provided for public use, services, or utilities, with figures showing their dimensions, unless the subdivider desires to describe the easements for public use, services, or utilities in the owner's declaration of plat.

D. All dimensions, both linear and angular, necessary for locating lots, tracts or parcels of ground, streets, alleys and easements, and the boundaries of the subdivision; the linear dimensions are to be expressed in feet and decimals of a foot.

E. Radii, arc and chords, points of tangency, central angles, and curve data for all curvilinear streets, and radii for all rounded corners.

F. The description, location, and elevation of all benchmarks.

G. The description and location of all permanent monuments set in the subdivision.

H. The name of the subdivision, location and extent of property subdivided, points of the compass, scale of the plat, date and name of the engineer platting the tract.

I. Certification under seal by a land surveyor, licensed under the laws of the State, to the effect that the plat represents a survey made by said surveyor, and that all necessary survey monuments are correctly shown thereon.

J. Where private restrictions appear on a separate instrument, reference to such instrument shall be made on the plat.

3. Attachments. The final plat shall have the following attached to it:

A. An accurate description of the subdivision land.

B. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.

C. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

D. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the

encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

E. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

G. A statement by the Auditor approving the name or title on the subdivision plat.

H. A certificate of dedication of streets and other public property.

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

175.06 PROCEDURE FOR APPROVAL OF FINAL PLAT.

Four copies of the final plat of a subdivision shall be submitted to the Commission. The final plat shall be accompanied by a certificate from the Clerk that the same is substantially in accord with the preliminary plat as approved by the Council. When the final plat has been passed upon by the Commission, all four copies shall forthwith be transmitted to the Council, together with a certificate showing the action of the Commission. When the final plat has been approved by the Council, three copies shall be certified, and one copy shall be delivered to the Commission, one copy delivered to the Clerk, and one copy delivered to the subdivider for filing with the County Recorder. If such plat is disapproved by the Council, such disapproval shall point out in writing wherein the plat is objectionable.

175.07 MINIMUM DESIGN STANDARDS.

1. Acreage Subdivisions. Where a parcel of land is subdivided into a larger tract than ordinarily used for buildings lots, such parcel shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets. Easements providing for the future openings and extension of such streets may, at the discretion of the Council, be made a requirement of the plat.

2. Relation to Adjoining Street System. New subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements.

3. Street and Alley Widths.

A. Except as hereinafter provided, the street shall be of a width as great as that of the streets of which they are a continuation or projection, with a minimum width of 60 feet. However, the Council may in certain cases, because of topography or general welfare and safety, or for special reasons, require a street of greater or lesser width.

B. When a major street or primary roadway is included in any plat being developed and offered for approval, the overall width of the surfaced or paved roadway from back to back of curbs shall be a minimum of 31 feet or more; unless such street is the continuation of another street of greater width, in which case the surfaced roadway shall be carried on at the width deemed reasonable and proper. Street surfacing of all abutting streets and widths thereof shall be shown on the preliminary plat when submitted for approval.

C. When a minor street serves a dead end, a limited access area or other projected low traffic count area, the street may, with the recommendation of the Commission, have an overall width of the surfaced or paved roadway from back to back of curbs of 29 feet. In a subdivision where the lots exceed one acre in size, the street may be 25 feet curb to curb with no parking on the right-of-way.

D. If a street is designed to have one end permanently closed (cul-de-sac), the right-of-way shall be not less than 50 feet in width and shall be of such width at the closed end as will permit a turning radius of not less than 50 feet.

E. The minimum width of alleys shall be 16 feet.

F. Where alleys are not provided in the plat, easements of not less than eight feet in width may be required on each side of all rear and side lot lines where necessary for poles, wires, conduits, sewers, gas, water, and heat mains.

4. Blocks. Where it is desired to subdivide a parcel of land which, because of its size and location, does not permit a normal street arrangement, there may be established a "place." Such "place" may be in the form of a court, a non-connecting street, or other arrangement; provided, however, proper and easy access arrangement shall be provided for all lots from a dedicated street or court.

5. Street Names. Streets that are obviously in alignment with others already existing and named shall bear the name of existing streets, otherwise names shall not duplicate existing street names and names similar to existing street names shall not be permitted.

