

**CODE OF ORDINANCES
OF THE
CITY OF
WEST UNION, IOWA**

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title	1.08 Amendments
1.02 Definitions	1.09 Catchlines and Notes
1.03 City Powers	1.10 Altering Code
1.04 Indemnity	1.11 Severability
1.05 Personal Injuries	1.12 Warrants
1.06 Rules of Construction	1.13 General Standards for Action
1.07 Extension of Authority	1.14 Standard Penalty

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of West Union, Iowa.

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined in the *Code of Iowa*, such definitions apply to their use in this Code of Ordinances unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision. Other words and phrases used herein have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances or unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provision:

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "City" means the City of West Union, Iowa.
3. "Clerk" means the city clerk of West Union, Iowa.
4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. "Code of Ordinances" means the Code of Ordinances of the City of West Union, Iowa.
6. "Council" means the city council of West Union, Iowa.
7. "County" means Fayette County, Iowa.
8. "May" confers a power.
9. "Measure" means an ordinance, amendment, resolution or motion.
10. "Must" states a requirement.
11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of West Union, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. "Shall" imposes a duty.
16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. "State" means the State of Iowa.
18. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.
19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Words that are not defined in this Code of Ordinances or by the *Code of Iowa* have their ordinary meaning unless such construction would be inconsistent with the manifest intent of the Council, or repugnant to the context of the provision.

1.03 CITY POWERS. The City may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the City and of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents, and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for any injury to or death of any person or persons whomsoever, and any loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the

foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

1.06 RULES OF CONSTRUCTION. In the construction of this Code of Ordinances, the rules of statutory construction as set forth in Chapter 4 of the *Code of Iowa* shall be utilized to ascertain the intent of the Council with the understanding that the term “statute” as used therein will be deemed to be synonymous with the term “ordinance” when applied to this Code of Ordinances.

1.07 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances, the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

1.08 AMENDMENTS. All ordinances which amend, repeal or in any manner affect this Code of Ordinances shall include proper reference to chapter, section, subsection, or paragraph to maintain an orderly codification of ordinances of the City.

(Code of Iowa, Sec. 380.2)

1.09 CATCHLINES AND NOTES. The catchlines of the several sections of the Code of Ordinances, titles, headings (chapter, section and subsection), editor’s notes, cross references and State law references, unless set out in the body of the section itself, contained in the Code of Ordinances, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

1.10 ALTERING CODE. It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

(Code of Iowa, Sec. 718.5)

1.11 SEVERABILITY. If any section, provision, or part of the Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the Code of Ordinances as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

1.12 WARRANTS. If consent to enter upon or inspect any building, structure or property pursuant to a municipal ordinance is withheld by any person having the lawful right to exclude, the City officer or employee having the duty to enter upon or conduct the inspection may apply to the Iowa District Court in and for the County, pursuant to Section 808.14 of the *Code of Iowa*, for an administrative search warrant. No owner, operator or occupant or any other person having charge, care, or control of any dwelling unit, rooming unit, structure, building, or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny, or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.

(Code of Iowa, Sec. 364.3[2])

[The next page is 9]

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties of City Officers

2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of West Union, Iowa.

2.02 FORM OF GOVERNMENT. The form of government of the City is the Mayor-Council form of government.
(Code of Iowa, Sec. 372.4)

2.03 POWERS AND DUTIES OF CITY OFFICERS. The Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by State law and by the ordinances, resolutions, rules and regulations of the City.

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of two Council Members elected at large and one Council Member from each of three wards as established by this Code of Ordinances, elected for overlapping terms of four years.
(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of two years.
(Code of Iowa, Sec. 376.2)

2.06 COPIES ON FILE. The Clerk shall keep an official copy of the charter on file with the official records of the Clerk and the Secretary of State, and shall keep copies of the charter available at the Clerk's office for public inspection.
(Code of Iowa, Sec. 372.1)

EDITOR'S NOTE

Ordinance No. 205 adopting a charter for the City was passed and approved by the Council on March 22, 1973. Pursuant to Ordinance No. 227, adopted November 17, 1975, Council member terms were changed to overlapping 4-year terms.

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CHAPTER 3

BOUNDARIES

3.01 Corporate Limits

3.02 Division Into Wards

3.01 CORPORATE LIMITS. The corporate limits of the City are described as follows:

Beginning at the Southwest Corner of Section 20, Township 94 North, Range 8 West of the 5th P.M., Fayette County, Iowa; thence East 2,653 feet, more or less, along the South Section Line of said Section 20 to the South Quarter Corner of said Section 20; thence North 5,294 feet, more or less, along the North-South Quarter Section Line of said Section 20 to the South Quarter Corner of Section 17 in said Township and Range; thence East 3,975 feet, more or less, along the South Section Lines of said Section 17 and Section 16 in said Township and Range to the Southeast Corner of the Southwest Quarter of the Southwest Quarter of said Section 16; thence North 3,561 feet, more or less, along the North-South Quarter-Quarter Section Line of said Section 16 to the Southwest Corner of Parcel I and Baumler's First Addition; thence East 460.0 feet; thence North 330.0 feet to the East-West Quarter-Quarter Section Line of said Section 16, both along said Parcel I; thence East 359.4 feet along said East-West Quarter-Quarter Section Line; thence North 867.3 feet; thence West 834.9 feet to said North-South Quarter-Quarter Section Line of said Section 16; thence North 4,794 feet, more or less, along said North-South Quarter-Quarter Section Lines of said Section 16 and Section 9 in said Township and Range to the Northeast Corner of the Southwest Quarter of the Northwest Quarter of said Section 9; thence West 42.9 feet along the East-West Quarter-Quarter Section Line of said Section 9 to the Southeast Corner of Union Ridge First Subdivision; thence Northwesterly along the Easterly Line of said Subdivision to the North Corner of Lot 15; thence Southwesterly along the Westerly Line of said Subdivision to the Southwest Corner of Lot 12; thence West 122.7 feet along the North Line of said Subdivision to the East Section Line of Section 8 in said Township and Range; thence South 429.5 feet along said East Section Line to the Southeast Corner of the Northeast Quarter of the Northeast Quarter of said Section 8; thence West 5,304 feet, more or less, along the East-West Quarter-Quarter Section Line of said Section 8 to the Northwest Corner of the Southwest Quarter of the Northwest Quarter of said Section 8; thence South 14,508 feet, more or less, along the West Section Lines of said Sections 8, 17, and 20 in said Township and Range, to the Point of Beginning.

3.02 DIVISION INTO WARDS. The City is divided into three wards described as follows:

(Code of Iowa, Sec. 372.4 & 372.13[7])

1. First Ward. The first ward shall comprise that part of the City lying north of the centerline of Bradford Street from the west City limits to Vine Street and north of

the centerline of Cedar Street from Vine Street to Pine Street and west of the centerline of Pine Street from Cedar Street to the north City limits.

2. Second Ward. The second ward shall comprise that part of the City lying south of the centerline of Bradford Street and west of the centerline of Vine Street from Bradford Street to Franklin Street, then to the south and west of the centerline of Franklin Street to the City limits.

3. Third Ward. The third ward shall comprise that part of the City lying south of the centerline of Bradford Street and east of the centerline of Vine Street from Bradford Street to Franklin Street, then north and east of the centerline of Franklin Street to the City limits; also south of the centerline of Cedar Street from Vine Street to Pine Street and east of the centerline of Pine Street from Bradford Street to the north City limits.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties

4.04 Civil Citations
4.05 Alternative Relief
4.06 Criminal Penalties

4.01 MUNICIPAL INFRACTION. A violation of this Code of Ordinances or any ordinance or code herein adopted by reference or the omission or failure to perform any act or duty required by the same, with the exception of those provisions specifically provided under State law as a felony, an aggravated misdemeanor, or a serious misdemeanor, or a simple misdemeanor under Chapters 687 through 747 of the *Code of Iowa*, is a municipal infraction punishable by civil penalty as provided herein.

(Code of Iowa, Sec. 364.22[3])

4.02 ENVIRONMENTAL VIOLATION. A municipal infraction which is a violation of Chapter 455B of the *Code of Iowa* or of a standard established by the City in consultation with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provisions of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

(Code of Iowa, Sec. 364.22 [1])

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.
2. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.
3. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

4.03 PENALTIES. A municipal infraction is punishable by the following civil penalties:

(Code of Iowa, Sec. 364.22 [1])

1. Standard Civil Penalties.
 - A. First Offense – Not to exceed \$750.00
 - B. Each Repeat Offense – Not to exceed \$1,000.00

Each day that a violation occurs or is permitted to exist constitutes a repeat offense.

2. Special Civil Penalties.

A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.

B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight (8) hours.

4.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 1.305, by certified mail addressed to the defendant at defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in Rule of Civil Procedure 1.310 and subject to the conditions of Rule of Civil Procedure 1.311. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

(Code of Iowa, Sec. 364.22[4])

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.
3. The location and time of the infraction.
4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.
7. The penalty for failure to appear in court.

4.05 ALTERNATIVE RELIEF. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

(Code of Iowa, Sec. 364.22 [8])

4.06 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

(Code of Iowa, Sec. 364.22[11])

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths	5.07 Conflict of Interest
5.02 Bonds	5.08 Resignations
5.03 Duties: General	5.09 Removal of Appointed Officers and Employees
5.04 Books and Records	5.10 Vacancies
5.05 Transfer to Successor	5.11 Gifts
5.06 Meetings	

5.01 OATHS. The oath of office shall be required and administered in accordance with the following:

1. **Qualify for Office.** Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after being certified as elected but not later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

(Code of Iowa, Sec. 63.1)

2. **Prescribed Oath.** The prescribed oath is: "I, (name), do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all duties of the office of (name of office) in West Union as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

3. **Officers Empowered to Administer Oaths.** The following are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office:

- A. Mayor
- B. City Clerk
- C. Members of all boards, commissions or bodies created by law.

(Code of Iowa, Sec. 63A.2)

5.02 BONDS. Surety bonds are provided in accordance with the following:

1. **Required.** The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

(Code of Iowa, Sec. 64.13)

2. **Bonds Approved.** Bonds shall be approved by the Council.

(Code of Iowa, Sec. 64.19)

3. **Bonds Filed.** All bonds, after approval and proper record, shall be filed with the Clerk.

(Code of Iowa, Sec. 64.23[6])

4. Record. The Clerk shall keep a book, to be known as the “Record of Official Bonds” in which shall be recorded the official bonds of all City officers, elective or appointive.

(Code of Iowa, Sec. 64.24[3])

5.03 DUTIES: GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and this Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.

(Code of Iowa, Sec. 372.13[4])

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records which are combined with data processing software shall be in accordance with policies and procedures established by the City.

(Code of Iowa, Sec. 22.2 & 22.3A)

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in the officer’s custody and appertaining to that office.

(Code of Iowa, Sec. 372.13[4])

5.06 MEETINGS. All meetings of the Council, any board or commission, or any multi-membered body formally and directly created by any of the foregoing bodies shall be held in accordance with the following:

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda shall be given.

(Code of Iowa, Sec. 21.4)

2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.

(Code of Iowa, Sec. 21.3)

3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

4. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting and in accordance with Chapter 21 of the *Code of Iowa*.

(Code of Iowa, Sec. 21.5)

5. Cameras and Recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

6. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the *Code of Iowa*.
(*Code of Iowa, Sec. 21.8*)

5.07 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

(*Code of Iowa, Sec. 362.5*)

1. Compensation of Officers. The payment of lawful compensation of a City officer or employee holding more than one City office or position, the holding of which is not incompatible with another public office or is not prohibited by law.

(*Code of Iowa, Sec. 362.5[1]*)

2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.

(*Code of Iowa, Sec. 362.5[2]*)

3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.

(*Code of Iowa, Sec. 362.5[3]*)

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

(*Code of Iowa, Sec. 362.5[5]*)

5. Newspaper. The designation of an official newspaper.

(*Code of Iowa, Sec. 362.5[6]*)

6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.

(*Code of Iowa, Sec. 362.5[7]*)

7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.

(*Code of Iowa, Sec. 362.5[8]*)

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (5%) of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.

(*Code of Iowa, Sec. 362.5[9]*)

9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.

(Code of Iowa, Sec. 362.5[4])

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars (\$1500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[11])

11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

(Code of Iowa, Sec. 362.5[12])

12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser or obligee of the contract.

(Code of Iowa, Sec. 362.5[13])

5.08 RESIGNATIONS. An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected, if during that time the compensation of the office has been increased.

(Code of Iowa, Sec. 372.13[9])

5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.

Except as otherwise provided by State or City law, all persons appointed to City office or employment may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within thirty (30) days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within thirty (30) days after the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES. A vacancy in an elective City office during a term of office shall be filled, at the Council's option, by one of the two following procedures:

(Code of Iowa, Sec. 372.13 [2])

1. Appointment. By appointment following public notice by the remaining members of the Council within forty (40) days after the vacancy occurs, except that if the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

(Code of Iowa, Sec. 372.13 [2a])

2. Election. By a special election held to fill the office for the remaining balance of the unexpired term as provided by law.

(Code of Iowa, Sec. 372.13 [2b])

5.11 GIFTS. Except as otherwise provided in Chapter 68B of the *Code of Iowa*, a public official, public employee or candidate, or that person’s immediate family member, shall not, directly or indirectly, accept or receive any gift or series of gifts from a “restricted donor” as defined in Chapter 68B and a restricted donor shall not, directly or indirectly, individually or jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee or candidate.

(Code of Iowa, Sec. 68B.22)

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

6.01 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the *Code of Iowa*.

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten (10) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

6.03 ADDING NAME BY PETITION. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be substantially in the form prescribed by the State Commissioner of Elections, shall include information required by the *Code of Iowa*, and shall be signed in accordance with the *Code of Iowa*.

(Code of Iowa, Sec. 45.3, 45.5 & 45.6)

6.05 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the *Code of Iowa*.

(Code of Iowa, Sec. 45.4)

6.06 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

(Code of Iowa, Sec. 376.8[3])

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

7.01 PURPOSE. The purpose of this chapter is to establish policies and provide for rules and regulations governing the management of the financial affairs of the City.

7.02 FINANCE OFFICER. The Clerk is the finance and accounting officer of the City and is responsible for the administration of the provisions of this chapter.

7.03 CASH CONTROL. To assure the proper accounting and safe custody of moneys the following shall apply:

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.
2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.21, 12B.10, 12C.1)

7.04 FUND CONTROL. There shall be established and maintained separate and distinct funds in accordance with the following:

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.
(IAC, 545-2.5 [384,388], Sec. 2.5[2])
4. Debt Service Fund. Except where specifically prohibited by State law, moneys may be transferred from any other City fund to the Debt Service Fund to meet payments of principal and interest. Such transfers must be authorized by the original budget or a budget amendment.

(IAC, 545-2.5[384,388] Sec. 2.5[3])

5. Capital Improvements Reserve Fund. Except where specifically prohibited by State law, moneys may be transferred from any City fund to the Capital Improvements Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.

(IAC, 545-2.5[384,388] Sec. 2.5[4])

6. Utility and Enterprise Funds. A surplus in a Utility or Enterprise Fund may be transferred to any other City fund, except the Emergency Fund and Road Use Tax Funds, by resolution of the Council. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the Utility or Enterprise Fund. A surplus is defined as the cash balance in the operating account or the unrestricted retained earnings calculated in accordance with generally accepted accounting principles in excess of:

A. The amount of the expense of disbursements for operating and maintaining the utility or enterprise for the preceding three (3) months, and

B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months.

(IAC, 545-2.5[384,388], Sec. 2.5[5])

7. Balancing of Funds. Fund accounts shall be reconciled at the close of each month and a report thereof submitted to the Council.

7.05 OPERATING BUDGET PREPARATION. The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.

2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.

4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

(Code of Iowa, Sec. 384.16[3])

6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the Clerk shall make available a sufficient number of copies

of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.

(Code of Iowa, Sec. 384.16[2])

7. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

(Code of Iowa, Sec. 384.16[5])

7.06 BUDGET AMENDMENTS. A City budget finally adopted for the following fiscal year becomes effective July 1 and constitutes the City appropriation for each program and purpose specified therein until amended as provided by this section.

(Code of Iowa, Sec. 384.18)

1. Program Increase. Any increase in the amount appropriated to a program must be prepared, adopted and subject to protest in the same manner as the original budget.

(IAC, 545-2.2 [384, 388])

2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted and subject to protest in the same manner as the original budget.

(IAC, 545-2.3 [384, 388])

3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.

(IAC, 545-2.4 [384, 388])

4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.

(IAC, 545-2.4 [384, 388])

7.07 ACCOUNTING. The accounting records of the City shall consist of not less than the following:

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.

2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.

3. Checks. Checks shall be prenumbered and signed by the Clerk following Council approval, except as provided by subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program, sub-program and activity as will provide adequate information and control for budgeting purposes as planned and

approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.

6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

7.08 FINANCIAL REPORTS. The finance officer shall prepare and file the following financial reports:

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.

2. Annual Report. Not later than December first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

8.01 PURPOSE. The purpose of this chapter is to provide for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses and distribution centers.

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

1. “Actual value added” means the actual value added as of the first year for which the exemption is received.
2. “Distribution center” means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
3. “New construction” means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.
4. “Research-service facilities” means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.
5. “Warehouse” means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses and distribution centers is eligible to receive a partial exemption from taxation for a period of five (5) years.

(Code of Iowa, Sec. 427B.3)

8.04 AMOUNTS ELIGIBLE FOR EXEMPTION. The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

(Code of Iowa, Sec. 427B.3)

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

8.05 LIMITATIONS. The granting of the exemption under this chapter for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

(Code of Iowa, Sec. 427B.3)

8.06 APPLICATIONS. An application shall be filed for each project resulting in actual value added for which an exemption is claimed.

(Code of Iowa, Sec. 427B.4)

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.
2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

8.07 APPROVAL. A person may submit a proposal to the City Council to receive prior approval for eligibility for a tax exemption on new construction. If the City Council resolves to consider such proposal, it shall publish notice and hold a public hearing thereon. Thereafter, at least thirty (30) days after such hearing the City Council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with City zoning. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate.

(Code of Iowa, Sec. 427B.4)

8.08 EXEMPTION REPEALED. When in the opinion of the City Council continuation of the exemption granted by this chapter ceases to be of benefit to the City, the City Council may repeal this chapter, but all existing exemptions shall continue until their expiration.

(Code of Iowa, Sec. 427B.5)

8.09 DUAL EXEMPTIONS PROHIBITED. A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Code of Iowa, Sec. 427B.6)

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CHAPTER 10
URBAN RENEWAL

EDITOR'S NOTE		
<p>The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.</p>		
ORDINANCE NO.	ADOPTED	NAME OF AREA
397	September 23, 1991	West Union Industrial Urban Renewal Area
400	December 2, 1991	West Union Industrial Urban Renewal Area
413	August 10, 1992	West Union Commercial Urban Renewal Area
485	July 9, 2001	North Park Heights Urban Renewal Area
486	July 9, 2001	Union Ridge Urban Renewal Area
535	May 21, 2007	Property Added to Commercial Urban Renewal Area
538	October 1, 2007	Gundersen Lutheran Medical Clinic Urban Renewal Area

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of two (2) years.

(Code of Iowa, Sec. 376.2)

15.02 POWERS AND DUTIES. The powers and duties of the Mayor are as follows:

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, except for supervisory duties delegated to the City Administrator, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

(Code of Iowa, Sec. 372.14[1])

2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.

(Code of Iowa, Sec. 372.14[2])

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.

(Code of Iowa, Sec. 372.14[1])

4. Mayor's Veto. Sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. The Mayor may veto an ordinance, amendment or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

(Code of Iowa, Sec. 380.5 & 380.6[2])

5. Reports to Council. Make such oral or written reports to the Council as required. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for Council action.

6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.

7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.

8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.

9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.

10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.

11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:

(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem
2. Police Chief
3. Library Board of Trustees
4. Parks and Recreation Board
5. Cemetery Board of Trustees

15.04 COMPENSATION. The compensation of the Mayor shall be a salary of one hundred thirty-five dollars (\$135.00) per month, payable monthly, plus the sum of thirty-five dollars (\$35.00) for each regular or special meeting he or she attends, payable quarterly.

(Code of Iowa, Sec. 372.13[8])

15.05 VOTING. The Mayor is not a member of the Council and shall not vote as a member of the Council.

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL. The Mayor shall appoint a member of the Council as Mayor Pro Tem, who shall serve as vice president of the Council.

(Code of Iowa, Sec. 372.14[3])

16.02 POWERS AND DUTIES. Except for the limitations otherwise provided herein, the Mayor Pro Tem shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform such duties. In the exercise of the duties of the office the Mayor Pro Tem shall not have power to appoint, employ, or discharge from employment officers or employees that the Mayor has the power to appoint, employ, or discharge without the approval of the Council.

(Code of Iowa, Sec. 372.14[3])

16.03 VOTING RIGHTS. The Mayor Pro Tem shall have the right to vote as a member of the Council.

(Code of Iowa, Sec. 372.14[3])

16.04 COMPENSATION. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen (15) days or more, the Mayor Pro Tem may be paid for that period the compensation as determined by the Council, based upon the Mayor Pro Tem's performance of the Mayor's duties and upon the compensation of the Mayor.

(Code of Iowa, Sec. 372.13[8])

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CHAPTER 17

CITY COUNCIL

17.01 Number and Term of Council
17.02 Powers and Duties
17.03 Exercise of Power

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of two (2) Council Members elected at large and one (1) Council Member from each of three (3) wards as established by this Code of Ordinances, elected for overlapping terms of four (4) years.

