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ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HIAWATHA, IOWA, 1996, BY AMENDING CHAPTER 165 UNIFIED DEVELOPMENT CODE §165.53 MINIMUM IMPROVEMENTS AND §165.59 PUBLIC SERVICE AREAS, PARKS AND OPEN SPACES

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

SECTION 1. Chapter 165 Unified Development Code, Section 165.53 Minimum Improvements and Section 165.59 Public Service Areas, Parks and Open Spaces of the Code of Ordinances of the City of Hiawatha, Iowa, 1996, is hereby amended as follows:

165.53 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare. Design of the improvements shall be in accordance with the Cedar Rapids Metropolitan Area Engineering Design Standards adopted by resolution by the Hiawatha City Council.

3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. ~~In the~~ The storm sewer design ~~phase, consideration~~ shall ~~be given to alternatives and principles~~comply with the provisions of a ~~of storm management, or the provisions of a~~ storm water management plan ~~if such plan~~which has been adopted by the City in Chapter 162 of the Hiawatha Code of Ordinances. The storm sewer system shall be constructed in accordance with the City Standards. Such sewers shall, upon inspection, approval and acceptance by the City, become the property of the City.

EXCEPTION: Detention basins and associated inlets and outlets as part of the runoff control required by Chapter 162 shall not become the property of the City unless the Council accepts these portions of the system by resolution.

~~**165.59 PUBLIC SERVICE AREAS, PARKS AND OPEN SPACES.** All developments should be designed so that adequate open spaces and sites for public uses may be properly located and preserved as the community develops. In order that the cost of providing parks, playgrounds and recreational facilities and sites necessary to serve the additional families brought into the community by the subdivision development may be most equitably apportioned on the basis of the additional need created by the individual subdivision development, the following provisions shall apply to all future developments, Planned Unit Developments and subdivisions greater than one-half (1/2) acre in size within the City.~~

~~1. Public Areas Dedicated. Where it is determined pursuant to this section by the Council that public service areas, open space and recreational areas are necessary and required, the subdivider or developer shall be required to dedicate or reserve such an area without cost to the City.~~

~~2. Recreational Areas and Open Space. Within the corporate limits of the City where it is determined by the Council that open space and recreational areas are necessary and required, and~~

~~where feasible and compatible with the Comprehensive Plan for development of the community, the subdivider or developer shall provide and dedicate to the public adequate land to provide for said public service areas, open space and recreational needs of the subdivision or development. Provided, however, said open space and recreational facilities may be reserved and held by private persons or home owners' associations or like entities under a Planned Unit Development (PUD) if same satisfies the requirements of this chapter.~~

~~3. Open Space Reserved. Where land or property is to be reserved and ownership of same retained or held in the name of a private person or association, same shall be permanently reserved for public use, as directed by the Council, and held for the purpose of open space and recreational facilities and its purpose shall not be altered.~~

~~4. Area Required. The amount of land shall be determined by first calculating the entire size of the land area of the proposed development as shown on the preliminary plat or site plan and then dedicating or reserving five percent (5%) of said land area.~~

~~5. Use and Location. Such fee shall be used exclusively for immediate or future site acquisition and development and shall be used only for the purpose of providing public service areas, open space lands and other recreational facilities to serve the subdivision or development for which received. The ability of future inhabitants of the subdivision or development to use the dedicated open space lands and other recreation facilities shall have a bearing on the location of the land received.~~

~~6. Fee Determined. In all cases where the Council, upon recommendation by the Commission, shall direct and determine that cash is to be deposited, dedicated or reserved for public service areas, park, playground or recreational purposes or a combination of uses, the cash value shall be determined in the following manner:~~

~~A. Area Determined. The Council shall first determine the size of the land area which it would have required to set aside for such purposes, which shall be five percent (5%) of the total land area of the proposed subdivision or development.~~

~~B. Cash Value Determined. The Council has established land value to be $4,000 per acre. The subdivider or developer shall be charged an amount equal to five percent (5%) of the total land based on said established value.~~

~~7. Fund Established. All funds so levied, assessed, and collected by the City shall be deposited in a special fund to be known and designated as "Special Fund for the Acquisition and Development of Public Service Areas, Open Space and Recreational Facilities" (Special Fund). Said funds so levied and collected shall be used for such purposes at such places and in a manner consistent with this chapter and the authorization for creation of said fund as approved, ordered and directed by the Parks and Recreation Commission. Any and all interest accumulated upon such funds shall be added to the Special Fund and be used only for acquisition and development of open space and recreational facilities.~~