6. Building Lines. Building lines shall be shown on all lots whenever the depth of such building lines is greater than those required by the Zoning Ordinance. Where the subdivided area is not under zoning control, the Council may require building lines in accordance with the needs of such subdivision. Provisions shall be made by owner's declaration of plat, requiring all enclosed parts of a building to be set back to such building lines.

7. Easements along Streams and Watercourses. Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider's own expense, make adequate provisions for the proper drainage of surface water, and the Council, at its discretion, may require the dedication to the City of an easement along such stream or watercourse.

8. Improvements. Before the final plat of any subdivision shall be approved and recorded, the subdivider shall make and install the improvements described in this subsection. In lieu of final completion of the said minimum improvements, before the final plat is approved, the subdivider may enter into a contract with the City to ensure the completion of the improvements within a specified time. The performance of said contract may be secured by the filing of a bond to be approved by the Council.

A. Street Grading.

(1) All streets shall be filled or excavated to the grade approved by the Council after receiving the recommendation of the Street Department Superintendent, and the actual construction shall be subject to the supervision of the Street Superintendent.

(2) Streets shall be so arranged that grades shall, so far as practicable, not exceed six percent for major streets and 10 percent for minor streets, and no grade shall be less than one-half of one percent.

(3) All alleys included in any plat or subdivision shall be brought to the grade approved by the Council; and when utilities are installed, they shall be installed therein or at the rear of platted lots if equally feasible with other methods of installation.

B. Sewers. Where a public sanitary sewer is contiguous to said subdivision, the subdivider shall connect or provide for the connection with said sewer accessible to each lot. Where any part of said subdivision is within 450 feet from the nearest point of a usable public sewer installation, the Council may require the subdivision to connect or provide for the connection with such sewer system to make such sewer accessible to each lot in the subdivision. When sanitary sewers are installed in the subdivision in the street, they shall be stubbed in from the main sewer to the property line. The subdivider shall, upon completion of the sanitary sewer system, file in the office of the Clerk a plat of said subdivision marked with the location of said stubs or of any Y's placed in the main sewer.

C. Inaccessible Sewers. Where public water supply is available to the proposed subdivision but sanitary sewer is inaccessible, lots shall not be less than 7,500 square feet in area. Where neither public water supply nor sanitary sewer is accessible to the subdivision, lots shall not be less than 15,000 square feet in area. The above area requirements may be lowered upon recommendation of the Code Enforcement Officer providing results from percolation tests indicate that a lesser area will be required for tank installation. The owner shall furnish to the Commission a report from the health officer that the soil conditions of the subdivision are suitable for the installation and maintenance of septic tanks and the proposed lot area is sufficient for its operation.

D. Other Improvements. The Council may also require certain street improvements including the installation of sidewalks, water mains, curb and gutter, and street surfacing or paving on any or all streets, in accordance with the specifications approved by the Council and under the supervision of the Street Waste Water Foreman. When sewer and water are to be installed in a plat, all street improvements shall be installed not later than two years following the date of approval of the final plat. A performance bond running for not more than two years shall be given a contract entered into by the subdivider for the completion of the improvements.

175.08 PLATS SITUATED OUTSIDE CORPORATE LIMITS.

1. All plats of property situated outside the corporate limits of the City which require action by the Commission and Council shall comply with all the foregoing regulations.

2. Any lot described as or intended for use as a residential lot and which is intended to be served either temporarily or permanently by a septic tank sewage disposal system shall not be less than the area set forth in Section 175.07(8)(C) of this chapter.

175.09 AMENDMENT OR REVISION.

Any regulations or provisions of this chapter may be changed and amended from time to time by the Council; provided, however, such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given in a newspaper of general circulation at least 15 days prior to such hearing.

1. Subdivision – If the City does not want subdivision as written in Title 16, page 168, send me any revisions. You asked about major and minor subdivision. Here is a sample from another City added it.

170.06 DEFINITIONS. For use in this chapter, the following terms and words are defined.

18. “Major Subdivision” shall mean all subdivisions not classified as Minor Subdivisions, including, subdivision plats of eleven (11) or more zoning lots and any size subdivision requiring any new public or private street, extension of local government facilities, to the creation of any public improvement.