(Code of Iowa, Sec. 372.4 & 376.2)

17.02 POWERS AND DUTIES. The powers and duties of the Council include, but are not limited to the following:

1. General. All powers of the City are vested in the Council except as otherwise provided by law or ordinance.

(Code of Iowa, Sec. 364.2[1])

2. Wards. By ordinance, the Council may divide the City into wards based upon population, change the boundaries of wards, eliminate wards or create new wards.

(Code of Iowa, Sec. 372.13[7])

3. Fiscal Authority. The Council shall apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. It shall make all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs which may be specially assessed.

(Code of Iowa, Sec. 364.2[1], 384.16 & 384.38 [1])

4. Public Improvements. The Council shall make all orders for the construction of any improvements, bridges, or buildings.

(Code of Iowa, Sec. 364.2[1])

5. Contracts. The Council shall make or authorize the making of all contracts. No contract shall bind or be obligatory upon the City unless approved by the Council.

(Code of Iowa, Sec. 26.10)

6. Employees. The Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by State law or the Code of Ordinances.

(Code of Iowa, Sec. 372.13[4])

7. Setting Compensation for Elected Officers. By ordinance, the Council shall prescribe the compensation of the Mayor, Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the year of a regular City election. A change in the compensation of Council members becomes effective for all Council members at the

beginning of the term of the Council members elected at the election next following the change in compensation.

(Code of Iowa, Sec. 372.13[8])

17.03 EXERCISE OF POWER. The Council shall exercise a power only by the passage of a motion, a resolution, an amendment or an ordinance in the following manner:

(Code of Iowa, Sec. 364.3[1])

1. Action by Council. Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars (\$100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the Council may pass the measure again by a vote of not less than two-thirds of all of the members of the Council.

(Code of Iowa, Sec. 380.6[2])

3. Measures Become Effective. Measures passed by the Council become effective in one of the following ways:

A. An ordinance or amendment signed by the Mayor becomes effective when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.

(Code of Iowa, Sec. 380.6[1a])

B. A resolution signed by the Mayor becomes effective immediately upon signing.

(Code of Iowa, Sec. 380.6[1b])

C. A motion becomes effective immediately upon passage of the motion by the Council.

(Code of Iowa, Sec. 380.6[1c])

D. If the Mayor vetoes an ordinance, amendment or resolution and the Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an ordinance or amendment becomes a law when the ordinance or a summary of the ordinance is published, unless a subsequent effective date is provided within the ordinance or amendment.

(Code of Iowa, Sec. 380.6[2])

E. If the Mayor takes no action on an ordinance, amendment or resolution, a resolution becomes effective fourteen (14) days after the date of passage, and an ordinance or amendment becomes law when the ordinance or a summary of the ordinance is published, but not sooner than fourteen (14) days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

(Code of Iowa, Sec. 380.6[3])

“All of the members of the Council” refers to all of the seats of the Council including a vacant seat and a seat where the member is absent, but does not include a seat where the Council member declines to vote by reason of a conflict of interest.

(Code of Iowa, Sec. 380.4)

17.04 COUNCIL MEETINGS. Procedures for giving notice of meetings of the Council and other provisions regarding the conduct of Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to Council meetings are the following:

1. Regular Meetings. The first regular meeting of the new Council shall be held at 12:00 noon on the first secular day in January after the regular municipal election, and all other regular meetings of the Council shall be held on the first and third Mondays of each month at 5:30 p.m. All meetings shall be held in the Council Room in the municipal building and shall at all times be open to the public.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

17.05 APPOINTMENTS. The Council shall appoint the following officials and prescribe their powers, duties, compensation and term of office:

1. City Clerk
2. City Attorney
3. City Administrator
4. Planning and Zoning Commission
5. Zoning Board of Adjustment
6. Two Airport Zoning Commission Members
7. Two Airport Zoning Board of Adjustment Members
8. Airport Commission
9. Parks and Recreation Director (upon recommendation of Board)

17.06 COMPENSATION. The salary of each Council member is thirty-five dollars (\$35.00) for each regular or special Council meeting attended, payable quarterly.

(Code of Iowa, Sec. 372.13[8])

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures

18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

18.01 APPOINTMENT AND COMPENSATION. The City Administrator is ex officio City Clerk and has the duties, powers and functions prescribed in this chapter, by State law and other ordinances of the City.

(Code of Iowa, Sec. 372.13[3])

18.02 POWERS AND DUTIES: GENERAL. The Clerk or, in the Clerk's absence or inability to act, the Deputy Clerk has the powers and duties as provided in this chapter, this Code of Ordinances, and the law.

18.03 PUBLICATION OF MINUTES. The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

(Code of Iowa, Sec. 372.13[6])

18.04 RECORDING MEASURES. The Clerk shall promptly record each measure considered by the Council and record a statement with the measure, where applicable, indicating whether the Mayor signed, vetoed or took no action on the measure, and whether the measure was repassed after the Mayor's veto.

(Code of Iowa, Sec. 380.7[1 & 2])

18.05 PUBLICATION. The Clerk shall cause to be published all ordinances, enactments, proceedings and official notices requiring publication as follows:

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) or more than twenty (20) days before the date of the election, hearing or other action, unless otherwise provided by law.

(Code of Iowa, Sec. 362.3[1])

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

(Code of Iowa, Sec. 362.3[2])

18.06 AUTHENTICATION. The Clerk shall authenticate all measures except motions with the Clerk's signature, certifying the time and manner of publication when required.

(Code of Iowa, Sec. 380.7[4])

18.07 CERTIFY MEASURES. The Clerk shall certify all measures establishing any zoning district, building lines, or fire limits and a plat showing the district, lines, or limits to the recorder of the County containing the affected parts of the City.

(Code of Iowa, Sec. 380.11)

18.08 RECORDS. The Clerk shall maintain the specified City records in the following manner:

1. Ordinances and Codes. Maintain copies of all effective City ordinances and codes for public use.

(Code of Iowa, Sec. 380.7[5])

2. Custody. Have custody and be responsible for the safekeeping of all writings or documents in which the City is a party in interest unless otherwise specifically directed by law or ordinance.

(Code of Iowa, Sec. 372.13[4])

3. Maintenance. Maintain all City records and documents, or accurate reproductions, for at least five (5) years except that ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to the issuance, cancellation, transfer, redemption or replacement of public bonds or obligations shall be kept for at least eleven (11) years following the final maturity of the bonds or obligations. Ordinances, resolutions, Council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.

(Code of Iowa, Sec. 372.13[3 & 5])

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of such officer's duty; furnish a copy to any citizen when requested upon payment of the fee set by Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments which by ordinance and Code of Ordinances are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 372.13[4 & 5] and 380.7[5])

5. Filing of Communications. Keep and file all communications and petitions directed to the Council or to the City generally. The Clerk shall endorse thereon the action of the Council taken upon matters considered in such communications and petitions.

(Code of Iowa, Sec. 372.13[4])

18.09 ATTENDANCE AT MEETINGS. At the direction of the Council, the Clerk shall attend meetings of committees, boards and commissions. The

Clerk shall record and preserve a correct record of the proceedings of such meetings.

(Code of Iowa, Sec. 372.13[4])

18.10 ISSUE LICENSES AND PERMITS. The Clerk shall issue or revoke licenses and permits when authorized by this Code of Ordinances, and keep a record of licenses and permits issued which shall show date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit and purpose for which issued.

(Code of Iowa, Sec. 372.13[4])

18.11 NOTIFY APPOINTEES. The Clerk shall inform all persons appointed by the Mayor or Council to offices in the City government of their position and the time at which they shall assume the duties of their office.

(Code of Iowa, Sec. 372.13[4])

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections and nominations in accordance with Chapter 376 of the Code of Iowa.

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders and certificates which it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words “WEST UNION, IOWA” and around the margin the words “CITY SEAL.”

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The City Administrator is the Treasurer and performs all functions required of the position of Treasurer.

19.02 COMPENSATION. The City Administrator receives no additional compensation for performing the duties of the Treasurer.

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:

(Code of Iowa, Sec. 372.13[4])

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.
2. Record of Fund. Keep the record of each fund separate.
3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.
4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.
9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation

20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for a term of two (2) years. The City Attorney shall receive such compensation as established by resolution of the Council.

(Code of Iowa, Sec. 372.13[4])

20.02 ATTORNEY FOR CITY. The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or Council.

(Code of Iowa, Sec. 372.13[4])

20.03 POWER OF ATTORNEY. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.

(Code of Iowa, Sec. 372.13[4])

20.04 ORDINANCE PREPARATION. The City Attorney shall prepare those ordinances which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.

(Code of Iowa, Sec. 372.13[4])

20.05 REVIEW AND COMMENT. The City Attorney shall, upon request, make a report to the Council giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.

(Code of Iowa, Sec. 372.13[4])

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor, Council or City Administrator.

(Code of Iowa, Sec. 372.13[4])

20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.08 PREPARE DOCUMENTS. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.
(Code of Iowa, Sec. 372.13[4])

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CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment and Term
21.02 Compensation

21.03 Administrative Responsibility
21.04 Duties

21.01 APPOINTMENT AND TERM. The Council shall appoint by majority vote a City Administrator to serve at the discretion of the Council.

21.02 COMPENSATION. The City Administrator shall receive such annual salary as the Council shall from time to time determine by resolution.

21.03 ADMINISTRATIVE RESPONSIBILITY. The City Administrator is directly responsible to the Council for the administration of municipal affairs as directed by that body. All departmental activity requiring the attention of the Council shall be brought before the Council by the City Administrator and all Council involvement in administration initiated by the Council must be coordinated through the City Administrator.

21.04 DUTIES. The duties of the City Administrator are as follows:

1. To administer all ordinances, resolutions, Council policies and directives.
2. To attend all meeting of the Council unless excused by a majority of the Council.
3. To recommend to the Council such measures as deemed necessary or expedient for the good government and welfare of the City.
4. To have the general supervision and direction of the administration of the City government and to appoint with approval of the Council such administrative assistants as shall be deemed advisable.
5. To assist the Mayor in any of the Mayor's duties as requested by the Mayor and as approved by the Council.
6. To assist the Council with the municipal boards and commissions by making recommendations to the boards and commissions about planning, activities and the execution of its policies and programs as agreed on.
7. To cooperate with any administrative agency and make recommendations to the Council for joint or cooperative activities with said agencies.
8. To appoint and, when necessary, suspend or remove all officers and employees of the City except those officers and employees whose appointment, suspension or removal is otherwise provided for by law or ordinance.
9. To supervise and direct the official conduct of all officers and employees of the City whom he or she has the power to appoint or employ, as delegated by the Council or Mayor.

10. To supervise the construction, improvement, repair, maintenance and management of all City property, capital improvements and undertakings of the City, including the making and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements except as otherwise delegated to an administrative agency of the City in accordance with this Code of Ordinances or State law.
11. To supervise the performance of all contracts for work to be done for the City and the purchase of material and supplies.
12. To investigate, summarily and without notice, any affairs and conduct of any department, agency, officer or employee under the supervision of the City Administrator.
13. To provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by City and State law.
14. To keep the Council fully advised of the financial and other conditions of the City and of its future needs.
15. To conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
16. To act for the City in the exercise and execution of all policies and programs whereby the City is involved on a joint basis with any other governmental subdivision, including any subdivision of government of the State or the United States of America.
17. To perform other duties at the Council's direction.

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library	22.07 Nonresident Use
22.02 Library Trustees	22.08 Expenditures
22.03 Qualifications of Trustees	22.09 Annual Report
22.04 Organization of the Board	22.10 Injury to Books or Property
22.05 Powers and Duties	22.11 Theft
22.06 Contracting with Other Libraries	22.12 Notice Posted

22.01 PUBLIC LIBRARY. The public library for the City is known as the West Union Community Library. It is referred to in this chapter as the Library.

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

22.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident member of the Board shall be a bona fide citizen and resident of the County outside the City boundaries but within ten (10) miles of the City boundaries. Members shall be over the age of eighteen (18) years.

22.04 ORGANIZATION OF THE BOARD. The organization of the Board shall be as follows:

1. Term of Office. All appointments to the Board shall be for six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

22.05 POWERS AND DUTIES. The Board shall have and exercise the following powers and duties:

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)

12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment

of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

22.06 CONTRACTING WITH OTHER LIBRARIES. The Board has power to contract with other libraries in accordance with the following:

1. Contracting. The Board may contract with any other boards of trustees of free public libraries, with any other city, school corporation, private or semiprivate organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.

(Code of Iowa, Sec. 392.5 & Ch. 28E)

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) percent in number of the electors who voted for governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

22.07 NONRESIDENT USE. The Board may authorize the use of the Library by persons not residents of the City or County in any one or more of the following ways:

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

22.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary.

(Code of Iowa, Sec. 384.20 & 392.5)

22.09 ANNUAL REPORT. The Board shall make a report to the Council immediately after the close of the fiscal year. This report shall contain statements as to the condition of the Library, the number of books added, the number circulated, the amount of fines collected, and the amount of money expended in the maintenance of the Library during the year, together with such further information as may be required by the Council.

22.10 INJURY TO BOOKS OR PROPERTY. It is unlawful for a person willfully, maliciously or wantonly to tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the Library or reading room.

(Code of Iowa, Sec. 716.1)

22.11 THEFT. No person shall take possession or control of property of the Library with the intent to deprive the Library thereof.

(Code of Iowa, Sec. 714.1)

22.12 NOTICE POSTED. There shall be posted in clear public view within the Library notices informing the public of the following:

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

2. Detention and Search. Persons concealing Library materials may be detained and searched pursuant to law.

(Code of Iowa, Sec. 808.12)

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

23.01 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)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) 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 of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

5. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced 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. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

7. 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 whatsoever which are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

8. 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)

9. 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, disbursements and the progress of its work during the preceding fiscal year.

(Code of Iowa, Sec. 392.1)

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CHAPTER 24

PARKS AND RECREATION BOARD

24.01 Parks and Recreation Board Created
24.02 Board Organization
24.03 Duties of the Board

24.04 Reports
24.05 Rules
24.06 Parks and Recreation Director

24.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation.

24.02 BOARD ORGANIZATION. The Board shall consist of seven members, of which up to two may be nonresidents of the City, appointed by the Mayor with the approval of the Council, for overlapping terms of four years. The Board shall choose its Chairperson and Vice Chairperson every two years. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

24.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board has authority over the properties and personnel devoted to parks and recreation, subject to the limitation of expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for parks and recreation operations. The Board shall cooperate with the Mayor in the allotment of time of City employees for parks and recreation purposes.

24.04 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

24.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

24.06 PARKS AND RECREATION DIRECTOR. A Parks and Recreation Director shall be appointed to plan and oversee, with the guidance of the Board, City programs, and to encourage other programs to enhance the leisure time activities of the City's residents of all ages. The Parks and Recreation Director shall be appointed by the Council with recommendations by the Board and shall be responsible to the Board. The Board shall work with the Director with regard to the management of lands, recreational services and programs, acquisition and maintenance of capital improvements and the administration of the powers and duties of the Board. In addition, the Director shall have other duties as may be established by the Board.

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CHAPTER 25

AIRPORT ZONING COMMISSION

25.01 Airport Zoning Commission
25.02 Terms of Office

25.03 Removal; Vacancies
25.04 Powers and Duties

25.01 AIRPORT ZONING COMMISSION. There shall be an Airport Zoning Commission consisting of five members, two of whom shall be selected by the Board of Supervisors of the County, two of whom shall be selected by the Council, and one additional member to act as Chairperson shall be selected by a majority vote of the members selected by the County and City as herein provided.

(Code of Iowa, Sec. 329.9)

25.02 TERMS OF OFFICE. The terms of the members of the Commission shall be six years. Appointments shall be made every two years of one-third (1/3) the total number or as near as possible, to provide for staggered terms.

(Code of Iowa, Sec. 329.9)

25.03 REMOVAL; VACANCIES. Members of the Commission may be removed for cause by the appointing authority upon written charges after public hearing. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant in the same manner in which said member was selected.

(Code of Iowa, Sec. 329.9)

25.04 POWERS AND DUTIES. The Commission shall have all the powers, duties and authority vested in it by the laws of the State, now in effect or which may be hereafter enacted, and by resolution and ordinances of the County and City.

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CHAPTER 26

AIRPORT COMMISSION

26.01 Airport Commission
26.02 Appointment and Term
26.03 Vacancies
26.04 Compensation

26.05 Bond
26.06 Officers
26.07 Powers and Duties
26.08 Annual Report

26.01 AIRPORT COMMISSION. There shall be an Airport Commission consisting of five resident voters of the City.

(Code of Iowa, Sec. 330.20)

26.02 APPOINTMENT AND TERM. Commissioners shall be appointed by the Council for staggered terms of six years.

(Code of Iowa, Sec. 330.20)

26.03 VACANCIES. Vacancies shall be filled by appointment of the Council to fill out the unexpired term for which the appointment was made.

(Code of Iowa, Sec. 330.20)

26.04 COMPENSATION. Members of the Commission shall serve without compensation.

(Code of Iowa, Sec. 330.20)

26.05 BOND. No bond shall be required of the Commissioners.

(Code of Iowa, Sec. 330.20)

26.06 OFFICERS. The Commission shall elect from its own members a Chairperson and Secretary, who shall serve for such terms as the Commission shall determine.

(Code of Iowa, Sec. 330.20)

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

1. General. The Commission has all the powers in relation to airports granted to cities under State law except powers to sell the airport.

(Code of Iowa, Sec. 330.21)

2. Budget. The Commission shall annually certify the amount of tax to be levied for airport purposes, and upon such certification the Council may include all or a portion of said amount in its budget.

(Code of Iowa, Sec. 330.21)

3. Funds. All funds derived from taxation or otherwise for airport purposes shall be under the full and absolute control of the Commission for the purposes prescribed by law, and shall be deposited with the Treasurer or City Clerk to the credit of the Airport Commission, and shall be disbursed only on the written orders of the Airport

Commission, including the payment of all indebtedness arising from the acquisition and construction of airports and the maintenance, operation, and extension thereof.

(Code of Iowa, Sec. 330.21)

26.08 ANNUAL REPORT. The Airport Commission shall immediately after the close of each municipal fiscal year, file with the City Clerk a detailed and audited written report of all money received and disbursed by the Commission during said fiscal year, and shall publish a summary thereof in an official newspaper.

(Code of Iowa, Sec. 330.22)

CHAPTER 27

CEMETERY BOARD OF TRUSTEES

27.01 Established

27.02 Powers and Duties

27.03 Rules and Regulations

27.04 Cemetery Funds

27.05 Sale of Interment Rights

27.06 Perpetual Care

27.07 Cemetery Extension Fund

27.08 Cemetery Operating Fund

27.09 Reports to the Council

27.10 Hours

27.01 ESTABLISHED. The Cemetery Board of Trustees, hereinafter referred to as the Board, consists of five members, all residents of the City, appointed by the Mayor with the approval of the Council for overlapping terms of five years. Vacancies on the Board caused by death, resignation or reasons other than expiration of term of office shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Members of the Board shall receive no compensation for their services.

27.02 POWERS AND DUTIES. The Board shall have full charge and control of the City cemetery, and all the powers and duties over cemeteries that are given to the City by State law are hereby delegated to and conferred upon said Board. Pursuant to Section 523I.502 of the *Code of Iowa*, the Board hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery properties.

(Code of Iowa, Sec. 523I.501 and Sec. 523I.502)

27.03 RULES AND REGULATIONS. The Board shall have power to adopt, by resolution, any and all reasonable rules and regulations for the use, management, adornment and control of the cemeteries under its control, which shall include, but not be limited to, rules and regulations in reference to the burial of the dead, care of the lots, maintenance of the cemetery, including employment of caretaker and assistants, sale of lots, fixing and determining all charges for services or materials, and the organization and meetings of said Board in a proper manner and not inconsistent with the laws of the State. All such rules and regulations shall be subject to Council approval. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, or a resident of the State who served in the armed forces of the United States, completed a minimum aggregate of ninety days of active Federal service and was discharged under honorable conditions, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery.

(Code of Iowa, Sec. 523I.304)

27.04 CEMETERY FUNDS. The Board is authorized to accept and control all moneys received or held for cemetery purposes and issue orders upon the City Treasurer for the payment of moneys available for any cemetery purpose as authorized by this chapter and the laws of the State. Expenditures shall be paid for only on orders of the Board, signed by its President. The warrant writing officer is the Clerk.

27.05 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment. Said agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The Board shall have the exclusive power to sell lots, or parts of lots, in said cemeteries under its control and shall have the right to delegate and confer such power upon any person, and upon such sale there shall be issued to the purchaser a certificate giving the correct description of the property sold to such person and the amount to be paid therefor, and upon said certificate being filed with the Mayor, and payment to the Mayor of the amount shown thereby, it shall be the duty of the Mayor to make, execute and deliver to said purchaser a deed conveying said premises, and the money so received by the Mayor shall be paid over to the City Treasurer for deposit in the proper cemetery funds within ten (10) days of receipt thereof. All of said deeds shall be countersigned by the Clerk.

(Code of Iowa, Sec. 523I.310)

27.06 PERPETUAL CARE. The Board, by resolution, shall accept, receive, and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a Perpetual Care Fund. The assets of the Perpetual Care Fund shall be invested in accordance with State law. The Board, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

27.07 CEMETERY EXTENSION FUND. Out of the proceeds received from the sale of lots, or parts thereof, in any cemetery under the control of the Board, after first deducting the amount specified for perpetual care, there shall be set aside a percentage of the remaining balance of the sale price, as shall be specified by the Board from time to time in the rules and regulations adopted by it, but in no event more than twenty-five percent (25%), to be known as the "Cemetery Extension Fund," and the money thus set aside shall be used only for the purpose of buying additional land for cemetery purposes or erecting mausoleums. The money in such fund shall be invested in accordance with law, and all income thereon shall become a part of said Cemetery Extension Fund, provided however, such income may, at any time, be expended for any cemetery purpose by the Board.