~~8. Procedure. The procedure for determining whether the subdivider or developer is to dedicate or reserve land, pay a fee, or both, shall be as follows:~~

~~A. Subdivider-Developer. At the time of filing a preliminary plat or site plan with the Commission, the owner or developer of the property shall, as part of such filing, indicate whether he or she desires to dedicate or reserve property for public service areas, open space and recreational purposes, or to pay a fee in lieu thereof.~~

~~B. Cooperation with Parks and Recreation Commission. When the preliminary plat or site plan is received for study, the Chairperson of the Commission shall cause to be forwarded to the Parks and Recreation Commission a complete copy of said preliminary plat or site plan, and any and all attachments, and shall request that said Parks and Recreation Commission review same and make recommendations and suggestions thereon with regard to the placement, size, design, and location of said proposed public service areas, open space or recreational area, cash in lieu of dedication or reservation of land, or a combination of both, within the terms and tenor of this chapter. Within thirty~~

~~(30) days after receipt of a copy of said preliminary plat or site plan, the Parks and Recreation Commission shall make said recommendations and suggestions and same shall be forwarded to the Council with a copy to the Planning and Zoning Commission. Failure of the Parks and Recreation Commission to make recommendations and suggestions within the thirty (30) days aforementioned shall in no way serve to delay, postpone, or reject the preliminary plat or site plan. The requirement that the Parks and Recreation Commission make recommendations and suggestions shall be waived.~~

~~9. Action of City. At the time the preliminary plat or site plan is approved by the Council, the Council shall determine, as part of such approval, whether to require a dedication or reservation of land within the subdivision or development, payment of a fee in lieu thereof, or a combination of both provided however, that the City shall determine which land shall apply to the dedication or reservation and the requirements contained herein.~~

~~10. Prerequisites for Approval of Final Plat or Site Plan. Where a dedication is required, it shall be accomplished by providing the City with a properly executed warranty deed dedicating the required land to the City without cost to the City. Where fees in lieu of dedication are required, the same shall be deposited with the Clerk prior to the approval of the final plat or site plan.~~

~~11. Determination. The Council shall determine whether dedication, reservation or cash in lieu thereof or a combination of cash, dedication and reservation shall be required. In making said decision, the Council shall consider the following:~~

~~A. Relation to Comprehensive Plan. Recreational element of the City's Comprehensive Plan.~~

~~B. Suitability of Topography and Geologic Conditions. Topographic and geologic conditions and access and location of land in subdivision or development available for dedication.~~

~~C. Suitability of Land. Size and shape of the subdivision or development and land available for dedication.~~

~~D. Relation of Subdivision to Proposed Public Areas. The relation of the subdivision or development to the Comprehensive Plan Map, particularly as such plan map may show proposed public service areas, open space and recreational areas.~~

~~E. Neighborhood Needs. The character and recreational needs of the neighborhood in which the subdivision or development is located.~~

~~F. Unsuitability of Land for Dedication. The unsuitability in the subdivision or development for open space and recreational purposes by reason of location, access, greater cost of development and maintenance.~~

~~G. Evaluation of Adjacent Land. The possibility that land immediately adjoining the subdivision or development will serve in whole or in part the public service areas, open space and recreational needs of such subdivision or development.~~

~~H. Parks and Recreation Commission Recommendation. Recommendations and suggestions of the Parks and Recreation Commission.~~

~~I. Other. Any and all other information relevant to a proper determination.~~

~~The determination of the Council as to whether land shall be dedicated or reserved or a fee shall be charged, or a combination thereof shall be final and conclusive.~~

~~12. Development of Dedicated Area. It shall be the duty of the Parks and Recreation Commission of the City to develop properly and to maintain the dedicated area for open space and recreational facilities. The owner who dedicated said land shall in no way be responsible for its development, maintenance, or liability thereon, except that said owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use or value of the dedicated property. Where the owner is allowed to retain the land required for open space and recreational purposes and facilities in private ownership, it shall be the owner's responsibility to properly develop and maintain such area.~~

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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.

PASSED AND APPROVED this 15th day of March, 2017.

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Bill Bennett, Mayor

ATTEST:

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Kari Graber, Deputy Clerk

I, Kari Graber, Deputy Clerk of the City of Hiawatha, Iowa, do hereby certify that the foregoing ORDINANCE was PASSED and APPROVED by the City Council of the City of Hiawatha, Iowa, on the 1st day of March, 2017, and was posted as Ordinance No. _____ on the _____ day of March, 2017.

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Kari Graber, Deputy Clerk