19. “Minor Subdivision” shall mean subdivision plat of ten (10) zoning lots or less; where each zoning lot may be subdivided once and does not involve or require the construction of any public improvements. Minor Subdivisions may elect to use the alternate procedures for review and approval as per the requirements hereinafter set forth.

170.32 MINOR SUBDIVISION ALTERNATIVE. In lieu of a Major Subdivision (Preliminary and Final Plats), a land owner, developer, subdivider or proprietor may be allowed to utilize a “Minor Subdivision” procedure provided the request applies to a subdivision plat of ten (10) zoning lots or less; where each zoning lot may be subdivided once and does not involve or require the construction of any public improvements. This section is intended to waive certain subdivision requirements in the code and permit the expeditious and economical processing of Minor Subdivisions as defined herein, whose impacts upon other properties are nominal.

170.33 MINOR SUBDIVISION PROCEDURE. A person who desires to utilize the provisions of this section shall file the submittals described in Section 170.34 below with the City Administrator. The filing shall be deemed made when the City Administrator refers the completed application to the Commission.

1. Planning and Zoning Commission. The Commission shall first determine whether the application qualifies for processing under this section and summarily deny any application which does not. Qualifying applications for Minor Subdivisions shall be set for public hearing with notice given and the public hearing conducted. At the conclusion of the public hearing on Minor Subdivision application, the Commission shall make its recommendation on the application to the City Council.

2. City Council. Not later than at its first regularly scheduled meeting following receipt of the Commission's recommendations, the City Council shall review the application and act thereon. Applicant response to any conditions of approval imposed by the City Council shall be made before any action of the City Council becomes the final order of the City.

170.34 MINOR SUBDIVISION SUBMITTALS. Required submittals include the following:

1. A written application specifying that a Minor Subdivision Request is sought. The application shall include:

- A. The overall density proposed.
- B. The total number of dwelling units proposed.
- C. The estimated total number of square feet on residential floor space proposed.
- D. The approximate date when construction of the project is proposed to begin, number of dwellings and unit mix for each phase, and the general time span of the entire development.
- E. The stages in which the project will be built and the approximate date when construction of each stage is proposed to begin.

2. Eight (8) copies of a location map showing the site involved in the request in relationship to existing features, such as structures, fences, streams, public or private rights-of-way and streets, street intersections, zoning districts, and other significant topographical, structural, and residential features within two hundred (200) feet of the site.

3. Eight (8) copies of the proposed site plan meeting the requirements as provided herein:

- A. The name of the subdivision.
- B. General layout of all proposed lots.
- C. The respective net densities and total dwelling units of each land use.
- D. Lettering or numbering of blocks and numbering of lots.
- E. The dimensions of all lots shall be given to the nearest foot (these may be scaled values).

- F. Proposed utilities and proposed tie-ins to existing utilities.
- G. Illustrations of the proposed architectural style of all structures.
- H. All maps and plans included with the application shall be drawn at the scale of one (1) inch equals fifty (50) feet. A professional quality map or plan shall be made in every detail. A poorly drawn or illegible map or plan is sufficient cause for its rejection. The prints of the maps and plans shall be black on white or blue on white; reproductions shall be clean and crisp.
- I. The name and address of the subdivider, the designer of the subdivision, the engineer and surveyor. Both the engineer and surveyor shall be licensed by the State of Iowa Board of Registration for Professional Engineers and Land Surveyors.
- J. Evidence of title, consisting of an attorney title opinion dated within 30 days of the date of application submittal. Such evidence must show all current mortgages and deeds of trust, liens and other encumbrances against the property.
- K. Applicants for a Minor Subdivision shall list the names and addresses of all owners within two hundred (200) feet of any boundary line designated in the application.
- L. The list shall include both the legal description of the property by lot and block number or other legal description and by mailing address of the property owner. The subdivider shall submit one set of 9 ½ x 4 ¼ envelopes addressed to each of the owners of the property identified in Subsection K above.
- M. No Minor Subdivision shall cause or continue any nonconforming lot as defined for zoning purposes unless a variance therefore is first approved by the Board of Adjustment.
- N. A non-refundable filing fee of one hundred fifty dollars (\$150.00) to cover the costs of publication and notification of interested parties shall be submitted with the written "Minor Subdivision Request."