27.08 CEMETERY OPERATING FUND. The balance of the proceeds paid from the sale of cemetery lots or parts thereof under the control of the Board shall be deposited together with all money receives from any other source for cemetery purposes, except if otherwise designated, in a cemetery operating fund from which all operating expenses of the cemetery shall be paid.

27.09 REPORTS TO THE COUNCIL. The Board shall make written reports to the Council of its activities from time to time as it deems advisable or upon Council request. Its revenues and expenditures shall be reported annually in the manner of other departmental expenditures, and a copy shall be included in the Clerk's report to the Council.

27.10 HOURS. All cemeteries shall be closed to the public between the hours of 10:00 p.m. and 6:00 a.m. of the following day. It is the duty of the Police Chief to cause to be erected appropriate signs at any such cemetery giving notice of the closing hours, and when said signs are so erected, no person shall disobey the restrictions stated on such signs.

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Residence Requirement
30.05 Required Training
30.06 Compensation

30.07 Peace Officers Appointed
30.08 Police Chief: Duties
30.09 Departmental Rules
30.10 Summoning Aid
30.11 Taking Weapons

30.01 DEPARTMENT ESTABLISHED. The police department of the City is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the City.

30.02 ORGANIZATION. The department consists of the Police Chief and such other law enforcement officers and personnel, whether full or part time, as may be authorized by the Council.

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

30.04 RESIDENCE REQUIREMENT. All full-time members of the Police Department are required to reside within the corporate limits of the City, except for any members who resided outside the corporate limits as of November 19, 1984, and who remained outside said limits thereafter.

30.05 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

(Code of Iowa, Sec. 80B.11 [2])

(IAC, 501-3 and 501-8)

30.06 COMPENSATION. Members of the department are designated by rank and receive such compensation as shall be determined by resolution of the Council.

30.07 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief, subject to the consent of a majority of the Council. The Council shall select the other members of the department.

(Code of Iowa, Sec. 372.4)

30.08 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

(Code of Iowa, Sec. 372.13 [4])

1. General. Perform all duties required of the police chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
(Code of Iowa, Sec. 321.266)
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

30.09 DEPARTMENTAL RULES. The Police Chief shall establish such rules, not in conflict with the Code of Ordinances, and subject to the approval of the Council, as may be necessary for the operation of the department.

30.10 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, Sec. 804.17)

30.11 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.

(Code of Iowa, Sec. 804.18)

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CHAPTER 31

RESERVE PEACE OFFICERS

31.01 Establishment of Force
31.02 Training
31.03 Status of Reserve Officers
31.04 Carrying Weapons
31.05 Supplementary Capacity
31.06 Supervision of Officers

31.07 No Reduction of Regular Force
31.08 Compensation
31.09 Benefits When Injured
31.10 Insurance Liability and False Arrest Insurance
31.11 No Participation in Pension Fund or Retirement System

31.01 ESTABLISHMENT OF FORCE. A force of reserve peace officers is hereby established. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department's representative, and will participate on a regular basis in the agency's activities, including those of crime prevention and control, preservation of the peace and enforcement of the law.

31.02 TRAINING. Training for individuals appointed as reserve peace officers shall be provided by instructors in a community college or other facility, including a law enforcement agency, selected by the individual and approved by the law enforcement agency and the Iowa Law Enforcement Academy. All standards and training required under Chapter 80D of the Code of Iowa constitute the minimum standards for reserve peace officers. Upon satisfactory completion of training, the Iowa Law Enforcement Academy shall certify the individual as a reserve peace officer. There shall be no exemptions from the personal and training standards provided for in this chapter.

31.03 STATUS OF RESERVE OFFICERS. Reserve peace officers shall serve as peace officers on the orders and at the direction of the Police Chief. While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officers.

31.04 CARRYING WEAPONS. A member of the reserve force shall not carry a weapon in the line of duty until he or she has been approved by the Council and certified by the Iowa Law Enforcement Academy Council. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the Police Chief.

31.05 SUPPLEMENTARY CAPACITY. Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all the requirements of regular peace officers.

31.06 SUPERVISION OF OFFICERS. Reserve peace officers shall be subordinate to the Police Chief, shall not serve as peace officers unless under the direction of the Police Chief, and shall wear a uniform prescribed by the Police Chief, unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

31.07 NO REDUCTION OF REGULAR FORCE. There shall be no reduction of the authorized size of the regular law enforcement department of the City because of the establishment or utilization of reserve peace officers.

31.08 COMPENSATION. While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of \$1.00 per year. In addition to the above mentioned pay, the Police Chief may compensate reserve peace officers on an hourly basis, in the discretion of the Police Chief and subject to the approval of the Council. The hourly compensation shall be fixed from time to time by the Council.

31.09 BENEFITS WHEN INJURED. Hospital and medical assistance and benefits, as provided in Chapter 85 of the *Code of Iowa*, shall be provided by the Council to members of the reserve force who sustain injury in the course of performing official duties.

31.10 INSURANCE LIABILITY AND FALSE ARREST INSURANCE. Insurance liability and false arrest insurance shall be provided by the City to members of the reserve force while performing official duties in the same manner as for regular peace officers.

31.11 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM. This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of the State of which regular peace officer may become members.

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose	35.08 Obedience to Fire Chief
35.02 Organization	35.09 Constitution
35.03 Approved by Council	35.10 Accidental Injury Insurance
35.04 Training	35.11 Liability Insurance
35.05 Compensation	35.12 Calls Outside City
35.06 Election of Officers	35.13 Mutual Aid
35.07 Fire Chief: Duties	35.14 Authority to Cite Violations

35.01 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

35.02 ORGANIZATION. The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council.

(Code of Iowa, Sec. 372.13[4])

35.03 APPROVED BY COUNCIL. No person having otherwise qualified shall be appointed to the department until such appointment is submitted to and approved by a majority of the Council members.

35.04 TRAINING. All members of the department shall meet the minimum training standards established by the State Fire Marshal and attend and actively participate in regular or special training drills or programs as directed by the Fire Chief.

(Code of Iowa, Sec. 100B.2[4])

35.05 COMPENSATION. Members of the department shall receive compensation in accordance with the following:

1. Department Members. Members shall receive four dollars (\$4.00) for each call and each practice session, except for those practice sessions held on the third Thursday of each month, and four dollars (\$4.00) per hour for each hour actually on a call after the first hour. The Fire Chief shall report to the Council the name of each member at a call or practice and the number of hours actually on a call.
2. Fire Chief. In addition to the compensation received as a member of the department, the Fire Chief shall receive one thousand dollars (\$1,000.00) per year, payable quarterly.
3. Assistant Fire Chief. In addition to the compensation received as a member of the department, the Assistant Fire Chief shall receive five hundred dollars (\$500.00) per year, payable quarterly.

35.06 ELECTION OF OFFICERS. The department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of Fire Chief shall be subject to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

35.07 FIRE CHIEF: DUTIES. The Fire Chief shall perform all duties required of the Fire Chief by law or ordinance, including but not limited to the following:

(Code of Iowa, Sec. 372.13[4])

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.
3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

(Code of Iowa, Sec. 102.2)

4. Control of Scenes. Prohibit an individual, vehicle or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel or individual that may impede or interfere with the operation of the fire department.

(Code of Iowa, Sec. 102.2)

5. Authority to Barricade. When in charge of a fire scene, place or erect ropes, guards, barricades or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the fire fighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

(Code of Iowa, Sec. 102.3)

6. Command. Be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.

7. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property,

origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

9. Right of Entry. Have the right, during reasonable hours, to enter any building or premises within the Fire Chief's jurisdiction for the purpose of making such investigation or inspection which under law or ordinance may be necessary to be made and is reasonably necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 100.12)

10. Recommendation. Make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

(Code of Iowa, Sec. 100.13)

11. Assist State Fire Marshal. At the request of the State Fire Marshal, and as provided by law, aid said marshal in the performance of duties by investigating, preventing and reporting data pertaining to fires.

(Code of Iowa, Sec. 100.4)

12. Records. Cause to be kept records of the fire department personnel, fire fighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

13. Reports. Compile and submit to the Mayor and Council an annual report of the status and activities of the department as well as such other reports as may be requested by the Mayor or Council.

35.08 OBEDIENCE TO FIRE CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

35.09 CONSTITUTION. The department shall adopt a constitution and bylaws as they deem calculated to accomplish the object contemplated, and such constitution and bylaws and any change or amendment to such constitution and bylaws before being effective, must be approved by the Council.

35.10 ACCIDENTAL INJURY INSURANCE. The Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

(Code of Iowa, Sec. 85.2, 85.61 and Sec. 410.18)

35.11 LIABILITY INSURANCE. The Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the City.

(Code of Iowa, Sec. 670.2 & 517A.1)

35.12 CALLS OUTSIDE CITY. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

(Code of Iowa, Sec. 364.4 [2 & 3])

35.13 MUTUAL AID. Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

(Code of Iowa, Sec. 364.4 [2 & 3])

35.14 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of Chapter 100 of the *Code of Iowa* may issue citations in accordance to Chapter 805 of the *Code of Iowa*, for violations of state and/or local fire safety regulations.

(Code of Iowa, Sec. 100.41)

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

36.01 PURPOSE. In order to reduce the danger to the public health, safety and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of hazardous substance spills within the City limits.

36.02 DEFINITIONS. For purposes of this chapter the following terms are defined:

1. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance.
(Code of Iowa, Sec. 455B.381[1])

2. “Hazardous condition” means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.
(Code of Iowa, Sec. 455B.381[4])

3. “Hazardous substance” means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. “Hazardous substance” may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under section 307 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.
(Code of Iowa, Sec. 455B.381[5])

4. “Responsible person” means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.
(Code of Iowa, Sec. 455B.381[7])

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

36.04 LIABILITY FOR CLEANUP COSTS. The responsible person shall be strictly liable for all of the following:

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Police Chief, which shall then notify the Department of Natural Resources.

36.06 POLICE AUTHORITY. If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

No person shall disobey an order of any law enforcement officer issued under this section.

36.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[4].

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

40.01 ASSAULT. No person shall, without justification, commit any of the following:

1. Pain or Injury. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.

(Code of Iowa, Sec. 708.1 [1])

2. Threat of Pain or Injury. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.

(Code of Iowa, Sec. 708.1 [2])

However, where the person doing any of the above enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk or serious injury or breach of the peace, the act is not an assault. Provided, where the person doing any of the above enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds or at an official school function regardless of the location, the act is not an assault, whether the fight or physical struggle or other disruptive situation is between students or other individuals if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

1. A person commits harassment when, with intent to intimidate, annoy or alarm another person, the person does any of the following:

A. Communicates with another by telephone, telegraph, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

(Code of Iowa, Sec. 708.7)

B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by the other person.

(Code of Iowa, Sec. 708.7)

C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person's knowledge or consent.

(Code of Iowa, Sec. 708.7)

D. Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the same did not occur.

(Code of Iowa, Sec. 708.7)

2. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

40.03 DISORDERLY CONDUCT. No person shall do any of the following:

1. **Fighting.** Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

(Code of Iowa, Sec. 723.4 [1])

2. **Noise.** Make loud and raucous noise in the vicinity of any residence or public building which causes unreasonable distress to the occupants thereof.

(Code of Iowa, Sec. 723.4 [2])

3. **Abusive Language.** Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

(Code of Iowa, Sec. 723.4 [3])

4. **Disrupt Lawful Assembly.** Without lawful authority or color of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

(Code of Iowa, Sec. 723.4 [4])

5. **False Report of Catastrophe.** By words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, knowing such report to be false or such warning to be baseless.

(Code of Iowa, Sec. 723.4 [5])

6. **Disrespect of Flag.** Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault. As used in this subsection:

(Code of Iowa, Sec. 723.4[6])

- A. “Deface” means to intentionally mar the external appearance.
 - B. “Defile” means to intentionally make physically unclean.
 - C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
 - D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
 - E. “Show disrespect” means to deface, defile, mutilate, or trample.
 - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

(Code of Iowa, Sec. 723.4 [7])

8. Funeral or Memorial Service. Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:
- A. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
 - B. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
 - C. Disturb or disrupt the funeral, memorial service, funeral procession or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

This subsection applies to conduct within 60 minutes preceding, during, and within 60 minutes after a funeral, memorial service, funeral procession, or burial.

(Code of Iowa, Sec. 723.5)

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

(Code of Iowa, Sec. 723.2)

40.05 FAILURE TO DISPERSE. A peace officer may order the participants in a riot or unlawful assembly or persons in the immediate vicinity of a riot or unlawful assembly to disperse. No person within hearing distance of such command shall refuse to obey.

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances	41.07 Antenna and Radio Wires
41.02 False Reports to or Communications with Public Safety Entities	41.08 Barbed Wire and Electric Fences
41.03 Refusing to Assist Officer	41.09 Discharging Weapons
41.04 Harassment of Public Officers and Employees	41.10 Throwing and Shooting
41.05 Interference with Official Acts	41.11 Urinating and Defecating
41.06 Abandoned or Unattended Refrigerators	41.12 Fireworks

41.01 DISTRIBUTING DANGEROUS SUBSTANCES. No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.

(Code of Iowa, Sec. 727.1)

41.02 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES. No person shall do any of the following:

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.
2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

41.03 REFUSING TO ASSIST OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or firefighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or firefighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

41.06 ABANDONED OR UNATTENDED REFRIGERATORS. No person shall abandon or otherwise leave unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, nor shall any person allow any such refrigerator, ice box, or similar container, to remain outside of buildings on premises in the person’s possession or control, abandoned or unattended and so accessible to children.

(Code of Iowa, Sec. 727.3)

41.07 ANTENNA AND RADIO WIRES. It is unlawful for a person to allow antenna wires, antenna supports, radio wires, or television wires to exist over any street, alley, highway, sidewalk, public way, public ground, or public building without written consent of the Council.

(Code of Iowa, Sec. 364.12[2])

41.08 BARBED WIRE AND ELECTRIC FENCES. It is unlawful for a person to use barbed wire or electric fences to enclose, in whole or in part, any land within the City limits without the prior approval of the Council. Any such approval shall be given only after a written application is filed with the Clerk by the landowner. The application shall contain a description of the type of fence and location thereof and a justification for the need for such a fence in lieu of other type of fencing. The Council may grant the request for any legitimate purpose provided no other type of fencing will provide the protection needed. The Council may place reasonable restrictions on any approval given for the use of the barbed wire or electric fence. Notwithstanding the foregoing, no barbed wire or electric fence shall be used in any residential zoning district.

41.09 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.
2. No person shall intentionally discharge a firearm in a reckless manner.

41.10 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, paintballs, rubber guns, slingshots, air rifles, BB guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

(Code of Iowa, Sec. 364.12[2])

41.11 URINATING AND DEFECATING. It is unlawful for any person to urinate or defecate onto any sidewalk, street, alley, or other public way, or onto any public or private building, including but not limited to the wall, floor, hallway, steps, stairway, doorway, or window thereof, or onto any public or private land.

41.12 FIREWORKS. The sale, use and exploding of fireworks within the City are subject to the following:

1. Definition. The term “fireworks” includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance.

(Code of Iowa, Sec. 727.2)

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display 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:

- A. Personal Injury:\$250,000 per person.
- B. Property Damage:\$50,000
- C. Total Exposure:\$1,000,000

(Code of Iowa, Sec. 727.2)

3. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theatre, or for signal purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

(Code of Iowa, Sec. 727.2)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Unauthorized Computer Access

42.08 Other Public Property Offenses

42.01 TRESPASSING. It is unlawful for a person to knowingly trespass upon the property of another. As used in this section, the term “property” includes any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned. The term “trespass” means one or more of the following acts:

(Code of Iowa Sec. 716.7 and 716.8)

1. **Entering Property Without Permission.** Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate.

(Code of Iowa, Sec. 716.7 [2a])

2. **Entering or Remaining on Property.** Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

(Code of Iowa, Sec. 716.7 [2b])

3. **Interfering with Lawful Use of Property.** Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(Code of Iowa, Sec. 716.7 [2c])

4. **Using Property Without Permission.** Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, Sec. 716.7 [2d])

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

(Code of Iowa, Sec. 716.7(3))

42.02 CRIMINAL MISCHIEF. It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter or destroy property.

(Code of Iowa, Sec. 716.1)

42.03 DEFACING PROCLAMATIONS OR NOTICES. It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

42.05 FRAUD. It is unlawful for any person to commit a fraudulent practice as defined in Section 714.8 of the *Code of Iowa*.

(Code of Iowa, Sec. 714.8)

42.06 THEFT. It is unlawful for any person to commit theft as defined in Section 714.1 of the *Code of Iowa*.

(Code of Iowa, Sec. 714.1)

42.07 UNAUTHORIZED COMPUTER ACCESS. No person shall knowingly and without authorization access a computer, computer system or computer network.

(Code of Iowa, Sec. 716.6B)

42.08 OTHER PUBLIC PROPERTY OFFENSES. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions which are also deemed to be public property offenses:

1. Chapter 22 – Library
 - A. Section 22.10 – Injury to Books or Property
 - B. Section 22.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
 - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing

- C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
- A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.14 – Fires or Fuel on Sidewalks
 - C. Section 136.15 – Defacing
 - D. Section 136.16 – Debris on Sidewalks
 - E. Section 136.17 – Merchandise Display
 - F. Section 136.18 – Sales Stands

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery or Offering For Sale

43.01 PURPOSE. The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

43.02 CONTROLLED SUBSTANCE DEFINED. The term “controlled substance” as used in this chapter is defined as the term “controlled substance” is defined in the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*, as it now exists or is hereafter amended.

43.03 DRUG PARAPHERNALIA DEFINED. The term “drug paraphernalia” as used in this chapter means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*. It includes, but is not limited to:

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - B. Water pipes;
 - C. Carburetion tubes and devices;
 - D. Smoking and carburetion masks;
 - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - F. Miniature cocaine spoons and cocaine vials;
 - G. Chamber pipes;
 - H. Carburetor pipes;
 - I. Electric pipes;
 - J. Air driven pipes;
 - K. Chillums;
 - L. Bongs;
 - M. Ice pipes or chillers.

43.04 DETERMINING FACTORS. In determining whether an object is drug paraphernalia for the purpose of enforcing this chapter, the following factors should be considered in addition to all other logically relevant factors:

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.

3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.
4. Proximity To Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.
6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.
7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
8. Instructions. Instructions, oral or written, provided with the object concerning its use.
9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.
10. Advertising. National and local advertising concerning its use.
11. Displayed. The manner in which the object is displayed for sale.
12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.
14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.
15. Expert Testimony. Expert testimony concerning its use.

43.05 POSSESSION OF DRUG PARAPHERNALIA. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.

43.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound,

convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

45.01 PERSONS UNDER LEGAL AGE. As used in this section, “legal age” means twenty-one (21) years of age or more.

1. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person’s employment by a liquor control licensee, or wine or beer permittee under State laws.

(Code of Iowa, Sec. 123.47[2])

2. A person under legal age shall not misrepresent the person’s age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine or beer from any licensee or permittee.

(Code of Iowa, Sec. 123.49[3])

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:

A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.

B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

C. “Peace Officer” means the same as defined in Section 801.4 of the *Code of Iowa*.

D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place. A person violating this subsection is guilty of a simple misdemeanor.

3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See subsections 62.01(47) and (48) and Section 62.07 of this Code of Ordinances.]*

CHAPTER 46

MINORS

46.01 Cigarettes and Tobacco
46.02 Contributing to Delinquency

46.03 Curfew

46.01 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* and lawfully offers for sale or sells cigarettes or tobacco products.

(Code of Iowa, Sec. 453A.2)

46.02 CONTRIBUTING TO DELINQUENCY. It is unlawful for any person to encourage any child under eighteen (18) years of age to commit any act of delinquency.

(Code of Iowa, Sec. 709A.1)

46.03 CURFEW.

1. Purpose. The Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 18 in the City; and persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and the City has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

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

A. "Curfew hours" means 11:00 p.m. until 5:00 a.m.

B. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

C. "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

D. "Guardian" means:

(1) A person who, under court order, is the guardian of the person of a minor; or

- (2) A public or private agency with whom a minor has been placed by a court.
- E. “Minor” means any person under 18 years of age.
- F. “Operator” means any individual, association, partnership, or corporation operating, managing or conducting any establishment including the members or partners of an association or partnership and the officers of a corporation.
- G. “Parent” means a person who is:
- (1) A natural parent, adoptive parent or step-parent of another person; or
 - (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
- H. “Public place” means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
- I. “Remain” means:
- (1) To linger or stay; or
 - (2) To fail to leave the premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
- J. “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
3. Offenses.
- A. A minor commits an offense if he or she remains or travels in any public place or on the premises of any establishment within the City during curfew hours.
- B. A parent or guardian commits an offense if he or she knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- C. The owner, operator, or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.
4. Defenses.
- A. It is a defense to prosecution under subsection 3 of this section that the minor was:
- (1) Accompanied by the minor’s parent or guardian;
 - (2) On an errand at the direction of the minor’s parent or guardian, without any detour or stop;
 - (3) In a motor vehicle involved in interstate travel;

- (4) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
- (7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;
- (9) Married or had been married; or
- (10) Emancipated minor verified by proof of minor's separate residence, the parents, or other means.