170.35 MINOR SUBDIVISION PUBLIC HEARING BEFORE THE COMMISSION. When a Minor Subdivision Request and Application has been officially accepted by the Commission, the following actions shall be taken:

1. Setting Date of Hearing. The Chairperson of the Commission shall schedule a public hearing to be held by the Commission.

2. Notice of Hearing. Notice of the hearing before the Commission shall be given to all interested parties in the following manner.

A. Publication. Notice of the date and time of the hearing, the property affected (by legal description and address), the action requested, and the name of the subdivider shall be published once in a paper of general circulation with the City not less than four (4) nor more than twenty (20) days prior to the date of the hearing.

B. Mailing Notice. Notice of the date and time of the hearing, the property affected (by legal description and address), the action requested, and the name of the subdivider shall be mailed by certified mail, return receipt requested, to each owner of property located within two hundred (200) feet of the property in the proposed minor subdivision.

C. Material available for public review. A copy of the submittal and supporting material filed with the Commission shall be available for public viewing at City Hall during normal business hours.

3. Conduct and Close of Public Hearing. At the public hearing, the Commission shall receive documentary evidence and all for presentation of testimony and comments from the public. At the conclusion of the same, the Commission shall close the hearing and adjourn to their business meeting for discussion and formulating the decision on the proposal.

170.36 MINOR SUBDIVISION DELIBERATIONS, FINDINGS OF FACT AND RECOMMENDATIONS OF THE COMMISSION. Immediately following the close of the hearing and adjournment to the business meeting, the Commission shall discuss the merits of the proposal in open meeting and cause to be prepared a written finding of fact and recommendation to the City Council. In reviewing Minor Subdivision Requests and Applications that have been submitted to it, the Commission shall not only insure that the intent and requirements of this chapter are followed, but it shall also determine the extent to which the goals and policies embodied in the Comprehensive Plan are met. Within five (5) working days after the public hearing on the Minor Subdivision Application, the Commission shall send written notification to the City Council and the subdivider of its recommendation, whether approval, or approval with conditions, or postponement of action pending receipt of additional material or documentation for further review, or denial for cause. The written recommendation shall be forwarded to the City Council and the subdivider.

1. Approval. The Commission may recommend approval of the Request and Application as presented.

2. Approval with Conditions. The Commission may recommend approval of the Minor Subdivision Request and Application with conditions to be imposed by the City Council which will more fully meet the purposes of these regulations.
3. Postponement of Action. The Commission may recommend that action on the Minor Subdivision Request and Application be postponed to a date certain, pending receipt of additional material or documentation for further review. Postponement of action to a date certain shall not require additional public notice.
4. Denial for Cause. A recommendation of denial of a Minor Subdivision Request and Application shall contain the specific reasons for denial.

170.37 COUNCIL ACTION ON MINOR SUBDIVISION. The Council shall consider the Minor Subdivision Request and Application not later than at its first regularly scheduled meeting following receipt of the Commission's recommendations. The City Council shall review the Minor Subdivision Request and Application and act thereon to approve if the Council finds that the Minor Subdivision Request and Application has been prepared in compliance with the Comprehensive Plan and these regulations as may be modified by any conditions for approval imposed by the City Council. In the event that the Minor Subdivision Request and Application is disapproved or given conditional approval, the record shall show the specific points upon which the Request and Application varies from the regulations and/or the specific conditions of a conditional approval.

170.13 PRELIMINARY PLAT PROCEDURES FOR MAJOR SUBDIVISIONS. When the owner of any tract or parcel of land within the jurisdiction of this chapter wishes to subdivide or plat any Major Subdivision of eleven (11) or more zoning lots or any size subdivision requiring any new public or private street, extension of local government facilities, to the creation of any public improvement the same, said owner shall cause to be prepared a preliminary plat of the subdivision. Upon request for a preliminary plat review, the Clerk shall provide the developer or subdivider with an application form and a preliminary plat checklist for Major Subdivisions. The preliminary plat shall be submitted to the Commission for review and recommendation to the Council for final action. The purpose of the preliminary plat review shall be to assure that: (i) the proposed subdivision complies with all City zoning and subdivision regulations and the City's current comprehensive plan; (ii) any recommendations made as a result of preapplication conference are adhered to by the developer; (iii) the Commission is provided with details concerning the proposed subdivision in order to perform the necessary review; (iv) all physical improvements related to the proposed subdivision are completed and meet standards established by the City.