B. It is a defense to prosecution under subsection 3(C) of this section that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

5. Enforcement.

A. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection 4 of this section is present.

B. A minor who is in violation of this section shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the City.

6. Penalty; Municipal Infraction.

A. First Offense - \$25.00.

B. Second Offense - \$50.00 and/or up to 20 hours community service.

C. Third and Subsequent Offense - \$100.00 and/or up to 40 hours community service.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited

50.05 Nuisance Abatement
50.06 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure

50.01 DEFINITION OF NUISANCE. Whatever is injurious to health, indecent, or unreasonably offensive to the senses, or an obstruction to the free use of property so as essentially to interfere unreasonably with the comfortable enjoyment of life or property is a nuisance.

(Code of Iowa, Sec. 657.1)

50.02 NUISANCES ENUMERATED. The following subsections include, but do not limit, the conditions which are deemed to be nuisances in the City:

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes or fly ash.

9. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard. No person shall allow weeds or noxious growths of any kind on any lot or parcel of ground upon any street or alley or weeds or grass over twelve (12) inches tall or noxious growths of any kind upon the parking in front of or along any lot or parcel. It is the duty of all property owners to cut or cause to be cut, burned, chemically killed or otherwise removed all weeds or other noxious growths upon said lot or parcel and to keep the same cut down reasonably close to the ground upon the space between the lot line and the curb line or edge of traveled way along or in front of said lot.

10. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See also Chapter 151)**

11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

50.03 OTHER CONDITIONS. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions which are deemed to be nuisances:

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Dangerous Buildings **(See Chapter 145)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**

50.04 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided for in this chapter or State law.

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

(Code of Iowa, Sec. 364.12[3h])

50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE.

Any nuisance, public or private, may be abated in the manner provided for in this section:

(Code of Iowa, Sec. 364.12[3h])

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

(Code of Iowa, Sec. 364.12[3h])

3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.

(Code of Iowa, Sec. 364.12[3h])

5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.

† **EDITOR'S NOTE:** A suggested form of notice for the abatement of nuisances is included in the Appendix of this Code of Ordinances. Caution is urged in the use of this administrative abatement procedure, particularly where cost of abatement is more than minimal or where there is doubt as to whether or not a nuisance does in fact exist. If compliance is not secured following notice and hearings, we recommend you review the situation with your attorney before proceeding with abatement and assessment of costs. Your attorney may recommend proceedings in court under Chapter 657 of the *Code of Iowa* rather than this procedure.

(Code of Iowa, Sec. 364.12[3h])

6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

(Code of Iowa, Sec. 364.12[3h])

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 4 of this Code of Ordinances.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
 - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

3. “Vehicle” means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

51.02 JUNK AND JUNK VEHICLES PROHIBITED. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle.

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the *Code of Iowa*. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

(Code of Iowa, Sec. 364.12[3a])

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within:

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junkyard lawfully operated within the City.

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

(Code of Iowa, Sec. 364.12[3a])

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Designation of Vicious Dogs
55.02 Animal Neglect	55.12 Rabies Vaccination
55.03 Livestock Neglect	55.13 Owner's Duty
55.04 Abandonment of Cats and Dogs	55.14 Confinement
55.05 Livestock	55.15 At Large: Impoundment
55.06 Bee Keeping	55.16 Disposition of Animals
55.07 At Large Prohibited	55.17 Impounding Costs
55.08 Damage or Interference	55.18 Unsanitary Conditions
55.09 Annoyance or Disturbance	55.19 Pet Awards Prohibited
55.10 Vicious Dogs	55.20 Penalties

55.01 DEFINITIONS. The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.
7. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.
(Code of Iowa, Sec. 717.1)
8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

9. "Pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

(Code of Iowa, Sec. 717B.3)

55.03 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

(Code of Iowa, Sec. 717B.8)

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

55.06 BEE KEEPING. It is unlawful to keep or harbor bees within the City without obtaining a Council permit. Unless a written consent is on file with the Clerk, signed by all the owners, lessees or occupants of property within a radius of three hundred (300) feet of the location of the hives, the permit shall not be granted except by unanimous vote of the Council.

55.07 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

55.08 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

55.09 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles.

55.10 VICIOUS DOGS. It is unlawful for any person to harbor or keep a vicious dog within the City. A dog is deemed to be vicious when it has attacked or bitten any person without provocation, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner.

55.11 DESIGNATION OF VICIOUS DOGS. In the event that the court or an officer has probable cause to believe that a dog is vicious, said officer or court shall notify, in writing, by personal service or certified mail, the owner and keeper of said dog that said dog has been declared a vicious dog. The written notice shall include:

1. Description of dog to the extent possible.
2. Statement that the dog is vicious pursuant to Section 55.10 of the City Code.
3. Statement that within five days, exclusive of Saturday and Sunday, from the receipt of notice, the owner or keeper of the dog shall:
 - A. Permanently remove said dog from the City and submit adequate proof of such removal; or
 - B. Destroy said dog in an expeditious and humane manner and submit adequate written documentation of such act; or
 - C. Otherwise dispose of the animal in accordance with law.
4. Statement that the owner or keeper of the dog may appeal the decision of the officer, if applicable, to the Council in writing within five days, exclusive of Saturday and Sunday. The notice shall further advise that in the event there is no written notice of appeal filed with the Clerk within five days, exclusive of Saturday and Sunday, the right to appeal will be deemed waived and the decision of the officer will be conclusively presumed.
5. Statement that if the vicious dog has not been removed or destroyed or if no appeal is requested within the five days, exclusive of Saturday and Sunday, the City will impound the dog and assess the costs against the owner and keeper of the dog. The owner and keeper of the dog shall be responsible for all impoundment costs, including but not limited to a determination by a court that the dog is not vicious.

55.12 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in State or Federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements. The rabies vaccination required by this section shall be by an

injection of anti-rabies vaccine approved by the State Department of Agriculture and Land Stewardship, and the frequency of revaccination necessary for approved vaccinations shall be established by such department. The vaccine shall be administered by a licensed veterinarian and shall be given as approved by the State Department of Agriculture and Land Stewardship. The veterinarian shall issue a tag with the certificate of vaccination, and such tag shall at all times be attached to the collar of the dog.

(Code of Iowa, Sec. 351.33)

55.13 OWNER'S DUTY. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

55.14 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ten (10) days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section shall not apply to a police service dog or a horse used by a law enforcement agency that is acting in the performance of its duties which has bitten a person.

(Code of Iowa, Sec. 351.39)

55.15 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.16 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.17 IMPOUNDING COSTS. Impounding costs are twenty dollars (\$20.00) plus the cost of food and care.

(Code of Iowa, Sec. 351.37)

55.18 UNSANITARY CONDITIONS.

1. An owner shall keep all structures, pens or yards wherein animals are confined clean and free of odors arising from feces.
2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property, other than the property of the owner of the animal. The owner or walker shall be deemed to permit the animal's discharge of feces if the owner does not immediately thereafter take steps to remove and clean up the feces from the property.
3. All feces removed as aforesaid shall be placed in an airtight container and shall be stored in a sanitary manner in an appropriate refuse container or otherwise disposed of in a sanitary manner.
4. An owner may, as an alternative to subsection 3 above, collect the feces and turn it under the surface of the owner's soil in any manner that prevents odor or collection of vermin.

55.19 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.20 PENALTIES. Any person found to be in violation of any of the provisions of this chapter shall be deemed guilty of a simple misdemeanor.

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CHAPTER 56

KEEPING AND REGULATING PIT BULL DOGS

56.01 Purpose

56.02 Keeping Prohibited

56.03 Definition

56.04 Regulations for the Keeping of Pit Bull Dogs

56.05 Violations and Penalties

56.06 Enforcement

56.01 PURPOSE. In order to protect the health, safety, and welfare of the residents and citizens of the City, the Council has enacted the following provisions.

56.02 KEEPING PROHIBITED. It is unlawful to keep, harbor, own or in any way possess within the City limits any pit bull dogs; provided, the pit bull dogs located within the City on or before November 16, 2005, may be kept within the City subject to the standards and requirements set forth in Section 56.04 of this chapter.

56.03 DEFINITION. “Pit bull dog” is defined to mean:

1. The Bull Terrier breed of dog;
2. The Staffordshire Bull Terrier breed of dog;
3. The American Pit Bull Terrier breed of dog;
4. The American Staffordshire Pit Bull Terrier breed of dog;
5. Any dog that is of mixed breed or has as an element of such breeding any of the aforementioned breeds of pit bull dogs and possessing the characteristics of such breeds; or
6. Any dog which has the appearance and characteristics of being predominately of the breeds of Bull Terrier, Staffordshire Bull Terrier, American Pit Bull Terrier, or American Staffordshire Terrier.

56.04 REGULATIONS FOR THE KEEPING OF PIT BULL DOGS. The provisions of Section 56.02 of this chapter are not applicable to owners, keepers, or harborers of pit bull dogs located within the City on or before November 16, 2005, the effective date of the ordinance codified in this chapter. The keeping of such dogs, however, is subject to the following standards:

1. **Leash and Muzzle.** No person shall permit a pit bull dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet. No person shall permit a pit bull dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs on a leash outside the animal’s kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

2. Confinement. All pit bull dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides. All structures used to confine pit bull dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house pit bull dogs must comply with all zoning and building regulations of the City. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
3. Confinement Indoors. No pit bull dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
4. Signs. All owners, keepers, or harborers of pit bull dogs within the City shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animals.
5. Insurance. All owners, keepers, or harborers of pit bull dogs within the City shall provide to the City Clerk's Office proof of public liability insurance in a single incident amount of \$500,000.00 for bodily injury to or death of any person or persons or for damages to property owned by any persons which may result from the ownership, keeping, or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the City Clerk's Office.
6. Reporting Requirements. All owners, keepers, or harborers of pit bull dogs must report the following information in writing to the City Clerk's Office as required herein:
 - A. The address and number of all pit bull dogs located within the City;
 - B. The removal from the City or death of a pit bull dog;
 - C. The birth of offspring of a pit bull dog, including the address of the offspring and the number of offspring;
 - D. The new address of a pit bull dog owner should the owner move within the corporate City limits.
7. Animals Born of Pit Bull Dogs. All offspring born of pit bull dogs within the City are subject to all provisions of this chapter.
8. Presumptions. There shall be an irrebuttable presumption that any dog within the City that is a pit bull dog or any of those breeds prohibited by Section 56.03 of this chapter is in fact a dog subject to the requirements of this chapter. Any pit bull dog found within the City that is not reported to the City Clerk's Office is subject to a rebuttable presumption that the dog is being held in violation of this chapter and subject to all the penalties defined in Section 56.05 of this chapter. This presumption may only be overcome by clear and convincing evidence that the pit bull dog is less than 10 days old, and that the owner intended to report such dog to the City Clerk's Office.

9. Failure to Comply. It is unlawful for the owner, keeper, or harbinger of a pit bull dog to fail to comply with the requirements and conditions set forth in this chapter. Any dog found to be the subject of a violation of this chapter shall be subject to immediate seizure and impoundment. In addition, failure to comply may result in the immediate removal of the animal from the City.

56.05 VIOLATIONS AND PENALTIES. Any person violating or permitting the violation of any provisions of this chapter shall upon conviction in Magistrate Court be fined a sum not more than five hundred dollars (\$500.00). In addition, the Court may sentence the defendant to imprisonment in the County jail for a period not to exceed thirty (30) days. In addition, the Court shall order the pit bull dog removed from the City. Should the defendant refuse to remove the dog from the City, the Magistrate shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this chapter shall pay all expenses, including shelter, food, handling, veterinary care, and testimony necessitated by the enforcement of this chapter. This chapter does not exclude the owner of a pit bull dog from penalties and liabilities arising under other laws of the City or State.

56.06 ENFORCEMENT. The Police Chief and/or peace officers are responsible for the enforcement of this chapter, including but not limited to the determination of whether a particular dog falls within the scope of this chapter.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “West Union Traffic Code.”

60.02 DEFINITIONS. Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including the following designated streets:
 - A. Vine Street from Bradford Street to the alley running east and west directly south of Block 18 in the City;
 - B. Plum Street from Washington Street to Walnut Street;
 - C. Elm Street from Washington Street to Pine Street;
 - D. Main Street from the west line thereof to Pine Street;
 - E. Maple Street from the center of Vine Street to 250 feet west thereof;
 - F. Linden Street from Vine Street west to the first intersection of Linden Street.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a schoolhouse.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. “Suburban district” means all other parts of the City not included in the business, school or residence districts.
10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
11. “Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the Police Chief.

(Code of Iowa, Sec. 372.13 [4])

60.04 POWER TO DIRECT TRAFFIC. A peace officer, and, in the absence of a peace officer, any officer of the fire department when at the scene of a fire, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

(Code of Iowa, Sec. 102.4 & 321.236[2])

60.05 TRAFFIC ACCIDENTS: REPORTS. The driver of a vehicle involved in an accident within the limits of the City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the City for the confidential use of peace officers and shall be subject to the provisions of Section 321.271 of the *Code of Iowa*.

(Code of Iowa, Sec. 321.273 & 321.274)

60.06 PEACE OFFICER’S AUTHORITY. A peace officer is authorized to stop a vehicle to require exhibition of the driver’s license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order, or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

(Code of Iowa, Sec. 321.492)

60.07 OBEDIENCE TO PEACE OFFICERS. No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control, or regulate traffic.

(Code of Iowa, Sec. 321.229)

CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

61.01 INSTALLATION. The Police Chief shall cause to be placed and maintained traffic control devices when and as required under this Traffic Code or under State law or emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide or warn traffic. The Police Chief shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The Police Chief is hereby authorized, subject to approval of the Council by resolution, to designate and maintain crosswalks by appropriate traffic control devices at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

(Code of Iowa, Sec. 372.13[4] & 321.255)

61.03 TRAFFIC LANES. The Police Chief is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic code of the City. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

(Code of Iowa, Sec. 372.13[4] & 321.255)

61.04 STANDARDS. Traffic control devices shall comply with standards established by *The Manual of Uniform Traffic Control Devices for Streets and Highways*.

(Code of Iowa, Sec. 321.255)

61.05 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 of the *Code of Iowa*.

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks

62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Obstructing View at Intersections

62.01 VIOLATION OF REGULATIONS. Any person who willfully fails or refuses to comply with any lawful order of a peace officer or direction of a Fire Department officer during a fire, or who fails to abide by the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this section. These sections of the *Code of Iowa* are adopted by reference and are as follows:

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses again title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.

22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Radar jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Damage to vehicle.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.277 – Reckless driving.
45. Section 321.277A – Careless driving.
46. Section 321.278 – Drag racing prohibited.
47. Section 321.284 – Open container; drivers.
48. Section 321.284A – Open container; passengers.
49. Section 321.288 – Control of vehicle; reduced speed.
50. Section 321.295 – Limitation on bridge or elevated structures.
51. Section 321.297 – Driving on right-hand side of roadways; exceptions.
52. Section 321.298 – Meeting and turning to right.
53. Section 321.299 – Overtaking a vehicle.

54. Section 321.302 – Overtaking and passing.
55. Section 321.303 – Limitations on overtaking on the left.
56. Section 321.304 – Prohibited passing.
57. Section 321.306 – Roadways laned for traffic.
58. Section 321.307 – Following too closely.
59. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
60. Section 321.309 – Towing; convoys; drawbars.
61. Section 321.310 – Towing four-wheel trailers.
62. Section 321.312 – Turning on curve or crest of grade.
63. Section 321.313 – Starting parked vehicle.
64. Section 321.314 – When signal required.
65. Section 321.315 – Signal continuous.
66. Section 321.316 – Stopping.
67. Section 321.317 – Signals by hand and arm or signal device.
68. Section 321.318 – Method of giving hand and arm signals.
69. Section 321.319 – Entering intersections from different highways.
70. Section 321.320 – Left turns; yielding.
71. Section 321.321 – Entering through highways.
72. Section 321.322 – Vehicles entering stop or yield intersection.
73. Section 321.323 – Moving vehicle backward on highway.
74. Section 321.323A – Approaching certain stationary vehicles.
75. Section 321.324 – Operation on approach of emergency vehicles.
76. Section 321.324A – Funeral processions.
77. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
78. Section 321.330 – Use of crosswalks.
79. Section 321.332 – White canes restricted to blind persons.
80. Section 321.333 – Duty of drivers approaching blind persons.
81. Section 321.340 – Driving through safety zone.
82. Section 321.341 – Obedience to signal of train.
83. Section 321.342 – Stop at certain railroad crossings; posting warning.
84. Section 321.343 – Certain vehicles must stop.
85. Section 321.344 – Heavy equipment at crossing.
86. Section 321.344B – Immediate safety threat; penalty.
87. Section 321.354 – Stopping on traveled way.

88. Section 321.359 – Moving other vehicle.
89. Section 321.362 – Unattended motor vehicle.
90. Section 321.363 – Obstruction to driver’s view.
91. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
92. Section 321.365 – Coasting prohibited.
93. Section 321.367 – Following fire apparatus.
94. Section 321.368 – Crossing fire hose.
95. Section 321.369 – Putting debris on highway.
96. Section 321.370 – Removing injurious material.
97. Section 321.371 – Clearing up wrecks.
98. Section 321.372 – School buses.
99. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
100. Section 321.381A – Operation of low-speed vehicles.
101. Section 321.382 – Upgrade pulls; minimum speed.
102. Section 321.383 – Exceptions; slow vehicles identified.
103. Section 321.384 – When lighted lamps required.
104. Section 321.385 – Head lamps on motor vehicles.
105. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
106. Section 321.387 – Rear lamps.
107. Section 321.388 – Illuminating plates.
108. Section 321.389 – Reflector requirement.
109. Section 321.390 – Reflector requirements.
110. Section 321.392 – Clearance and identification lights.
111. Section 321.393 – Color and mounting.
112. Section 321.394 – Lamp or flag on projecting load.
113. Section 321.395 – Lamps on parked vehicles.
114. Section 321.398 – Lamps on other vehicles and equipment.
115. Section 321.402 – Spot lamps.
116. Section 321.403 – Auxiliary driving lamps.
117. Section 321.404 – Signal lamps and signal devices.
118. Section 321.404A – Light-restricting devices prohibited.
119. Section 321.405 – Self-illumination.
120. Section 321.406 – Cowl lamps.
121. Section 321.408 – Back-up lamps.

122. Section 321.409 – Mandatory lighting equipment.
123. Section 321.415 – Required usage of lighting devices.
124. Section 321.417 – Single-beam road-lighting equipment.
125. Section 321.418 – Alternate road-lighting equipment.
126. Section 321.419 – Number of driving lamps required or permitted.
127. Section 321.420 – Number of lamps lighted.
128. Section 321.421 – Special restrictions on lamps.
129. Section 321.422 – Red light in front.
130. Section 321.423 – Flashing lights.
131. Section 321.430 – Brake, hitch, and control requirements.
132. Section 321.431 – Performance ability.
133. Section 321.432 – Horns and warning devices.
134. Section 321.433 – Sirens, whistles, and bells prohibited.
135. Section 321.434 – Bicycle sirens or whistles.
136. Section 321.436 – Mufflers, prevention of noise.
137. Section 321.437 – Mirrors.
138. Section 321.438 – Windshields and windows.
139. Section 321.439 – Windshield wipers.
140. Section 321.440 – Restrictions as to tire equipment.
141. Section 321.441 – Metal tires prohibited.
142. Section 321.442 – Projections on wheels.
143. Section 321.444 – Safety glass.
144. Section 321.445 – Safety belts and safety harnesses; use required.
145. Section 321.446 – Child restraint devices.
146. Section 321.449 – Motor carrier safety regulations.
147. Section 321.450 – Hazardous materials transportation.
148. Section 321.454 – Width of vehicles.
149. Section 321.455 – Projecting loads on passenger vehicles.
150. Section 321.456 – Height of vehicles; permits.
151. Section 321.457 – Maximum length.
152. Section 321.458 – Loading beyond front.
153. Section 321.460 – Spilling loads on highways.
154. Section 321.461 – Trailers and towed vehicles.
155. Section 321.462 – Drawbars and safety chains.
156. Section 321.463 – Maximum gross weight.

- 157. Section 321.465 – Weighing vehicles and removal of excess.
- 158. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. The Police Chief shall have authority to declare any street or part thereof a play street and cause to be placed appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

62.03 VEHICLES ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

62.04 CLINGING TO VEHICLE. No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person riding upon any bicycle, coaster, roller skates, in-line skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

62.05 QUIET ZONES. Whenever authorized signs are erected indicating a quiet zone, no person operating a motor vehicle within any such zone shall sound the horn or other warning device of such vehicle except in an emergency.

62.06 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard, or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

63.01 GENERAL. Every driver of a motor vehicle on a street shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the street and of any other conditions then existing, and no person shall drive a vehicle on any street at a speed greater than will permit said driver to bring it to a stop within the assured clear distance ahead, such driver having the right to assume, however, that all persons using said street will observe the law.

(Code of Iowa, Sec. 321.285)

63.02 STATE CODE SPEED LIMITS. The following speed limits are established in Section 321.285 of the *Code of Iowa* and any speed in excess thereof is unlawful unless specifically designated otherwise in this chapter as a special speed zone.

1. Business District – twenty (20) miles per hour.
2. Residence or School District – twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

63.03 PARKS, CEMETERIES AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public park, cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

(Code of Iowa, Sec. 321.236[5])

63.04 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit listed in Section 63.02 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)

1. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

- A. On Echo Valley Road from Pine Street to a point 400 feet southeast of Pine Street;
 - B. On Pine Street from a point 300 feet north of Sunset Boulevard to a point 1,205 feet north;
 - C. On Linden Street from Highway 150 to a point 600 feet east of the west City limit;
 - D. On Franklin Street from Highway 150 to a point 1,485 feet east of the west City limit.
2. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On Linden Street from a point 600 feet east of the west City limit to the west City limit;
 - B. On Franklin Street from Highway 150 to Vine Street;
 - C. On Highway 150 from Cherry Street to Auburn Street;
 - D. On Highway 18 from a point 100 feet east of Hansen Boulevard to a point 750 feet west of Western Avenue;
 - E. On Pine Street from a point 1,205 feet north of Sunset Boulevard to the north City limits.
3. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On Echo Valley Road from a point 400 feet southeast of Pine Street to a point 1,125 feet southeast;
 - B. On Franklin Street from a point 1,485 feet east of the west City limit to a point 885 feet east of the west City limit;
4. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On Highway 56 from Vine Street to the south City limit;
 - B. On Highway 150 from Auburn Street to 200 feet north of Hall Street;
 - C. On Highway 18 from the east City limit to a point 100 feet east of Hansen Boulevard;
 - D. On Highway 150 from the south City limit to West Cherry Street;
 - E. On Highway 18 from a point 750 feet west of Western Avenue to a point 1,730 feet west of Western Avenue.
5. Special 55 MPH Speed Zones. A speed in excess of fifty-five (55) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On Highway 150 from 200 feet north of Hall Street to the north City limit;
 - B. On Highway 18 from a point 1,730 feet west of Western Avenue to the west City limit.

63.05 MINIMUM SPEED. No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

64.01 TURNING AT INTERSECTIONS. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.
2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.
3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

The Police Chief may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified above be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within the Business District, at the following designated intersections and at intersections where there are automatic traffic signals.

(Code of Iowa, Sec. 321.236[9])

– NONE –

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets - Stop
65.02 Stop Required
65.03 Four-Way Stop Intersections
65.04 Three-Way Stop Intersections
65.05 Yield Required

65.06 School Stops
65.07 Stop Before Crossing Sidewalk
65.08 Stop When Traffic Is Obstructed
65.09 Yield to Pedestrians in Crosswalks
65.10 Official Traffic Controls

65.01 THROUGH STREETS - STOP. Every driver of a vehicle shall stop, unless a yield is permitted by this chapter, before entering an intersection with the following designated through streets.

(Code of Iowa, Sec. 321.345)

1. Vine Street from Plum Street to Highway 56;
2. Vine Street from Bradford Street to the north corporate limit;
3. Vine Street from Main Street to Bradford Street;
4. Echo Valley Road from the east corporate limit to Bradford Street;
5. Pine Street from the north corporate limit to the south corporate limit;
6. Jefferson Street from Vine Street to Highway 150.

65.02 STOP REQUIRED. The following intersections are stop intersections and traffic approaching from the direction indicated shall stop.

(Code of Iowa, Sec. 321.345)

1. Adams Street and Wells Street, traffic from the east;
2. Adams Street and Oak Street, traffic from the east;
3. Maple Street and Wells Street, traffic from the east and west;
4. Elm Street and Walnut Street, traffic from the north and south;
5. Pine Street and Railroad Street, traffic from the west;
6. Pine Street and Armour Street, traffic from the east and west;
7. Oak Street and Linden Street, traffic from the north;
8. Oak Street and Maple Street, traffic from the east;
9. Plum Street and East Street, traffic from the south;
10. Plum Street and Pine Street, traffic from the north and south;
11. Plum Street and Walnut Street, traffic from the north and south;
12. Plum Street and Washington Street, traffic from the north;
13. Plum Street and Wells Street, traffic from the north;
14. Vine Street and Maple Street, traffic from the west;
15. Carpenter Street and Main Street, traffic from the north;

16. Walnut Street and Main Street, traffic from the south;
17. Russell Avenue and Western Avenue, traffic from the west;
18. Vine Street and Highway 56, traffic from the east and west;
19. Main Street and Fourth Street Northeast, traffic from the east and south;
20. Pine Street and the exit of Swimming Pool Drive onto Pine Street, traffic from the east;
21. Commercial Drive and Western Avenue, traffic from the east;
22. Jefferson Street and Vine Street, traffic from the west;
23. Lincoln Drive and Vine Street, traffic from the east;
24. Smith Street and State Street, traffic from the east and west;
25. Monroe Street and Rickel Street, traffic from the east;
26. Lilac Street and Vine Street, traffic from the west;
27. Water Street and Cherry Street, traffic from the south;
28. Pine Street and Cedar Street, traffic from the north and south;
29. Wells Street and Adams Street, traffic from the west;
30. Linden Street and Union Street, traffic from the north and south;
31. Alley between Maple Street and Adams Street and Vine Street and Washington Street extended, traffic from the west;
32. Linden Street and Union Street, traffic from the north and south;
33. Union Street and Cherry Street, traffic from the north and south;
34. Railroad Street and Union Street, traffic from the north;
35. Railroad Street and Water Street, traffic from the north;
36. Railroad Street and Highway 150S, traffic from the east;
37. Railroad Street and Vine Street, traffic from the east and west;
38. Western Avenue and Jefferson Street, traffic from the south;
39. Lincoln Court and Lincoln Drive, traffic from the south;
40. Western Avenue and Central Avenue, traffic from the north and south;
41. Hall Street and Lauer Street, traffic from the north;
42. North Industrial Parkway and Highway 150 South, traffic from the west;
43. South Industrial Parkway and Highway 150 South, traffic from the west;
44. North Park Court and North Pine Street, traffic from the west;
45. Central and Rainbow Avenues, traffic from the south;
46. North Pine Street and Union Ridge Drive, traffic from the east.

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Intersection of Highway 18 and Highway 150;
2. Intersection of Vine Street and Elm Street;
3. Intersection of Vine Street and Plum Street;
4. Intersection of Vine Street and Main Street;
5. Intersection of Elm Street and Wells Street.

65.04 THREE-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated three-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Plum Street and Oak Street. Vehicles approaching the intersection of Plum Street and Oak Street from the north, west and south shall stop before entering such intersection.

65.05 YIELD REQUIRED. The following intersections are yield intersections and traffic approaching from the direction indicated shall yield.

(Code of Iowa, Sec. 321.345)

1. Plum Street and Union Street, traffic from the south;
2. Cherry Street and Union Street (east and west), traffic from the north and south;
3. Auburn Street and Smith Street, traffic from the east;
4. Hollywood Boulevard and Sunset Boulevard, traffic from the south;
5. Commercial Drive and the private drive connecting Bostrom's Super Valu to Highway 150 North, traffic from the south;
6. Jones Street and Smith Street, traffic from the south;
7. Rickel Street and Smith Street, traffic from the north;
8. Jefferson Street and Rickel Street, traffic from the north;
9. Russell Street and Western Street, traffic from the north;
10. South Walnut Street and Railroad Street, traffic from the north;
11. Lilac Street and Rickel Street, traffic from the east;
12. Fourth Street and Plum Street, traffic from the north;
13. Union Ridge Drive and Union Court, traffic from the north.

65.06 SCHOOL STOPS. At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

1. Intersection of Bradford Street and Vine Street;
2. Intersection of Bradford Street and Pine Street;
3. Intersection of Pine Street and Highway 18.

65.07 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.08 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

65.09 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

65.10 OFFICIAL TRAFFIC CONTROLS. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

(Code of Iowa, Sec. 321.256)

1. Intersection of Vine Street and Bradford Street;
2. Intersection of Bradford Street and Pine Street.

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges
66.05 Truck Route

66.01 TEMPORARY EMBARGO. If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs.

(Code of Iowa, Sec. 321.471 & 472)

66.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The Police Chief may, upon application and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight or load exceeding the maximum specified by State law or the City over those streets or bridges named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

(Code of Iowa, Sec. 321.473 & 321E.1)

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the following streets or parts of streets:

(Code of Iowa, Sec. 321.473 & 475)

1. Five ton limit on Vine Street from Highway 18 to Railroad Street;
2. Five ton limit on Pine Street from Highway 18 to Echo Valley Road;
3. Five ton limit on Elm Street from Highway 18 to Pine Street;
4. Five ton limit on Plum Street from Highway 150 to Pine Street;
5. Five ton limit on Walnut Street from Main Street to Railroad Street;
6. Five ton limit on Linden Street from Highway 150 to Vine Street;
7. Five ton limit on Cherry Street from Highway 150 to Union Street;
8. Five ton limit on Maple Street from Oak Street to Vine Street;
9. Five ton limit on Adams Street from Oak Street to Vine Street.

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Police Chief may cause to be

posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTE. Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing five tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

A. Railroad Street from Vine Street to Highway 150.

2. Deliveries Off Truck Route. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

3. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use of Sidewalks

67.01 WALKING IN STREET. Pedestrians shall at all times when walking on or along a street, walk on the left side of the street.

(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, Sec. 321.328)

67.04 USE OF SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

(Code of Iowa, Sec. 321.236 [4])

1. Adams Street shall be westbound only from the first alley west of Vine Street to Wells Street;
2. The first alley west of North Vine Street shall be southbound only between Maple Street and Adams Street.

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.07 Persons With Disabilities Parking
69.02 Park Adjacent to Curb - One-way Street	69.08 No Parking Zones
69.03 Angle Parking	69.09 All Night Parking Prohibited
69.04 Angle Parking - Manner	69.10 Truck Parking Limited
69.05 Parking for Certain Purposes Illegal	69.11 Parking Limited to Ten Minutes
69.06 Parking Prohibited	69.12 Snow Emergency

69.01 PARK ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

69.02 PARK ADJACENT TO CURB - ONE-WAY STREET. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

69.03 ANGLE PARKING. Angle or diagonal parking is permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. Elm Street on both sides from Vine Street to Walnut Street;
2. Elm Street on the north side from Vine Street to the alley running north and south through Block 11, Original Plat of West Union;
3. Elm Street on the south side from Vine Street to Washington Street;
4. Main Street on the south side from Vine Street to Walnut Street;
5. Main Street on the north side from the west end of Main Street to Vine Street;
6. Vine Street on both sides from Plum Street to Main Street;
7. Walnut Street on the west side from Elm Street to the alley running east and west through Block 6, Original Plat of West Union;
8. Walnut Street on both sides from Main Street to Elm Street.

69.04 ANGLE PARKING - MANNER. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall

park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 24 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

(Code of Iowa, Sec. 321.236[1])

1. Sale. Displaying such vehicle for sale;
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;
3. Advertising. Displaying advertising;
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

69.06 PARKING PROHIBITED. No one shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358 [5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236 [1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236 [1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358 [1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358 [2])
6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358 [6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358 [8])
10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358 [9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358 [10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358 [11])
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358 [13])
14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
(Code of Iowa, Sec. 321.360)
15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.
(Code of Iowa, Sec. 321.236[1])
16. Ramps. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.
(Code of Iowa, Sec. 321.358[15])
17. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

69.07 PERSONS WITH DISABILITIES PARKING. The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the *Code of Iowa* and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.
2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

(Code of Iowa, Sec. 321L.4[2])

- A. Use by an operator of a motor vehicle not displaying a persons with disabilities parking permit;
 - B. Use by an operator of a motor vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*;
 - C. Use by a motor vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones.
- A. A person issued a persons with disabilities parking permit under Section 321L.2 who uses a wheelchair due to a disability that renders the person permanently unable to walk may park in a persons with disabilities parking space or a parking space not designated as a persons with disabilities parking space and reserve up to an eight-foot space adjacent to the motor vehicle for the purpose of exiting and entering the motor vehicle if all of the following conditions are met:
 - (1) The person places a wheelchair parking cone within eight feet of the motor vehicle's entry.
 - (2) The person displays the persons with disabilities parking permit on the motor vehicle as described in Section 321L.4.
 - (3) The motor vehicle and the wheelchair parking cone do not obstruct an aisle, street or roadway so that other vehicles are unable to pass through the aisle, street or roadway.
 - (4) The parking space is provided by the State, a political subdivision of the State, or an entity providing nonresidential parking.
 - (5) The person carries in the motor vehicle a copy of the statement from a physician, physician's assistant, advanced registered nurse practitioner or chiropractor which accompanied the person's application for a persons with disabilities parking permit under Section 321L.2 and which indicates the person is permanently unable to walk. The person shall show the copy of the statement to any peace officer upon request.
 - B. A person issued a persons with disabilities parking permit who does not comply with the requirements of paragraph A when using a wheelchair parking cone commits a misdemeanor punishable by a scheduled fine under Section 805.8A, subsection 1.
 - C. A person shall not interfere with a wheelchair parking cone properly placed under paragraph A. A violation of this subsection is a misdemeanor punishable by a scheduled fine under Section 805.8A, subsection 1.

69.08 NO PARKING ZONES. No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

(Code of Iowa, Sec. 321.236 [1])

1. Adams Street and West Main Street, south side, between Vine Street and Wells Street;
2. Cook Street, north side, between Vine Street and Pine Street;
3. East Elm Street, north side, between Walnut Street and the City limits;
4. Jefferson Street, both sides, between Vine Street and Auburn Street;
5. Jones Street, west side, between Highway No. 18 and Smith Street;
6. Linden Street, south side, between South Oak Street and Union Street;
7. Linden Street, south side, between Union Street and Vine Street;
8. East Main Street, north side, between Walnut Street and the City limits;
9. Maple Street, south side, between North Oak Street and North Vine Street;
10. South Pine Street, east side, between East Plum Street and Old Highway No. 56;
11. West Plum Street, south side, between Union Street and South Vine Street;
12. East Plum Street, both sides, between Vine Street and Pine Street (except where loading signs are displayed);
13. East Plum Street, north side, between Pine Street and the City limits;
14. Smith Street, north side, between State Street and Rickel Street;
15. State Street, west side, between Highway No. 18 and Jefferson Street;
16. Union Street, east side, south of Cherry Street;
17. North Vine Street, west side, between Highway No. 18 and Jefferson Street;
18. South Vine Street, east side, between Linden Street and Railroad Street, and west side, between Railroad Street and Franklin Street;
19. South Walnut Street, east side, between East Plum Street and Railroad Street;
20. North Wells Street, west side, between Elm Street and Highway No. 18;
21. Iowa Highway No. 150, both sides, between the points Station 6+00 (a point 400 feet south of the intersection of the centerlines of U.S. No. 18 and Iowa No. 150) to Station 54+77 (the north corporate limits);
22. U.S. Highway No. 18, both sides, from Station 359+60 (a point 1121.1 feet westerly of the intersection of the centerlines of Iowa No. 150 and U.S. No. 18) to Station 375+75 (a point 493.9 feet easterly of the intersection of the centerlines of Iowa No. 150 and U.S. No. 18);
23. Franklin Street, both sides, from Station 16+67.3 (Vine Street) to Station 28+09.0 (south corporate limits) and on the minor street approaches for a distance of thirty-five (35) feet in advance of the stop signs and on the exit sides of the minor streets for a distance of thirty-five (35) feet beyond the far crosswalks;
24. Franklin Street, both sides, from its intersection with Iowa Highway No. 150 easterly to the junction of South Vine Street;
25. Alley, both sides, beginning at the easterly end of Linden Street and running south to the end of alley, thence westerly to Union Street;

26. Auburn Street, east side, from Bradford Street to Jefferson Street;
27. Rickel Street, east side, from Slayton Street to Jefferson Street;
28. Cherry Street, north side, from Union Street to Iowa Highway No. 150;
29. Iowa Highway No. 150, both sides, between Cherry Street and Franklin Street;
30. Otter Street, south side, from Pine Street to the east corporate line;
31. Pine Street, west side, from 200 feet south of the south line of the alley running in an east-west direction along the north side of Fuller's Second Addition to West Union, to a point 250 feet south thereof;
32. School Street, both sides, between Maple Street and Bradford Street;
33. Fleet Street, north side, from Pine Street east to East Street;
34. Commercial Drive, both sides, from Western Avenue to the northern end of Commercial Drive, which is the southernmost point to which said Commercial Drive was previously vacated;
35. Cherry Street, both sides, from the intersection where Cherry Street and Union Street intersect from the north to a point 170 feet east thereof;
36. West Railroad Street, both sides, from South Vine Street to Highway 150 South;
37. Union Street, both sides, from West Railroad Street to Cherry Street;
38. Miller Street, east side, from Elm Street to south end;
39. Wells Street, east side, from Maple Street to Bradford Street;
40. Cedar Street, south side, between Vine Street and Pine Street;
41. Rickel Street, both sides, from the intersection of Rickel Street and Jefferson Street to a point 330 feet north thereof.

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked with signs prohibiting all-night parking for a period of time longer than thirty (30) minutes between the hours of two o'clock (2:00) a.m. and five o'clock (5:00) a.m. of any day.

(Code of Iowa, Sec. 321.236 [1])

69.10 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

(Code of Iowa, Sec. 321.236 [1])

1. Prohibited. No such vehicles shall be parked at any time on the following streets or portions thereof:
 - A. West Main Street, between Vine Street and Wells Street;
 - B. Adams Street, between Vine Street and Wells Street.

2. Loading and Unloading. No such vehicle shall be parked or shall remain backed up to the curb at or adjoining on any portion of Vine Street between Plum Street and Main Street, or on Elm Street between Vine Street and Walnut Street, except when the same is being loaded or unloaded, and then for no longer time than the actual loading or unloading requires, but in no event shall such vehicle be parked at or backed up to the curb for a longer time than twenty (20) minutes at any one time. The Mayor has the authority to extend the time for such loading or unloading when in the Mayor's judgment circumstances require it.

69.11 PARKING LIMITED TO TEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than ten (10) minutes between the hours of 9:00 a.m. and 5:00 p.m. of any day, except holidays and Sundays, in certain designated parking spaces within the downtown business district. The designated spaces shall be identified by a traffic sign located immediately in front of the parking space. The traffic sign shall read: *Ten Minute Parking - 9 A.M. - 5 P.M. Except Sundays & Holidays.*

69.12 SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue from its proclamation throughout the duration of the snow or ice storm and the forty-eight (48) hour period after cessation of such storm except upon streets which have been fully opened. Any snow emergency parking ban shall be of uniform application and the Police Chief is directed to publicize the requirements widely, using all available news media, in early November each year. Where predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation and the parking rules thereunder. Such emergency may be extended or shortened when conditions warrant.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

70.01 ARREST OR CITATION. Whenever a peace officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such officer may:

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

70.02 SCHEDULED VIOLATIONS. For violations of the Traffic Code which are designated by Section 805.8A of the *Code of Iowa* to be scheduled violations, the scheduled fine for each of those violations shall be as specified in Section 805.8A of the *Code of Iowa*.

(Code of Iowa, Sec. 805.8 & 805.8A)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of ten dollars (\$10.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

(Code of Iowa, Sec. 321.236 [1a] & 321L.4[2])

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

70.05 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed

such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and
2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

(Code of Iowa, Sec. 321.236 [1])

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.

(Code of Iowa, Sec. 321.236 [1])

3. Snow Removal. When any vehicle is left parked in violation of a ban on parking during snow removal operations.

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

(Code of Iowa, Sec. 321.236[1])

5. Costs. In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.

(Code of Iowa, Sec. 321.236 [1])

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. “All-terrain vehicle” or “ATV” means a motorized flotation-tire vehicle, with not less than three and not more than six low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Code of Iowa, Sec. 321I.1)

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1)

3. “Off-road utility vehicle” means a motorized flotation-tire vehicle, with not less than four and not more than six low pressure tires, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than one thousand eight hundred (1,800) pounds and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1)

4. “Snowmobile” means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (48) inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1)

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of

Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

75.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

(Code of Iowa, Sec. 321G.9[4a])

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

- A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

(Code of Iowa, Sec. 321G.9[4c])

- B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

- (2) The snowmobile is brought to a complete stop before crossing the street;

- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

(Code of Iowa, Sec. 321G.9[2])

3. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

4. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1 & 3])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

75.06 NEGLIGENCE. The owner and operator of an ATV or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile. The owner of an ATV or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner’s consent to operate the ATV or snowmobile at the time the injury or damage occurred.

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging from Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

76.15 Revocation of License

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(Code of Iowa, Sec. 321.236 [10])

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

(Code of Iowa, Sec. 321.236 [10])

76.05 BICYCLE PATHS. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(Code of Iowa, Sec. 321.236 [10])

76.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code of Iowa, Sec. 321.236 [10])

76.07 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians

approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Code of Iowa, Sec. 321.236 [10])

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

(Code of Iowa, Sec. 321.236 [10])

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

(Code of Iowa, Sec. 321.236 [10])

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

(Code of Iowa, Sec. 321.236 [10])

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

(Code of Iowa, Sec. 321.236 [10])

76.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City.

76.11 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

(Code of Iowa, Sec. 321.236 [10])

76.13 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(Code of Iowa, Sec. 321.236 [10])

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

76.15 REVOCATION OF LICENSE. The Mayor or member of the Police Department may revoke or suspend, for a period not to exceed six (6) months, the bicycle license issued to a person for any violation of any of the provisions of this chapter, after a proper hearing.

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CHAPTER 77

BICYCLE LICENSES

77.01 License Required
77.02 Lost License

77.03 License Transfer
77.04 Alteration Unlawful

77.01 LICENSE REQUIRED. Every person living within the City who owns a bicycle shall cause the ownership thereof to be registered at the office of the police department. Upon such registration and passage of an examination as to the owner's knowledge of the law regulating the operation of bicycles and payment of one dollar (\$1.00), the police department will issue a license tag which thereafter shall be permanently attached to said bicycle.