Chapter 17.56

ADMINISTRATIVE PROVISIONS

Sections:

- 17.56.010 Zoning commission—
Rules of procedure.
- 17.56.012 Creation.
- 17.56.014 Membership.
- 17.56.020 Zoning permit—
Required.
- 17.56.030 Zoning permit—
Application procedure.
- 17.56.040 Administrative officer—
Appointment—Duties—
Compensation.
- 17.56.050 Violation—Notice.
- 17.56.060 Violation—Abatement
procedures.

17.56.010 Zoning commission— Rules of procedure.

The Elk Run Heights city zoning commission, a public body, is subject to the terms, regulations and restrictions of the Iowa Open Meeting Law, Chapter 28A of the Code of Iowa, as amended. Wherever in these ordinances a conflict appears between the ordinance and open meeting law, the open meeting law shall control. (Ord. 112 § 5, 1983)

17.56.012 Creation.

The planning and zoning commission of the city of Elk Run Heights, as established under the applicable provisions of the Code of Iowa, is the planning and zoning commission referred to in this chapter. (Ord. 148 (part), 1991)

17.56.014 Membership.

Said planning and zoning commission shall consist of five members, citizens of the city of Elk Run Heights, Iowa, and who shall not hold any elective office in the municipal government, shall be appointed by the mayor, subject to the approval of the city council.

Members shall serve for a period of five years, with one appointment expiring each year. Vacancies shall be filled by appointments for unexpired terms only. Any reduction in present commission membership shall be by attrition only and present members may continue to be reappointed. (Ord. 148 (part), 1991)

17.56.020 Zoning permit—Required.

Zoning permits shall be required in accordance with the following except that no permit shall be required for agricultural uses:

A. No land shall be occupied or used, and no building erected or structurally altered shall be occupied or used in whole or in part for any purpose until a permit is issued by the zoning administrative officer, stating that the building and use comply with the provisions of this title;

B. No change of use shall be made in any building or part thereof, now or hereafter erected or structurally altered, unless such changes are in conformity with the provisions of this title and a permit is issued by the zoning administrative officer;

C. Nothing in this section shall prevent the continuance of a nonconforming use as hereinbefore authorized, unless a discontinuance is necessary for the safety of life or property;

D. In accordance with this section, zoning permits shall be obtained from the zon-

ing administrative officer before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure. Zoning permits shall be issued to complying applicants within seven days after application is made and appropriate records and copies of permits shall be maintained as a matter of public record;

E. A zoning permit shall become null and void six months after the date on which it is issued unless within such six-month period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced. (Ord. 112 § 18(1), 1983)

**17.56.030 Zoning permit—
Application procedure.**

Applicants for a zoning permit shall be required to provide the following:

A. A plat, in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon or used, the size, shape and location of the building to be erected, the dimensions of the required yards, parking and open spaces, and a vicinity map of the lot to be built upon or used;

B. Proof of compliance with standards for water supply and sewage disposal which conform with the regulations of the city;

C. Such other information as may be necessary to provide for the enforcement of this title;

D. Fees as required by the city. (Ord. 112 § 18(2), 1983)

**17.56.040 Administrative officer—
Appointment—Duties—
Compensation.**

The city council shall appoint an admin-

istrative officer, and it shall be the duty of such officer to enforce this title. Such administrative officer may be a person holding other public office in the city, or other governmental subdivision. The city council is authorized to pay to the officer out of the general fund such compensation as it deems fit. (Ord. 112 § 19(1), 1983)

17.56.050 Violation—Notice.

If the zoning administrator finds that any of the provisions of this title are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. (Ord. 112 § 19(2), 1983)

**17.56.060 Violation—Abatement
procedures.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the city council, in addition to other remedies, shall institute any proper action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. (Ord. 112 § 19(3), 1983)

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CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies

22.04 Compensation
22.05 Powers and Duties

22.01 PLANNING AND ZONING COMMISSION.

The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

22.02 TERM OF OFFICE.

The term of office of the members of the Commission shall be five years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

22.03 VACANCIES.

If any vacancy exists on the Commission caused by resignation, or otherwise, a successor for the residue of the term shall be appointed in the same manner as the original appointee.

(Code of Iowa, Sec. 392.1)

22.04 COMPENSATION.

All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council.

(Code of Iowa, Sec. 392.1)

22.05 POWERS AND DUTIES.

The Commission shall have and exercise the following powers and duties:

1. Selection of Officers. The Commission shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability.

(Code of Iowa, Sec. 392.1)

2. Adopt Rules and Regulations. The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.

(Code of Iowa, Sec. 392.1)

3. Zoning. The Commission shall have and exercise all the powers and duties and privileges in establishing the City zoning regulations and other related matters and may from time to time recommend to the Council amendments, supplements, changes or modifications, all as provided by Chapter 414 of the *Code of Iowa*.

(Code of Iowa, Sec. 392.1 & 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivisions or re-subdivisions of land in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the City, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

(Code of Iowa, Sec. 392.1)

6. Fiscal Responsibilities. The Commission shall have 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 that are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

7. Limitation on Entering Contracts. The Commission shall have no power to contract debts beyond the amount of its original or amended appropriation as approved by the Council for the present year.

(Code of Iowa, Sec. 392.1)

8. Annual Report. The Commission shall each year make a report to the Mayor and Council of its proceedings, with a full statement of its receipts and disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

5. Planning and Zoning Commission – Here is the standard wording. Is it okay to use? Which alternative is correct?

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

⇒ Alternate 1 – Zoning jurisdiction within City limits only

23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of [REDACTED] members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 and 392.1)

⇒ Alternate 2 – If zoning jurisdiction extends outside of the City

23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of [REDACTED] members, [REDACTED] of whom are residents of the City. The resident members shall be appointed by the Council and shall not hold any elective office in the City government. The additional two members of the Commission are one member of the County Board of Supervisors, or a person designated by the Board, and one resident of the area outside the City over which the zoning jurisdiction of the City has been extended, both appointed by the County Board of Supervisors. A person designated by the Board shall also be a resident of the County in which such extended area is located.

(Code of Iowa, Sec. 414.6, 414.23 and 392.1)

⇒ Alternate 3 – If zoning jurisdiction extends into an adjacent county.

23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of [REDACTED] members, [REDACTED] of whom are residents of the City. The resident members shall be appointed by the Council and shall not hold any elective office in the City government. The additional two members of the Commission are one member of the County Boards of Supervisors, or a person designated by the Boards, and one resident of the area outside the City over which the zoning jurisdiction of the City has been extended, both jointly appointed by the County Boards of Supervisors of the affected counties.

(Code of Iowa, Sec. 414.6, 414.23 and 392.1)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

23.03 VACANCIES. If any vacancy exists on the Commission, caused by resignation or otherwise, a successor for the residue of the term shall be appointed in the same manner as the original appointee.

(Code of Iowa, Sec. 392.1)

23.04 COMPENSATION. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council.

(Code of Iowa, Sec. 392.1)

23.05 POWERS AND DUTIES. The Commission shall have and exercise the following powers and duties:

1. Selection of Officers. The Commission shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chairperson's absence or disability.

(Code of Iowa, Sec. 392.1)

2. Adopt Rules and Regulations. The Commission shall adopt such rules and regulations governing its organization and procedure as it may deem necessary.

(Code of Iowa, Sec. 392.1)

3. Zoning. The Commission shall have and exercise all the powers and duties and privileges in establishing the City zoning regulations and other related matters and may from time to time recommend to the Council amendments, supplements, changes, or modifications, all as provided by Chapter 414 of the *Code of Iowa*.

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivisions or re-subdivisions of land in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the City, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

(Code of Iowa, Sec. 392.1)

6. Fiscal Responsibilities. The Commission shall have 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 that are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

7. Limitation on Entering Contracts. The Commission shall have no power to contract debts beyond the amount of its original or amended appropriation as approved by the Council for the present year.