77.02 LOST LICENSE. In the event that an owner loses the license tag or if the same is destroyed or stolen, the owner shall report same immediately to the police department which shall then issue to such owner a new license tag at a cost of one dollar (\$1.00).

77.03 LICENSE TRANSFER. In the event a licensed bicycle is sold or transferred, the license tag shall pass to the new owner or transferee and the sale or transfer of said bicycle shall be reported to the police department by the former owner within five (5) days. The police department shall make a record of the sale or transfer of such bicycle. Every dealer shall file with the police department on the first day of each month a report of all bicycles sold or transferred during the preceding month.

77.04 ALTERATION UNLAWFUL. It is unlawful for any person to alter or counterfeit any bicycle license tag.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1])

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than 24 hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a

private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle. The owners, lienholders, or other claimants of the abandoned vehicle shall not have a cause of action against a private entity for action taken under this chapter, if the private entity provides notice as required by Section 80.03 to those persons whose names were provided by the police authority.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89[3a])

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

(Code of Iowa, Sec. 321.89[3b])

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

(Code of Iowa, Sec. 321.89[3a])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.10 Tracer Wire
90.02 Superintendent's Duties	90.11 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.12 Failure to Maintain
90.04 Abandoned Connections	90.13 Curb Valve
90.05 Permit	90.14 Interior Valve
90.06 Compliance with Plumbing Code	90.15 Inspection and Approval
90.07 Excavations	90.16 Completion by the City
90.08 Tapping Mains	90.17 Shutting off Water Supply
90.09 Installation of Water Service Pipe	90.18 Operation of Curb Valve and Hydrants

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the Superintendent of Utilities of the City or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

(Code of Iowa, Sec. 372.13[4])

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is

reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the *International Plumbing Code*, laws of the State of Iowa, and rules and regulations of the City.

90.07 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with provisions of the *International Plumbing Code* and/or the provisions of Chapter 135.

90.08 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near the top

of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

(Code of Iowa, Sec. 372.13[4])

90.09 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line must first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.10 TRACER WIRE. A tracer wire shall be installed running parallel with the pipe on all new and replacement water service lines. The type of wire to be used, the depth that it is to be placed and other installation details will be as approved by the Superintendent.

90.11 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.12 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

(Code of Iowa, Sec. 364.12[3a & h])

90.13 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground. The curb valve shall be located two (2) feet from the curb line in the direction of the property line or, if the curb line is not established, ten (10) feet from the property line.

90.14 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within

the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.15 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.16 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. Such assessment may be collected with and in the same manner as general property taxes.

(Code of Iowa, Sec. 364.12[3a & h])

90.17 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.18 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

CHAPTER 91

WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems- Exception

91.04 Location of Meters

91.05 Meter Setting

91.06 Meter Repairs

91.07 Right of Entry

91.08 Meter Testing

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.07 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.08 METER TESTING. Water meters shall be tested whenever the Clerk believes that any meter is not registering correctly. If any customer believes that his or her meter is not accurate, the customer may require that such water

meter be tested, by depositing, with the Clerk, the sum of twenty dollars (\$20.00). Should the meter register fast, the customer shall be entitled to a readjustment of such customer's bills for water for the past three months, on the basis of the over registration, and have the money deposited for testing the meter refunded. Should the meter register accurately or slow, the sum deposited for testing the meter shall be retained by the City.

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CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Temporary Vacancy

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following quarterly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Quarter	Rate
First 3,000	\$18.60 (minimum bill)
Next 22,000	\$2.50 per 1,000 gallons
All over 25,000	\$1.70 per 1,000 gallons

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the following rates:

(Code of Iowa, Sec. 364.4 & 384.84)

Gallons Used Per Quarter	Rate
First 3,000 gallons	\$37.20 (minimum bill)
Next 22,000 gallons	\$3.05 per 1,000 gallons
All over 25,000	\$2.05 per 1,000 gallons

No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulations applying to water service established by the Council.

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Quarterly Billing Procedure.
 - A. Meters Read. Water meters shall be read during the last month of each of the quarters consisting of the following months:
 - First Quarter – January, February and March;
 - Second Quarter – April, May and June
 - Third Quarter – July, August and September
 - Fourth Quarter – October, November and December.
 - B. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of the month following each quarter.
 - C. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15th) day of the month following the end of each quarter.
 - D. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent (5%) of the amount due shall be added to each delinquent bill.

2. Monthly Billing Procedure.
 - A. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.
 - B. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15th) day of each month.
 - C. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of five percent (5%) of the amount due shall be added to each delinquent bill.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The City Administrator shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the City Administrator shall conduct an informal hearing and shall make a

determination as to whether the disconnection is justified. If the City Administrator finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of fifty dollars (\$50.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the

property is expected to be vacant for an extended period of time. There shall be a twenty-five dollar (\$25.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

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CHAPTER 93

PUBLIC WATER SUPPLY WELL FIELD PROTECTION

93.01 Purpose	93.07 Exceptions
93.02 Definitions	93.08 Determination of Locations Within Zones
93.03 Substances Regulated	93.09 Enforcement and Penalties
93.04 Maps of Zones of Influence	93.10 Inspections
93.05 Restrictions Within the Primary Protection Zone	93.11 Notice of Violation and Hearing
93.06 Restrictions Within the Secondary Protection Zone	93.12 Injunctive Relief

93.01 PURPOSE. The purpose of this chapter is to institute land use regulations and restrictions to protect the City's water supply and well fields, restrict the location of potential sources of contamination in close proximity to a public water supply, and to promote the public health, safety and general welfare of the residents to the City.

93.02 DEFINITIONS.

1. "Aquifer" means a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
2. "Alluvium" means sand, clay, etc., gradually deposited by moving water.
3. "Contamination" means the presence of any harmful or deleterious substances in the water supply.
4. "Groundwater" means subsurface water in the saturated zone from which wells, springs and groundwater runoff are supplied.
5. "Hazardous substances" means those materials specified in Section 93.03 of this chapter.
6. "Labeled quantities" means the maximum quantity of chemical as recommended on the label, for specific applications.
7. "Permitted pumping capacity" means the amount of water authorized to be pumped from a well during a one-year period.
8. "Person" means any natural person, individual, public or private corporation, firm, association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
9. "Petroleum product" means fuels (gasoline, diesel fuel, kerosene and mixtures of those products), lubricating oils, motor oils, hydraulic fluids and other similar products.
10. "Pollution" means the presence of any substance (organic, inorganic, radiological or biological) or condition (temperature, pH, turbidity) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.
11. "Potable water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

12. “Primary containment” means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.
13. “Public utility” means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
14. “Secondary containment” means the level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leakproof trays under containers, floor curbing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
15. “Shallow well” means a well located and constructed in such a manner that there is not a continuous five-foot layer of low permeability soil or rock between the aquifer from which the water supply is drawn and a point twenty-five (25) feet below the normal ground surface.
16. “Toxic substance” means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation or absorption into the body.
17. “Water pollution” means the introduction in any surface or underground water of any organic or inorganic deleterious substance in such quantities, proportions and accumulations that are injurious to human, plant, animal, fish and other aquatic life or property or that unreasonably interfere with the comfortable enjoyment of life or property or the conduct of business.
18. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.
19. “Well field” means a tract of land that contains a number of wells for supplying water.
20. “Zones of influence” means zones delineated by fixed radii around well fields, within which toxic substances will be regulated to protect the quality of the underground resource.

93.03 SUBSTANCES REGULATED. The materials regulated by this chapter are the following:

1. Petroleum products as defined in Section 93.02;
2. Substances listed in 40 CFR Part 261, subparts C and D, the Federal Hazardous Waste List;
3. Substances listed by the Iowa Labor Commissioner pursuant to Chapter 89B of the *Code of Iowa (Hazardous Chemicals Risks - Right to Know)*.

93.04 MAPS OF ZONES OF INFLUENCE.

1. Maps. Zones of influence maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps are on file in the Water Department. The location of all wells in the City supplying potable water to the City

Water System are shown on the official Zoning District Map with Primary and Secondary Protection Zones indicated. No land within the primary protection zone that is currently not zoned commercial or industrial will be allowed to be rezoned to a commercial or industrial classification. Said maps shall be provided to the Clerk and any other agency requesting said maps.

2. Map Maintenance. The zones of influence maps may be updated on an annual basis. The reasons for such an update may include, but are not limited to, the following:

- A. Changes in the technical knowledge concerning the aquifer;
- B. Changes in permitted pumping capacity of City well fields;
- C. Additions of wells to existing well fields;
- D. Designation of new well fields.

3. Zones of Influence. The zones of influence indicated on the zones of influence maps are as follows:

- A. Primary Protection Zone – an area extending 200 feet radially from any well supplying potable water to the City Water System.
- B. Secondary Protection Zone – an area extending between 200 and 1,000 feet radially from any well supplying potable water to the City Water System.

93.05 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the Primary Protection Zone. Uses not listed are to be considered prohibited uses.

- A. Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use, and the Iowa Department of Natural Resources *Separation Distances from Wells* for sources of contamination is complied with.
- B. Playgrounds.
- C. Wildlife areas, open spaces.
- D. Lawns and gardens.
- E. Nonmotorized trails, such as biking, skiing, nature and fitness trails.

2. Prohibited Uses. All other uses are prohibited within the Primary Protection Zone. Additional restrictions are as follows:

- A. No person shall discharge or cause or permit the discharge of a hazardous substance (including herbicide and pesticide application) to the soils, groundwater or surface water within the Primary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the Council or Wellhead Protection Officer.
- B. New sanitary landfills are prohibited within the Primary Protection Zone.

- C. The use, handling, production, and storage of hazardous substances is prohibited in the Primary Protection Zone except as provided under Section 93.07. All persons who presently engage in nonexempt activity within the protection zone who store, handle, use, or produce any hazardous substances shall cease to do so within two (2) years from the effective date of the ordinance codified in this chapter except as provided herein.
- D. Feedlots or other concentrated animal facilities are prohibited within the Primary Protection Zone.
- E. Wastewater treatment plants, percolation ponds, dredge spoil deposits and similar facilities are prohibited within the Primary Protection Zone.
- F. Septic tanks are prohibited within the Primary Protection Zone.
- G. Other prohibited uses are: Septage and/or sludge and/or animal waste land spreading, salt storage, and radioactive waste facilities.

93.06 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

- 1. Permitted Uses. The following uses are permitted in the Secondary Protection Zone.
 - A. All uses listed as permitted in the Primary Protection Zone.
 - B. Sewered residential, commercial and/or industrial uses except those listed as prohibited uses in subsection 2 of this section.
 - C. Above-ground storage tanks of 660 gallons or less.
 - D. Basement storage tanks.
- 2. Prohibited Uses. All other uses are prohibited within the Secondary Protection Zone. Additional restrictions are as follows:
 - A. No person shall discharge or cause or permit the discharge of a hazardous substance in excess of labeled quantities (including fertilizer and pesticide applications) to the soils, ground water, or surface water within the Secondary Protection Zone. Any person knowing or having evidence of a discharge shall report such information to the City.
 - B. New sanitary landfills are prohibited within the Secondary Protection Zone.
 - C. The use, handling, production, and storage of hazardous substances are prohibited in the Secondary Protection Zone, except where secondary containment is provided, or underground storage tanks in compliance with Chapter 135 of the Iowa Administrative Code, above ground storage tanks in compliance with requirements of the State Fire Marshal, or as provided under Section 93.07.
 - D. Feedlots or other concentrated animal facilities are prohibited within the secondary protection zone.
 - E. Wastewater treatment plants, percolation ponds, dredge spoil deposits and similar facilities are prohibited within the secondary protection zone.

93.07 EXCEPTIONS.

1. The following activities or uses are exempt from the provisions of this chapter:
 - A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
 - B. Silviculture uses and mosquito control spraying providing that said uses comply with the Iowa Commercial and Public Pesticide Applicators and Dealers Licensing through the Iowa Department of Agriculture. The use and storage of herbicides and pesticides for silviculture uses are prohibited within the Primary Protection Zone but are allowed within the Secondary Protection Zone.
 - C. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as lubricant in a vehicle.
 - D. Fire, police, emergency medical services, emergency management center facilities or public utility transmission facilities.
 - E. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers.
 - F. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
 - G. Consumer products located in the home which are used for personal, family or household purposes.
 - H. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
 - I. The use of water treatment chemicals connected with the operation of the well.
2. The use of structures or facilities existing at the time of the adoption of the ordinance codified by this chapter may be continued even though such use may not conform with the regulations of this chapter. However, such structures or facilities may not be enlarged, extended, reconstructed or substituted subsequent to adoption of said ordinance.
3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances who is exempt from this chapter by law shall not be subject to the restrictions contained herein.
4. All written requests to permit variances or special exceptions in the City's Well Field Protection Zones will be to the Council and must include an environmental assessment report. Any exemptions granted will be made conditional and may include environmental and safety monitoring and/or a bond posted for future monitoring and cleanup costs. The exemption will be made void if environmental and/or safety monitoring indicates the facility is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

93.08 DETERMINATION OF LOCATIONS WITHIN ZONES. In determining the location of properties within the zones depicted on the Zones of Influence Maps, the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable Zone of Influence Map shall be governed by the restrictions applicable to that zone.
2. For properties having parts lying within more than one zone as reflected on the applicable Zones of Influence Map, each part shall be governed by the restrictions applicable to the zone in which it is located.

93.09 ENFORCEMENT AND PENALTIES.

1. The Superintendent of Utilities is designated as the Well Field Protection Officer unless another person is specifically designated by the Council to supervise the implementation and enforcement of this chapter.
2. No building permit shall be issued which is a violation of the Iowa Department of Natural Resources *Separation Distance from Wells*, a violation of this chapter or a source of contamination for a City well.
3. No new underground tanks will be allowed for auxiliary fuel storage in the Primary or Secondary Zones.
4. Any person who fails to comply with the provisions of this chapter shall be subject to provisions and penalties provided for a violation of this Code of Ordinances.

93.10 INSPECTIONS.

1. The Well Field Protection Officer or inspector shall have the power and authority to enter and inspect all buildings, structures and land within well field zones of influence for the purpose of making an inspection. Failure of a person having common authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the Protection Officer to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open unsecured portion of the premises in order to conduct an inspection thereof.
3. The Well Field Protection Officer or inspector may inspect each well field annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within each well field zone. An emergency plan shall be prepared and filed with the County Emergency Management Agency indicating the procedures which will be followed in the event of spillage of a regulated substance so as to control and collect all such spilled materials.
4. It is the duty of all law enforcement officers to assist in making inspections when such assistance is requested by the officer or inspector.

93.11 NOTICE OF VIOLATION AND HEARING. Whenever an officer or an inspector determines that there is a violation of this chapter, said officer shall give notice thereof, and such notice of violation shall:

1. Be in writing;
2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations;
4. State that said violations shall be corrected within a specified period of time as issued in writing by the inspector.

93.12 INJUNCTIVE RELIEF. If any person who engages in nonresidential activities stores, handles, uses and/or produces toxic substances within the well field zones of influence, as indicated on the Zones of Influence Maps, continues to operate in violation of the provisions of this chapter, then the City may file an action for injunctive relief in the court of jurisdiction.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of Utilities of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

(Code of Iowa, Sec. 372.13[4])

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.
(Code of Iowa, Sec. 716.1)
2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.
4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.
5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.
(Code of Iowa, Sec. 364.12[3f])
6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.
(Code of Iowa, Sec. 364.12[3f])

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet (30.5 meters) of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12 [3f])

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

(Code of Iowa, Sec. 364.4 [2 & 3])

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee

96.03 Connection Requirements

96.04 Sewer Tap

96.05 Inspection Required

96.06 Property Owner's Responsibility

96.07 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE. The person who makes the application shall pay a fee in the amount of one hundred dollars (\$100.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

96.03 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *International Plumbing Code*, the laws of the State and other applicable rules and regulations of the City. A tracer wire shall be installed running parallel with the pipe on all new and replacement building sewers. The type of wire to be used, the depth that it is to be placed and other installation details will be as approved by the Superintendent.

96.04 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a "Y" saddle shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless

special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.05 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the *International Plumbing Code*.

96.06 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.07 ABATEMENT OF VIOLATIONS. Building sewers, whether located upon the private property of any owner or in the public right-of-way, which are constructed or maintained in violation of any of the requirements of this chapter shall be deemed a nuisance and the same shall be abated by the City in the manner provided for the abatement of nuisances.

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges - Powers

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood,

unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material

received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES – POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions

98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage
98.09 Minimum Lot Area

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

(Code of Iowa, Sec. 364.12[3f])

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of an on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3&4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the

public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

(Code of Iowa, Sec. 364.12[3f])

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills

99.06 Lien for Nonpayment
99.07 Special Agreements Permitted
99.08 Annual User Charge Notice
99.09 Biennial Rate Review

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system as follows:

1. Flat Fee.
 - A. Within City. A flat fee of \$24.20 per quarter for each customer located within the City.
 - B. Outside City. A flat fee of \$48.40 per quarter for each customer located outside the City.
2. Usage Fee. A usage fee of \$2.50 for each 1,000 gallons of water used each quarter, in excess of 3,000 gallons, as determined by water meter readings.

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes

delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

99.08 ANNUAL USER CHARGE NOTICE. The Clerk shall notify each customer, at least annually, in conjunction with a regular sewer bill, of the rate and that portion of the service charges which are attributable to operation, maintenance and replacement costs of the wastewater treatment services.

99.09 BIENNIAL RATE REVIEW. At least once every two years, the Council shall have the receipts and disbursements of the sanitary sewer audited to insure continued adequacy of funds and proportionality of charges. When necessary, the Council shall adjust the sewer charges to produce adequate income to retire any indebtedness against the system, to meet operation, maintenance and replacement needs, and any required reserves and to assure that appropriate charges are made as between the different classifications of customers.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.09 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.10 Waste Storage Containers
105.05 Open Burning Restricted	105.11 Prohibited Practices
105.06 Separation of Yard Waste Required	105.12 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[2])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris.
(Code of Iowa, Sec. 455B.361[1])
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

3. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

4. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

5. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

6. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

7. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.
4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the Fayette County Solid Waste Management Commission are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection

106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Landfill and Recycling Center Fee
106.08 Lien for Nonpayment

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be by private contract with collectors.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 LANDFILL AND RECYCLING CENTER FEE. The disposal of solid waste as provided by this chapter is declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a landfill and recycling center fee in accordance with the following:

1. Fee. The landfill and recycling center fee for each premises shall be in accordance with the fee schedule adopted by resolution of the Council.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.08 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.06 Extension of Facilities
110.02 Term	110.07 Relocation of Facilities
110.03 Governing Rules and Regulations	110.08 Confidential Information
110.04 Franchise Fees	110.09 Force Majeure
110.05 Construction and Maintenance of Facilities	110.10 Hold Harmless

110.01 FRANCHISE GRANTED. The City hereby grants a nonexclusive franchise to Aquila, Inc, d/b/a Aquila Networks, a Delaware corporation (hereinafter called “Grantee”), its lessees, successors, and assigns. Grantee is hereby granted the right, privilege, franchise, permission, and authority to lay, construct, install, maintain, operate, and extend in, along, over, or across the present and future streets, alleys, avenues, bridges, public rights-of-way, and public places as are now within the present or future limits of the City, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of the City and consumers in the vicinity thereof, and for the distribution of natural gas from or through the City to points beyond the limits thereof. Such facilities include (but are not limited to) all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing, and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of the City and in carrying on such business.

110.02 TERM. The rights and privileges granted by this Ordinance shall remain in effect for a period of twenty-five (25) years from the effective date of the ordinance codified in this chapter, subject to cancellation at the end of the tenth year. The City Clerk shall notify Grantee in writing at least 180 days before the expiration of the initial term if the City desires not to renew the franchise.[†]

110.03 GOVERNING RULES AND REGULATIONS.

1. The franchise is granted subject to all conditions, limitations, and immunities now provided for, or as hereafter amended, and applicable to the operations of a public utility, by State or Federal law. The rates to be charged by Grantee for service within the present or future corporate limits of the City and the rules and regulations regarding the character, quality, and standards of service to be furnished by Grantee shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates,

[†] **EDITOR’S NOTE:** Ordinance No. 518, adopting a natural gas franchise for the City, was passed and adopted on July 5, 2005.

regulations and quality and standards of service to be supplied by Grantee. Provided, however, should any judicial, regulatory or legislative body, having proper jurisdiction, take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then the Grantee and City shall renegotiate the terms of this chapter in accordance with the action taken, so as to allow Grantee to be made whole economically. In determining the rights and duties of the Grantee, the terms of this chapter shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the City.

2. If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations are uniform as applied to each class of customers or prospective customers, and are non-discriminatory as between communities receiving service from the Grantee.

110.04 FRANCHISE FEES. The City may, during the term of the franchise, in its discretion after public hearing, but not more than once a year, and upon an affirmative vote of all of the members of the Council, impose a franchise fee on customers located within the corporate City limits in an ordinance form satisfactory and acceptable to Grantee. The form of assessment and collection of the franchise fee approved by the City must be based on one of the following methods: (i) percentage of gross receipts of regulated sales or transportation revenues collected within the City; (ii) volumetric fee based on the delivery of energy within corporate City limits; or (iii) flat fee collected from customers on a nondiscriminatory basis who are located within the City; provided however, no franchise fee shall be effective against Grantee unless and until the City imposes a fee or tax of the same percentage or other method on the gross revenues, delivery or customers of all other energy suppliers. The City may request that Grantee propose ordinance language that will apply the permitted franchise fee.