(Code of Iowa, Sec. 392.1)

8. Annual Report. The Commission shall each year make a report to the Mayor and Council of its proceedings, with a full statement of its receipts and disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

Chapter 17.60

BOARD OF ADJUSTMENT

Sections:

- 17.60.010 Established—
Membership—
Vacancies.
- 17.60.020 Rules and procedures.
- 17.60.030 Actions on appeals.
- 17.60.040 Special exceptions.
- 17.60.050 Variances.
- 17.60.060 Public notice.

17.60.010 Established—
Membership—Vacancies.

A board of adjustment, to be hereinafter referred to as the "board," is established. The board shall consist of five members, none of whom shall hold an elective office or be another city official, each to be appointed by the city council for the term of five years. Members shall be removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled by the city council for the unexpired term of any member whose term becomes vacant. (Ord. 112 § 21(1), 1983)

17.60.020 Rules and procedures.

The board shall adopt rules of procedure in accordance with the provisions of this title. The board shall elect its own chairman who shall serve for one year. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All

meetings of the board shall be open to the public and the presence of three members shall constitute a quorum. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if members are absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the zoning administrative officer and shall be a public record. (Ord. 112 § 21(2), 1983)

17.60.030 Actions on appeals.

The board of adjustment shall have the following powers and duties: To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning administrative officer in the enforcement of this title. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the city affected by any decision of the administrative zoning officer:

or Bld Insp

A. Such appeals shall be taken within ninety days of the date of such decision filing with the zoning administrative officer and chairman of the board of adjustment a notice of appeal specifying the grounds thereof and by paying the required fee to be used for the administrative costs of the appeal. The zoning administrative officer shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from is taken.

B. An appeal stays all proceedings in furtherance of the action appealed from unless the administrative officer certifies

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to the board, after notice of appeal shall have been filed with him/her, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or a court of record on application of notice to the administrative officer and on due cause shown.

C. The board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as it believes proper, and to that end shall have all the powers of the administrative officer. The concurring vote of three of the members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this title; provided, however, that the action of the board shall not become effective until after the resolution of the board, setting forth the full reason for its decision and the vote of each member participating therein, has been spread upon the minutes. Such resolution, immediately following the board's final decision, shall be filed in the office of the board, and shall be open to public inspection. (Ord. 112 § 21(3)(A), 1983)

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17.60.040 Special exceptions.

The board of adjustment shall hear and decide only such special exceptions as the board of adjustment is specifically authorized to pass on by the terms of this

title; provided further, that a special exception shall not be granted by the board of adjustment unless and until:

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A. A written application for a special exception accompanied by the required fee is submitted indicating the chapter of this title under which the special exception is sought and stating the grounds on which it is requested;

B. The board of adjustment shall make a finding that it is empowered under this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest;

C. In granting any special exception, the board of adjustment may prescribe appropriate conditions and safeguards in conformance with this title. Violation of such conditions and safeguards, when a part of the terms under which the special exception is granted, shall be deemed a violation fo this title and punishable as provided by this chapter. (Ord. 112 § 21(3)(B), 1983)

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17.60.050 Variances.

The board of adjustment shall authorize upon appeal in specific cases, such variance from the terms of this title as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship. A variance from the terms of this title shall not be granted by the board of adjustment unless and until a written application for a variance, accompanied by the required fee is submitted demonstrating:

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A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

B. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title;

C. That the special conditions and circumstances do not result from the action of the applicant;

D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands,

structure or buildings, in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance. (Ord. 112 § 21(3)(C), 1983)

17.60.060 Public notice.

The board of adjustment shall not exercise its powers until a public hearing has been held on each such appeal, special exception or variance.

A. The board shall cause public notice of such hearing to be published in a paper of general circulation within the city at least fifteen days, but not more than twenty-five days before such date of public hearing.