110.05 CONSTRUCTION AND MAINTENANCE OF FACILITIES. Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of the City and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation. Grantee agrees that for the term of the franchise, it will maintain facilities and equipment sufficient to meet the current and future energy requirements of the City, its inhabitants and industries. While maintaining its facilities and equipment, Grantee shall obtain permits as required by ordinance, except that in emergency situations, Grantee shall take immediate unilateral actions as it

determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify the City as soon as reasonably possible. The City will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affect Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements and the time when the City will start the work, and if more than one right-of-way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering reasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its facilities.

110.06 EXTENSION OF FACILITIES. Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria, make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of the City.

110.07 RELOCATION OF FACILITIES. If the City elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from the City, shall remove and relocate its facilities or equipment situated in the public rights-of-way, if such removal is necessary to prevent interference and not merely for the convenience of the City, at the cost and expense of Grantee. If the City orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the City or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause Grantee unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for Grantee's facilities. The City shall give Grantee written notice of vacating of a public right-of-way. Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are first paid to the Grantee. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the facilities or equipment of the Grantee, shall first give notice to the City and the Grantee and pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's facilities and equipment.

110.08 CONFIDENTIAL INFORMATION. The City acknowledges that certain information it might request pursuant to this chapter may be of a proprietary and confidential nature. If Grantee requests that any information provided by Grantee to the City be kept confidential due to such proprietary or commercial value, the City and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If the City is requested or required by legal or administrative process to disclose any such confidential information, the City shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. The City shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

110.09 FORCE MAJEURE. It shall not be a breach or default under this chapter if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure includes, but is not limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; (ii) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; (iii) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, this provision shall not obligate a party to settle any labor strike.

110.10 HOLD HARMLESS. Grantee, during the term of the franchise, agrees to save harmless the City from and against all claims, demands, losses and expenses arising directly out of the negligence of Grantee, its employees or agents, in the constructing, operating, and maintaining of distribution and transmission facilities or appliances of Grantee; provided, however, Grantee need not save harmless the City from claims, demands, losses and expenses arising out of the negligence of the City, its employees or agents.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Placement of Facilities
111.03 Installation of Meters
111.04 Quality of System

111.05 Nonexclusive Franchise
111.06 No Interruption of Service
111.07 Term of Franchise

111.01 FRANCHISE GRANTED. There is hereby granted unto Interstate Power Company, herein called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places transmission lines through the City, to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat and power for the period of fifteen (15) years, subject to a limited right of cancellation at the end of the fifth or tenth year anniversary of the Anniversary Date as defined herein; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.[†]

111.02 PLACEMENT OF FACILITIES. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 INSTALLATION OF METERS. The Company, its successors and assigns, shall furnish and install all meters at their own expense, and shall provide the service wire to buildings as set forth in the Company’s tariff filed with the Iowa Utilities Board.

111.04 QUALITY OF SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all

[†] **EDITOR’S NOTE:** Ordinance No. 480 adopting an electric franchise for the City was passed and adopted on October 2, 2000. Voters approved the franchise at an election held on December 12, 2000.

reasonable demands of the City and its inhabitants and shall be kept in a modern and up-to-date condition.

111.05 NONEXCLUSIVE FRANCHISE. The franchise granted by this chapter shall not be exclusive.

111.06 NO INTERRUPTION OF SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.07 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted hereunder shall continue for the period of fifteen (15) years from and after its acceptance by the said Company, as herein provided. The City may cancel this franchise on the fifth or tenth anniversary of the Anniversary Date of the franchise by notifying the Company in writing of its desire to do so, said notification to be given within thirty (30) days of the fifth or tenth anniversary of the franchise. If the Company is not notified of the cancellation by the fifth or tenth anniversary, then this franchise shall continue without cancellation until the fifteenth year. The Anniversary Date of the franchise is the date the franchise is filed with the Clerk or otherwise effective by operation of law.

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CHAPTER 112

CABLE TELEVISION FRANCHISE AND REGULATIONS

112.01 Granting of Authority	112.08 Term
112.02 Nonexclusive Franchise	112.09 Service Standards
112.03 Definitions	112.10 Report Requirements
112.04 Conditions of Street/Public Way Occupancy	112.11 Assignment or Transfer
112.05 Indemnification and Insurance	112.12 Police Power
112.06 Franchise Fee	112.13 Other Permits Required
112.07 City Expenses and Fees	112.14 Violations and Enforcement

112.01 GRANTING OF AUTHORITY. A nonexclusive right, privilege and renewal of the franchise is hereby granted to Triax Midwest Associates, L.P. (the “Company”) to erect, maintain and operate a system of antennas, cables, wires, lines, facilities and additions thereto, in, under, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys and any easement or right-of-way now or hereafter held by the City or dedicated for use by the City or the general public for the purpose of transmission and distribution of television signals in accordance with laws and regulations of the United States of America, the State of Iowa, and the ordinances and regulations of the City, and for such other uses compatible with the cable system as the Company may, from time to time, determine, including, but not limited to, the transmission of voice and data. The Company is hereby granted the further right, privilege and authority to lease, rent or in any lawful manner obtain the use of towers, poles, lines, cables, underground conduits and other equipment and facilities from any and all holders of public licenses and/or franchises within the limits of the City, to use such towers, poles, lines, cables and underground conduits and other equipment and facilities subject to all existing ordinances and regulations of the City. The poles used by the Company shall be those erected and maintained by the local public utility companies when and where practical, providing mutually satisfactory rental agreements can be entered into with said companies.

112.02 NONEXCLUSIVE FRANCHISE. The right, privilege, and franchise granted by this ordinance is not exclusive. To induce the Company to incur the costs of constructing, owning and operating the Cable System, the City agrees that it will not directly or indirectly construct, own or operate a community antenna television system within its territorial limits, unless such right is expressly provided by applicable law, but only to the extent so provided, it being agreed that in the absence of any such express legislative right, the City shall have no right to acquire this franchise or the Cable System. Further, the City shall have the right to grant to other persons or entities who own and operate community antenna television systems rights similar to those granted to the Company herein at any time during the term of the franchise and renewal thereof, upon such terms and conditions as the City may determine and as may

be permitted under applicable law with due consideration of the interests of the public and the Company, provided that no other franchise shall be granted upon terms which are more favorable to the operator than the terms hereunder.

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

1. “Basic subscriber service” means the initial service including but not limited to mandatory carriage signals and local access channels and such other service as the Federal Communication Commission (the “FCC”) may mandate or the Company may include. This does not include optional premium services, as long as they are sold separately from basic tier service.
2. “Cable system” means a system designed to receive, transmit, amplify and distribute television, radio and satellite signals, data and electronic communications and/or designed for such other uses which are compatible therewith, including, but not limited to, the transmission of voice and data.
3. “Gross revenue” means any and all compensation or receipts derived by the Company from the transmission and carriage of broadcast signals and FCC mandated non-broadcast services within the City, but shall not include any deposits delivered to the Company until such time as the Company legally is entitled to the same, nor installation, disconnection and reinstallation charges, and shall be net of all refunds or credits made to subscribers and any taxes imposed upon or with respect to the services furnished by the Company. Nor shall gross revenues include revenue from “ancillary” or “auxiliary” services, which include but are not limited to advertising, leased channels, and programming supplied on a per-program or per-channel charge basis, if any.
4. “Subscriber” means any person who pays the applicable rates to receive cable television or other communications service from the Company.
5. “Television” means any transmission of audio, video, digital or other electrical signals and any other transmission by means of impulses.

112.04 CONDITIONS OF STREET/PUBLIC WAY OCCUPANCY.

1. All poles, wires, cable, underground conduits and facilities of every kind shall be located, installed and maintained so as to cause minimum interference with the proper use of streets, and to assure that the safety, functioning and appearance of the property, and the convenience and safety of other persons and the public shall not be adversely affected thereby. The cable system shall be constructed, installed, operated and maintained in compliance with applicable governmental regulations. All equipment and facilities shall be installed in accordance with good engineering practices.
2. In case of disturbance of any street, sidewalk or paved area caused by the cable system or the Company, the Company shall, at its expense, and in a manner approved by the City, replace and restore such street or paved area to a condition which is reasonably similar to the condition existing prior to the disturbance.
3. In case of fire, earthquake, flood or other similar occurrence, the City may temporarily remove any of the Company’s facilities or equipment, with advance notice to the Company being given as promptly as possible. The Company shall not

be entitled to payment for any damage cause by this removal, unless the City acted with gross negligence or willful misconduct.

4. If the City decides to alter or change any street, sidewalk, alley or other public way, or to undertake any improvements on or about the street, sidewalk, alley or other public way, the City shall give the Company reasonable advance notice of such alteration and the Company shall relocate its facilities and equipment or take such other reasonable action as may be necessary to accommodate the public improvements, at the Company's expense.

5. The Company agrees to temporarily remove, reroute or move any or all of its equipment and facilities to accommodate public or private works or construction and movement of buildings or extra large truckloads, etc. The Company shall be entitled to both reasonable notice prior to such event and reasonable costs for such relocations from any private party causing such relocation but not from the City.

6. Before undertaking any construction or installation of equipment or facilities which would materially disrupt the use of public rights-of-way, the Company shall provide the City with reasonable prior notice of the work to be performed and the location and period of time involved in the undertaking. The City shall have the right to inspect the work at any time to be certain it is being done in accordance with this chapter. When completed, the Company shall, upon request, submit a plan to the City showing the location of facilities and equipment and identifying the equipment and facilities comprising the cable system.

7. The Company agrees to compensate property owners for or to restore all damages caused to private and public property including landscaping by the construction, operation or maintenance of its cable system. Notwithstanding any agreement it may have with any construction company, the Company shall be primarily responsible for all such damage.

112.05 INDEMNIFICATION AND INSURANCE.

1. The Company shall at all times indemnify, protect and hold the City harmless from all claims, actions, suits, liabilities, losses, expenses or damages of every kind and description, including investigation costs, court costs and reasonable attorneys' fees which may accrue to or be suffered or claimed by any person by reason of or relating to the ownership, construction, repair, replacement, operation and maintenance of the cable system and by reason of any license, copyright, property right or patent of any article or system used in said system.

2. In order for the City to assert its rights to be indemnified, defended and held harmless, the City shall provide: (i) prompt notice to the Company of any claim or legal proceeding which gives rise to such rights, and (ii) full cooperation with the requests of the Company with respect to the Company's participation in and control, compromise, settlement or resolution or other disposition of such claim or proceeding.

3. The Company shall maintain in full force and effect public liability and property insurance with the following minimal coverage: property damage -- \$100,000.00 per occurrence, \$300,000.00 aggregate; bodily injury -- \$300,000.00 per occurrence, \$500,000.00 aggregate, which insurance shall name the City as additional insured and which shall require thirty (30) days' notice of cancellation to be given to the City. The Company also shall carry insurance coverage for all claims under any applicable worker's compensation law.

4. On the request of the City, the Company shall file with the City certificates of insurance for the above coverage.

112.06 FRANCHISE FEE. The Company shall pay to the City a franchise fee in an amount equal to --0%-- of all gross revenue receipts received from subscribers located within the City. The Company shall pay this fee to the City at the end of each calendar year, and shall be based on the total gross revenue receipts received by the Company from subscribers located within the City during the year preceding that most recently completed. The Company shall submit with each payment a report concerning the information upon which the fee owed the City was based and shall provide additional information or records as the City may reasonably request in order to review and determine the fee obligation. Nothing in this chapter shall waive, limit or otherwise affect the right of the City to adopt ordinances or to enforce existing ordinances regarding, and to collect, other fees and taxes permitted by law.

112.07 CITY EXPENSES AND FEES. The Company shall pay or reimburse the City for costs, fees, expenses and charges reasonably incurred by the City for the following:

1. Protection, removal or relocation of the Company's equipment or facilities if such action has been reasonably requested by the City and the Company has failed to perform the work within a reasonable period of time.
2. Restoring or remedying any damage or condition resulting from the construction, installation, maintenance, removal or any work performed by the Company.
3. Any costs, fees, expenses and charges, including reasonable attorneys' fees incurred in the collection of fees or expenses or in the enforcement of this chapter.
4. Any costs, fees, expenses and charges, including reasonable attorneys' fees incurred by reason of the Company's failure to comply with its obligations under this chapter or under State or Federal laws and regulations.

112.08 TERM. The initial term of the franchise shall be ten (10) years from the effective date of the ordinance codified in this chapter. At the end of this initial term, the Company may renew the franchise by giving written notice to the City, not less than ninety (90) days prior to the expiration hereof, unless the consent of the City to such renewal is required by applicable Federal, State or local laws and regulations, which consent shall not be withheld unreasonably, after public notice and opportunity to be heard. In determining whether to grant a renewal, the City shall consider those factors prescribed by applicable law and, among other things, (i) whether the Company has substantially complied with the material terms of the franchise and with applicable law; (ii) the extent and quality of the Company's service; (iii) whether the Company remains financially, legally and technically qualified; and (iv) whether the Company's renewal would reasonably meet the future cable-related community needs and

interests. Any renewal of the initial term hereof shall be for an additional five years. Upon completion of a system rebuild to a minimum of 550 MHz, the franchise will automatically be renewed for a period of five additional years, from the expiration of the current term.[†]

112.09 SERVICE STANDARDS.

1. The Company shall maintain the cable system so that it is capable of providing continuous, reliable and good quality reception and service to subscribers.
2. The Company shall make repairs promptly. Service interruptions due to cable system repairs, maintenance, modifications or installations shall be for the shortest time possible and shall, to the extent practicable, be preceded by notice to subscribers and shall occur during periods of minimal viewership.
3. The Company shall maintain the cable system so that it meets the technical standards applied by the FCC. Procedures for testing the technical capacity of the cable system shall conform to the technical and testing standards applied to cable systems by the FCC.
4. The Company shall maintain sufficient replacement and repair equipment, facilities and supplies, and trained personnel to perform necessary and prompt repairs to the cable system in the event of damage thereto. In the event of major damage to the equipment and facilities, the Company shall make every effort to restore service as expeditiously as possible and to provide for alternative means of providing service to as many subscribers as possible while making necessary repairs.
5. The Company shall maintain a publicly listed, toll-free telephone number to receive subscriber complaints, or the Company shall otherwise notify subscribers of this telephone number on a periodic basis. The Company may provide separate telephone numbers for complaints made after normal business hours, but must be capable of handling complaints twenty-four (24) hours a day.
6. The Company shall investigate all subscriber complaints regarding quality of service, equipment malfunctions and similar matters expeditiously and no later than the next business day. Upon notification of a service complaint, the Company shall dispatch a qualified employee to investigate the complaint and adjust, repair or replace Company equipment as necessary to resolve the complaint.
7. If there is an interruption of service for forty-eight (48) consecutive hours or more, the affected subscribers shall receive, upon request, a pro rata reduction of charges, provided that the subscriber has notified the Company immediately of the outage and made claim for credit within ninety (90) days of its occurrence. The loss of service must be caused directly by failure of the Company's equipment in order to qualify for a credit. No credit will be given if the service interruption is caused by any of the subscriber's equipment or any action taken with respect to the Company's equipment by someone other than the Company's employees. The Company is not responsible for the operation, maintenance, service or repair of any subscriber's televisions, radios, VCR's, other receivers and related equipment.

[†] **EDITOR'S NOTE:** Ordinance No. 449 adopting a cable TV franchise for the City was passed and adopted on February 19, 1996.

8. Notwithstanding any provision contained herein to the contrary, the Company will not be liable for any inconvenience, loss, liability or damage resulting from any circumstance beyond its control, and any such circumstance also shall toll the Company's obligation to perform hereunder until such circumstance has passed.

9. The Company shall provide a basic subscriber service to all subscribers within the area of the City reasonably serviceable by the cable system installed.

10. The Company shall provide upon request and without charge basic subscriber service to each governmental building, fire station, police station or public school building located in an area served by the cable system.

112.10 REPORT REQUIREMENTS. In addition to the other reporting requirements set forth in this chapter, the Company shall, upon request, submit to the City copies of reports submitted to the FCC which relate to the cable system. The City may on reasonable notice inspect the FCC public files and technical files maintained by the Company at its local office with respect to the cable system.

112.11 ASSIGNMENT OR TRANSFER. The right, privilege and franchise given to the Company by this chapter shall not be assigned or transferred without the prior approval of such transfer by the City. Such approval shall not be withheld unreasonably. For the purpose of this section, an "assignment" or "transfer" shall not be deemed to include any: (i) transfer to an entity which is affiliated with the Company through common control, ownership or otherwise; (ii) transfer of a portion of all of the control of the Company or any of its affiliates; (iii) restructuring of the Company or any of its affiliates; and (iv) security interest or collateral assignment of the cable system or the Company's rights hereunder to secure repayment of indebtedness.

112.12 POLICE POWER. The Company shall at all times during the term of the franchise be subject to all lawful exercise of the police power by the City, which reserves the right to adopt from time to time such ordinances as may be necessary to the exercise of that police power as it may relate to the franchise.

112.13 OTHER PERMITS REQUIRED. This franchise does not supersede any other provisions of any City ordinance or regulation which may require the Company to obtain other permits, licenses, etc., or relieve the Company from compliance with such ordinances. Specifically, the Company is not relieved from the requirements to obtain building permits, utility pole agreements, etc.

112.14 VIOLATIONS AND ENFORCEMENT.

1. If the Company violates any provision of this chapter, or the City believes that the Company has violated any provision of this chapter, the City shall hold a hearing and take the actions as set forth hereafter. The City shall notify the Company in writing of the alleged violation and of the City's proposed remedy; the Company shall have thirty (30) days after its actual receipt of such notice to cure such violation. If

the Company disputes the existence of the violation or the proposed remedy, or if such default is not cured within the 30 days after the Company's actual receipt of such default notice, then the matter shall be referred to a public hearing to be held after public notice at least ten (10) days in advance, and written notice of the hearing and the alleged violation to the Company no less than 10 days prior to the date of the hearing. At the hearing, the City shall publicly list all the alleged violations and shall give the Company and all other interested parties an opportunity to be heard as to the alleged violations. Within a reasonable time after the hearing, the City shall determine whether the Company has violated this chapter and the remedy for the violation, and shall issue written findings and conclusions with respect thereto, and the Company shall be given a reasonable opportunity of not less than thirty (30) days after the issuance of said findings and conclusions to remedy the matter or comply with this chapter.

2. If such hearing and procedures have not resolved the dispute, the City may proceed in any appropriate court of law or administrative agency to compel compliance with the provisions of this chapter, to collect any sums due hereunder which have not been paid, or to terminate the franchise granted hereby. Except as expressly provided herein, the Company shall not otherwise be liable to the City. In no event shall the Company be liable for any consequential damages.

3. Prevention or delay of any performance under this chapter due to circumstances beyond the reasonable control of the Company, unforeseen circumstances, or acts of God, shall not be deemed noncompliance with or a violation of this chapter.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49 [2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

(Code of Iowa, Sec. 123.49 [2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation,

unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the

license. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of one hundred dollars (\$100.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day.....\$ 20.00
 - B. For one week.....\$ 50.00
 - C. For up to six (6) months.....\$ 100.00
 - D. For one year or major part thereof\$ 200.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the North Fayette School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Issued

123.07 Public Safety
123.08 Time Limit
123.09 Removal by City
123.10 Protect Pavement
123.11 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.

2. Property Damage - \$50,000 per accident.

123.06 PERMIT ISSUED. Upon approval of the application and filing of bond and insurance certificate, the Clerk shall issue a permit.

123.07 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.08 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.08 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.10 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.11 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 124

JUNK DEALERS

124.01 Definitions
124.02 License Required
124.03 Persons Entitled To Be Licensed
124.04 License Fee
124.05 Investigation; Inspection

124.06 Transfer Prohibited
124.07 Revocation of License
124.08 Notice of Hearing
124.09 Requirements and Regulations
124.10 Concealing Property

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

1. “Junk dealer” means any person engaged in the business of collecting, storing, buying or selling junk, including the activity known as “auto salvage.”
2. “Junk” means old or secondhand vehicles, machinery, iron or other materials, rope, rags, glass, fabric, cordage, wood or paper not suitable for sale for the purpose for which the same was originally fabricated, but which is salvageable so as to be used again in some manner.

124.02 LICENSE REQUIRED. It is unlawful for any person to engage in the vocation of junk dealer in the City without having a license as herein provided.

124.03 PERSONS ENTITLED TO BE LICENSED. Any person who satisfies the conditions prescribed for a license and satisfies the Council that said person’s operation does not and will not endanger the public welfare, order, safety, health or morals is entitled to a license upon filing of proper application and paying the full fee required.

124.04 LICENSE FEE. The license fee is twenty-five dollars (\$25.00) per annum, and said license shall expire one year after date of issue.

124.05 INVESTIGATION; INSPECTION. The Clerk shall have the power to inspect and investigate the conduct of the occupation licensed or to be licensed under this chapter or to cause such an inspection or investigation to be made by the Police Chief.

124.06 TRANSFER PROHIBITED. In no case shall a license issued hereunder be transferable to another person or used for any purposes other than that for which it was issued.

124.07 REVOCATION OF LICENSE. The Council may, after giving the licensee reasonable notice and a fair hearing, revoke any license issued under this chapter for the following reasons:

1. The licensee has made fraudulent statements in the application for the license or in the conduct of the licensee's business;
2. The licensee has violated this chapter or has otherwise conducted the licensee's business in an unlawful manner;
3. The licensee has conducted the licensee's business in a manner endangering the public welfare, health, safety, order or morals.