B. At the public hearing any part may appear in person, or by agents, or attorney. (Ord. 112 § 21(4), 1983)

170.26 BOARD OF ADJUSTMENT.

1. Appointment; Membership. A Board of Adjustment is hereby established, which shall consist of five members, each to be appointed by the Mayor, and subject to confirmation by the City Council, for a term of five years. No member shall serve more than two consecutive terms. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

2. Rules; Meetings; General Procedure. The Board shall adopt rules in accordance with the provisions of this Zoning Ordinance. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson or, in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office the City Clerk and shall be a public record. The City Clerk shall serve as Secretary of the Board. In the absence of the Secretary, the Chairperson of the Board may appoint one of the members of the Board to act as Secretary Pro Tem for the meeting. The Board shall have the power to call on any City Department for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required. The Board shall also receive and consider recommendations submitted by the Planning and Zoning Commission.

3. Jurisdiction; Powers. The Board shall have the following powers and duties.

A. The Board of Adjustment may in appropriate cases and subject to appropriate conditions and safeguards make special exceptions to the terms of the ordinances in harmony with its general purpose and intent. Any property owner aggrieved by the provisions of this Zoning Ordinance or any regulations or restrictions thereunder may petition the said Board of Adjustment direct to modify said regulations and restrictions as applied to such property owner and the following rules shall apply:

(1) The Board of Adjustment shall have a public hearing on said petition under the same terms and conditions as hereinafter provided for the hearing of the appeals by the Board of Adjustment.

(2) The Board of Adjustment, in making any exception to the Zoning Ordinance, shall be guided by the general rule that the exceptions shall by their design, construction, and operation adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety and shall not diminish or impair established property values in surrounding areas.

(3) The Board of Adjustment is specifically authorized to permit erection and use of a building or the use of premises or vary the height and area regulations in any location for a public service corporation for public utility purposes or for purposes of public communication, including the distribution of newspapers, which the Board determines reasonably necessary for public convenience or welfare.

(4) The Board of Adjustment is specifically authorized to permit the extension of a district where the boundary line of a district divides a lot in a single ownership as shown of record or by existing contract or purchase at the time of the passage of this Zoning Ordinance, but in no case shall extension of the district boundary line exceed 40 feet in any direction.

B. The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Building Official in the enforcement of this Zoning Ordinance.

C. The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of the Zoning Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done. Special conditions shall include but not be limited to a property owner who can show that his or her property was acquired in good faith and where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional situations the strict application of the terms of this Ordinance actually prohibits the use of such property in a manner reasonably similar to that of other property in the district. Nothing in this section shall be construed to permit the extension or expansion of a nonconforming use located in an R or U District.

4. Appeals. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the City affected by any decision of the Building Official. Such appeal shall be taken within a reasonable time as provided by the rules of the Board by filing with the Building Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken, and shall further transmit a copy of the notice of appeal and the record to the Planning and Zoning Commission. Upon receipt of the notice of appeal, the Board shall hold a public hearing on said appeal and shall publish notice of said hearing in a newspaper of general circulation in the City. Said notice shall specify the time, place, and purpose of said public hearing and said public hearing shall not be less than two days or more than 10 days after the publication of said notice. The Board shall also give prompt notice of such hearing to the Building Inspector and the Planning and Zoning Commission. The final disposition of any appeal after public hearing shall be in the form of a resolution by the Board and copy of such resolution shall be filed with the Building Inspector, the Planning and Zoning Commission, and the City Clerk. An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official certifies to the Board, after notice of appeal shall have been filed with said official, that by reason of the facts stated in the certificate a stay would, in the official's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application, on notice to the Building Official, and on due cause shown. The Board of Adjustment shall give a reasonable time for the hearing on the appeal, give public notice thereof and decide the same within a reasonable time. At the hearing any party may appear in person or by agent, or by attorney. Before an appeal is filed with the Board of Adjustment, the appellant shall pay to the City Treasurer, to be credited to the General Fund of the City, the cost of publishing said notice and the administrative cost of said appeal as determined by the Board. In

exercising the above-mentioned powers, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as it believes proper, and to that end shall have all the powers of the Building Official. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance; provided, however, the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and the vote of each member participating therein, has been spread upon the minutes. Such resolution, immediately following the Board's final decision, shall be filed in the office of the City Clerk, and shall be open to public inspection.

5. Review by Council. The Council may provide for its review of variances granted by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is delayed for 30 days from the date of the remand.