124.08 NOTICE OF HEARING. The notice of hearing on revocation of a license shall be in writing and shall be served personally or as required for personal service by the Iowa Rules of Civil Procedure. The notice shall state the time and place of hearing and the reasons for the intended revocation.

124.09 REQUIREMENTS AND REGULATIONS. Applicants for a license under this chapter shall comply with the following requirements and regulations:

1. **Minors.** A junk dealer shall not purchase or receive junk from a minor unless the dealer first receives the written consent of the parents or guardian of the minor. Such consent shall be attached to the record book as a part of the permanent record.
2. **Inspection by Police Chief.** In order to discover stolen property, the Police Chief shall be permitted to inspect the junk dealer's yard, store or establishment at all reasonable hours.
3. **Public Health.** The County Health Officer shall be permitted at all reasonable times to inspect the junk dealer's premises for the existence of materials or conditions dangerous to the public health.
4. **Fence Required.** All junk yards shall be completely enclosed on all four sides with a six-foot high solid opaque fence or wall which shall be uniform in style and color and which will screen the operation from the view of adjacent public streets and places of public assembly, parks, recreational areas and residential properties. Materials within the yard shall not be stacked higher than the surrounding fence. Any gates in said fence shall be solid opaque material and of equal height as said fence.
5. **Site Requirements; Parking Spaces.** A site of two acres or more must be provided. The front yard of the site must be maintained free of weeds and debris. A minimum of one parking space for each employee and one space for each vehicle used by the facility shall be provided.
6. **Burning Restricted.** The burning of materials giving off offensive odors or smoke in quantities which are objectionable is prohibited, and State air pollution control laws shall be complied with.

124.10 CONCEALING PROPERTY. It is unlawful for any junk dealer to conceal or secrete any article purchased or received by such dealer for the purpose of preventing identification thereof by any peace officer or by any person claiming the ownership of same.

CHAPTER 125

SURVEILLANCE CAMERAS

125.01 Purpose

125.02 Definitions

125.03 Surveillance Camera Required

125.04 Specifications and Requirements

125.05 Inspection of Surveillance Devices and Records

125.06 Visibility of Premises

125.07 Violations

125.08 Time for Compliance

125.01 PURPOSE. The purpose of this chapter is to provide protection to the public at those establishments commonly known as convenience stores located within the City.

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

1. “Convenience store or business” means any business which sells consumer goods including but not limited to alcoholic beverages to be consumed off premises, soft drinks, cigarettes and packaged food, and petroleum products, dispensed from pumps, and which routinely remains open for business twenty-four (24) hours per day or any portion of that time between the hours of 6:00 p.m. and 6:00 a.m. and which usually has on duty two or fewer employees during the hours between 6:00 p.m. and 6:00 a.m.
2. “Surveillance camera” means a video tape camera or similar video recording device.

125.03 SURVEILLANCE CAMERA REQUIRED. Every convenience store or business shall be equipped with a functioning surveillance camera. The camera shall be in operation while the convenience store or business is open to the public.

125.04 SPECIFICATIONS AND REQUIREMENTS. At a minimum, all surveillance cameras shall meet the following specifications:

1. The surveillance cameras shall be capable of recording color images at 420 TV lines of resolution and be positioned without obstruction so as to film or tape all persons entering and departing the convenience store or business, all persons approaching within five (5) feet of each cash register, and all vehicles and persons at any fuel pumps.
2. All surveillance cameras shall be installed by a competent technician who has been trained to properly install said surveillance cameras.
3. It shall be the sole responsibility of the owner of the convenience store or business to monitor the surveillance camera for its effectiveness and proper functioning. Proper functioning shall include but not be limited to the pictures depicted from the surveillance camera providing sufficient clarity to enable reasonable identification of the person or persons filmed. A record of all inspections and

monitoring of the surveillance cameras shall be kept and shall be available at all times on the premises and upon demand by the Police Chief.

4. Said film or video tape used in the surveillance camera shall provide for color images of good quality and which is not reused more than ten (10) times or which shall be replaced every thirty (30) days whichever need occurs first. The purpose of this requirement is to ensure that the color film or video tape produces sufficient clarity to enable reasonable identification of the person or persons entering and departing the convenience store or business. The color film or video tape shall depict the time of the photographing.

125.05 INSPECTION OF SURVEILLANCE DEVICES AND RECORDS. The surveillance camera or cameras shall be subject to inspection by the Police Chief. Upon request, the convenience store or business owner or employee on duty must immediately furnish to the Police Chief an inspection report, by a qualified technician, in a form specified by the Police Chief, certifying that the devices have been inspected within the past six months and are in working order.

125.06 VISIBILITY OF PREMISES. Every convenience store or business shall keep and maintain a clear line of vision from the outside of the premises into the interior of said premises. In furtherance of this requirement, windows and door glasses shall not be obstructed with signs or otherwise to the point that the visibility is substantially impaired.

125.07 VIOLATIONS. Any violation of this chapter shall constitute a simple misdemeanor. In addition, the City shall be entitled to appropriate alternative relief ordering the defendant to abate, cease or correct the violation, which shall include but not be limited to injunctive relief. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate offense.

125.08 TIME FOR COMPLIANCE. Any store or business subject to this chapter shall have six (6) months from the date this chapter becomes effective to comply with the requirements of this chapter.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

135.14 Curb Breaks

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

(Code of Iowa, Sec. 364.12[2])

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of

storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
2. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the excavator/property owner.
3. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the excavator/property owner.
4. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The excavator/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
5. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the excavator/property owner.
6. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the excavator and/or property owner. The excavator and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
7. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

8. Permit. Prior to making an excavation in any public street or alley, as provided for in subsections 1 through 7 of this section, any person shall first obtain a permit from the City. The permit shall be issued after the applicant has successfully completed an application form provided by the City. No such permit shall be issued until the party performing the excavation has filed a certificate of insurance with the City covering the acts of the permit holder, the permit holder’s agents and employees for the following amount (minimum):

Worker’s Compensation.....	As required by State law
Public Liability.....	\$1,000,000
Property Damage.....	\$200,000

The fee for each permit issued shall be \$100.00 and shall be paid to the City prior to the start of the excavation work. In an emergency, work may commence on an excavation prior to the issuance of a permit, provided that the Statewide Notification Center has been contacted and provided with the information required under Section 480.4 of the *Code of Iowa*.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

(Code of Iowa, Sec. 364.12[2c])

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2e])

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

(Code of Iowa, Sec. 364.12 [2])

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner’s expense, install any culvert deemed necessary under any driveway or any other

access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.14 CURB BREAKS. It is unlawful to make or cause to be made any break in or removal of curbing on any public street for any purpose, including the construction or repair of a driveway or parking entrance, without first obtaining a written permit therefor from the City Clerk. All permits issued pursuant to this section for the construction or repair of a driveway or parking entrance shall specifically provide that the City shall make all cuts at its expense, or that a contractor approved by the street superintendent shall make all cuts at the expense of the permit holder, and the permit holder shall within thirty (30) days thereafter replace the broken curb with a suitable concrete apron according to the specifications of the street superintendent. Before any permit is issued, the person who makes the application shall pay to the City Clerk a fee of \$120.00 for up to sixteen (16) feet of curb removal and \$5.00 for each additional foot of curb to be removed for the City to make the cut, or a flat fee of \$50.00 if the work is to be performed by an approved contractor.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.12 Encroaching Steps
136.04 Responsibility for Maintenance	136.13 Openings and Enclosures
136.05 City May Order Repairs	136.14 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.15 Defacing
136.07 Responsibility for Proper Construction	136.16 Debris on Sidewalks
136.08 Sidewalk Standards	136.17 Merchandise Display
136.09 Barricades and Warning Lights	136.18 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within twenty-four (24) hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2b & e])

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

(Code of Iowa, Sec. 364.12 [2c])

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2d & e])

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 RESPONSIBILITY FOR PROPER CONSTRUCTION. No person shall remove, reconstruct or install a sidewalk unless said removal, reconstruction or installation complies with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
 - B. Business District sidewalks shall extend from one foot outside the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
 - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot outside the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.14 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 364.12 [2])

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of

pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining permission from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

(Code of Iowa, Sec. 364.12 [2a])

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by ordinance, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of West Union, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk. No amendment to this chapter which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed

140.05 Unlawful Use of Controlled Access Facility
140.06 Points of Access Defined
140.07 Permitted Access Points

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. FN-56-1(1) 21-33. On the Primary Road System extension improvement, Project No. FN-56-1(1) 21-33, Primary Road No. 56, within the City, described as follows:

Beginning at Vine Street at Station 16+67.3 thence easterly and southeasterly to Station 28+09 (south corporation line)

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-56-1(1) 21-33, on file in the office of the Clerk.

2. Project No. P-553 and FN-1011. On the Primary Road System extension improvement, Project No. P-553 and FN-1011, Primary Road Iowa No. 150 within the City, described as follows:

Beginning at Station 1697+40, approximately 240 feet north of the south quarter corner of Section 17, thence northerly on a relocation to

Station 1769+68.1 to intersect again with Primary Road No. 11 (150) as shown on 1931 paving plans of P-553;

Beginning on Cemetery Street 500.0 feet south of the north line of Section 17, T94, R8, thence north to a point approximately 400 feet south of the junction of U.S. Highway No. 18 and Iowa No. 150, thence northerly on Iowa No. 150 approximately 4853 feet to the north corporation line (Station 54+77). Also rebuilding of the junction of U.S. No. 18 and Iowa No. 150;

Equations:

P-553. From Station 1695+00 = south corporation line, thence north along Cemetery Street to Station 1747+37.3 = Station 10+00 at Bradford Street;

FN-1011 (and F1011). From Station 10+00 at Bradford Street thence north and northwesterly 4477.0 feet to the north corporation line

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. P-553, F-1011 and FN-1011, on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. **Cross Dividing Line.** Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. **Turns.** Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. **Use of Lanes.** Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. **Enter Facility.** Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

140.06 POINTS OF ACCESS DEFINED. The points of access shall consist of access ways from abutting property to the adjacent traffic lane or roadway and their locations shall be expressed in terms of “stations” (each representing a distance of 100 feet), measured along the centerline of the controlled access facility from the points of reference stated herein. Such measurements shall refer to the center of the access ways which shall be 18 feet in width for residential and agricultural purposes and 34 feet in width for commercial purposes.

140.07 PERMITTED ACCESS POINTS. Points of access are hereby permitted as follows:

(Code of Iowa, Sec. 306A.4)

1. Iowa No. 56. Points of access are hereby permitted on Iowa No. 56 between the junction of Iowa No. 150 and Franklin Street and the south corporation line as follows:

STATION	SIDE OF STREET	WIDTH OF DRIVES	PURPOSE
1+74	right	18 feet	residential
2+70	right	18 feet	residential
2+70	left	18 feet	residential
5+52	left	18 feet	residential
6+27	right	18 feet	residential
6+84	left	18 feet	residential
7+48	right	18 feet	residential
7+75	left	18 feet	residential
7+97	right	18 feet	residential
8+41	left	24 feet	commercial
8+76	right	18 feet	residential
10+06	left	24 feet	residential
11+50	right	18 feet	residential
12+41	right	18 feet	residential
12+59	left	18 feet	residential
12+90	right	18 feet	residential
13+40	right	18 feet	residential
13+46	left	18 feet	residential
14+26	left	18 feet	residential
14+40	right	18 feet	residential
15+34	left	35 feet	commercial
15+94	left	24 feet	commercial
15+98	right	18 feet	residential
16+75	right	18 feet	residential
18+85	right	no curb	residential
1695+55	left	no curb	farm
1696+34	right	no curb	residential
1698+45	right	18 feet	residential
1702+50	right	18 feet	residential
1704+67	right	no curb	commercial
1705+44	right	no curb	commercial

2. Iowa No. 150. Points of access are hereby permitted on Iowa No. 150 between a point 400 feet south of its intersection with U.S. No. 18 and the north corporation line, as follows:

STATION	SIDE OF STREET	WIDTH OF DRIVES	PURPOSE
6+17	left	35 feet	commercial
7+10	left	35 feet	commercial
13+22	left	35 feet	commercial
15+60	right	35 feet	commercial
29+90	right	30 feet	residential
37+95	right	24 feet	Commercial
47+00	left	24 feet	Residential
53+12	right	18 feet	field entrance

3. U.S. 18. Points of access are hereby permitted on U.S. Highway 18 from Station 359+60 (1121.1 feet westerly of the intersection of the centerlines of Iowa No. 150 and U.S. 18) to Station 375+75 (493.9 feet easterly of the intersection of the centerlines of Iowa No. 150 and U.S. 18), as follows:

STATION	SIDE OF STREET	WIDTH OF DRIVES	PURPOSE
362+00	right	35 feet	commercial
363+75	right	45 feet	joint commercial
364+38	left	35 feet	commercial
365+60	right	35 feet	commercial
366+38	left	35 feet	commercial
367+00	right	24 feet	joint residential
367+66	left	18 feet	residential
368+06	right	18 feet	residential
374+18	left	35 feet	commercial

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Building Official is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

(Code of Iowa, Sec. 364.12 [3h])

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF WEST UNION, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

(Code of Iowa, Sec. 364.12[3h])

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

(Code of Iowa, Sec. 364.12[3h])

EDITOR'S NOTE

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Classification of Community or Park

146.03 Conversion to Real Property

146.04 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 the same as land-leased community defined in Iowa Code Section 335.30A and 414.28A. The term “manufactured home community” shall not be construed to include manufactured homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students.
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 (3) 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 “mobile home park” is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The mobile home park shall meet the requirements of any zoning regulations that are in effect.
5. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the *Iowa State Building Code* for modular factory built structures, and must display the seal issued by the State Building Code Commissioner.

146.02 CLASSIFICATION OF COMMUNITY OR PARK. A manufactured home community or a mobile home park must be classified as to whether it is a residential manufactured home community or mobile home park, or a recreational manufactured home community or mobile home park, or both.

The Manufactured Home Community or Mobile Home Park Residential Landlord and Tenant Act only applies to residential manufactured home communities or mobile home parks.

146.03 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a 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 & Sec. 435.35)

1. Dealer's Stock. Mobile homes or manufactured homes on private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a 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.

146.04 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a mobile home park shall be placed on a permanent frost-free foundation system which 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)

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three (3) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of ten (10) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING PLAN. The Clerk shall be responsible for preparing and maintaining a building numbering plan.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

(Code of Iowa, Sec. 364.12[3b & h])

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CHAPTER 155

SIGNS, BILLBOARDS AND AWNINGS

155.01 Billboards
155.02 Signs

155.03 Awnings

155.01 BILLBOARDS.

1. Permit. It is unlawful to construct or maintain, or cause or allow to be constructed or maintained, any billboard without first securing a permit therefor and strictly complying with the provisions of this section.
2. Construction Standards. It is unlawful to construct or maintain, or cause to be constructed or maintained any billboard in such a manner as to:
 - A. Obstruct the free use of the streets, alleys or sidewalks.
 - B. Obstruct the view of railroad crossings or street crossings.
 - C. Be dangerous to the public by falling or by blowing down.
 - D. Be unable to stand a pressure of at least thirty pounds per square foot of advertising space.
 - E. Exceed one thousand square feet in area.
 - F. Increase the danger or loss by fire or increase the rate for fire insurance for adjacent structures.
 - G. Be less than three feet above the level of the ground on which it is located.
 - H. Have the face of the panel exceed sixteen feet in height.
 - I. Approach nearer than two feet to any building unless built against the building.
3. Prohibited Locations. It is unlawful to construct or maintain any billboard in any block in which one-half of the buildings on both sides of the street are used exclusively for residence purposes, without first obtaining the consent, in writing, of the owners, or duly authorized agents of said owners, of the property within one hundred feet of such billboard. Such written consent shall be filed with the Mayor before a permit shall be granted for such location. The word "block," as used in this section, means that part of a street which lies between the two nearest intersecting streets, one on either side thereof.
4. Owner's Name of Board. The name and address of the person owning or controlling each billboard shall be placed and maintained on such billboard or signboard so as to be easily read.
5. Location List. Every person maintaining a billboard for the purpose of displaying advertising shall maintain with the Mayor a full and complete report of the location, size and construction of all existing billboards located within the City limits.
6. Exempted Signs. This section does not apply to billboards or signboards attached to the surface of a permanent building and designed to give publicity to any

business carried on in such building, or to billboards used to advertise the sale or lease of the property upon which they are erected and not exceeding thirty-six (36) square feet in area.

7. State Permit. Any billboards or signboards proposed to be located along state highways are required to obtain a State sign permit in addition to the requirements of this section.

155.02 SIGNS.

1. Permit. It is unlawful to place or erect any sign or advertising medium outside of the property line and overhanging any portion of any street or alley without first securing a permit therefor and complying with the provisions of this section.

2. Inspection. All signs and advertising mediums as are now overhanging any portion of any street, highway, avenue, or alley shall not be renewed or resupported but shall be abandoned and removed when they become dangerous.

3. Fee. Anyone desiring a permit for a sign or advertising medium shall file, in the office of the Clerk, plans and specifications or a complete description thereof, including the means of support, and shall designate where it is proposed to erect the sign. The plans and descriptions shall be presented to the Council and the Council may, by a majority vote, grant or refuse the permit. Upon the granting of the permit by the Council, the Clerk, upon the receipt of a fee in the amount of twenty-five dollars (\$25.00), shall issue the permit in writing. All signs and advertising mediums shall be erected under the supervision of the sign inspector.

4. Sign Inspector. The City Administrator is the sign inspector. The sign inspector shall inspect all signs overhanging the streets or alleys, and the supports thereof, and if the sign inspector considers any sign dangerous or liable to fall or if the sign has been abandoned or neglected or not maintained to industry standards, the sign inspector shall immediately report the same to the Mayor.

5. Notice to Remove. Upon the receipt of the report of the sign inspector that any sign is dangerous or liable to fall, the Mayor shall cause notice, in writing, to be given the owner of such sign, or the owner of the building to which such sign is attached, to remove such sign. If the owner of the sign or the owner of the building shall fail or neglect to comply with the notice, within the time fixed in the notice, the Mayor shall cause the sign to be removed and shall file an itemized bill of the expense of such removal with the Clerk.

6. Recovering Cost of Removal. The Clerk shall present a copy of the bill to the owner of the sign or to the owner of the building. If the bill is not paid within ten (10) days, the Clerk shall certify the expense to the County Treasurer as a special tax against the property from which the sign was removed.

155.03 AWNINGS.

1. Awning Signs. Any sign appearing on and forming a part of an awning is exempt from the provisions of this chapter.

2. Requirements. It is unlawful to erect or maintain, or cause or allow to be erected or maintained, any awning over any street or sidewalk, unless the lowest part of the frame is elevated at least eight (8) feet above the surface of the street or sidewalk. The roof or covering shall be made of duck, canvas or other suitable

material supported by iron frames or brackets firmly and securely fastened to the building, without any posts or other device that will obstruct the street or sidewalk or hinder or interfere with the free passage of pedestrians or vehicles.

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CHAPTER 156

UNIFORM BUILDING CODE

156.01 Adoption of Uniform Building Code

156.02 Amendments, Modifications, Additions and
Deletions

156.01 ADOPTION OF UNIFORM BUILDING CODE. Pursuant to published notice and public hearing, as required by law, the *Uniform Building Code*, 1997 Edition, and all provisions of the *Uniform Building Code Standards*, 1997 Edition, referred to therein, published by the International Conference of Building Officials and commonly known as the *Uniform Building Code*, are hereby adopted in full, except for such portions as may be hereinafter deleted, modified or amended. Official copies of the *Uniform Building Code* and *Building Code Standards* are on file in the office of the Clerk.

156.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions to the *Uniform Building Code*, 1997 Edition, are hereby made.

– NONE –

[The next page is 715]

CHAPTER 157

UNIFORM MECHANICAL CODE

157.01 Adoption of Uniform Mechanical Code

157.02 Amendments, Modifications, Additions and
Deletions

157.01 ADOPTION OF UNIFORM MECHANICAL CODE. Pursuant to published notice and public hearing, as required by law, the *Uniform Mechanical Code*, 1997 Edition, 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 *Uniform Mechanical Code* is on file in the office of the Clerk.

157.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions to the *Uniform Mechanical Code*, 1997 Edition, are hereby made.

– NONE –

[The next page is 725]

CHAPTER 158

ELECTRICAL CODE

158.01 Adoption of National Electrical Code

158.02 Amendments, Modifications, Additions and
Deletions

158.01 ADOPTION OF NATIONAL ELECTRICAL CODE. Pursuant to published notice and public hearing, as required by law, the *National Electrical Code*, 1996 Edition, NFPA No. 70-1996, as published by the National Fire Protection Association, is hereby adopted in full by reference, except for such portions as may be hereinafter deleted, modified or amended. An official copy of the *National Electrical Code* is on file in the office of the Clerk.

158.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions to the *National Electrical Code*, 1996 Edition, are hereby made.

– NONE –

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CHAPTER 159

FIRE CODE

159.01 Adoption of Uniform Fire Code

159.02 Amendments, Modifications, Additions and
Deletions

159.01 ADOPTION OF UNIFORM FIRE CODE. Pursuant to published notice and public hearing, as required by law, the *Uniform Fire Code*, 1997 Edition, and the *Uniform Fire Code Standards*, 1997 Edition, published by the International Fire Code Institute, are hereby adopted in full by reference, except for such portions as may be hereinafter deleted, modified or amended. Official copies of the *Uniform Fire Code* and the *Uniform Fire Code Standards* are on file in the office of the Clerk.

159.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions to the *Uniform Fire Code*, 1997 Edition, are hereby made.

– NONE –

[The next page is 741]

CHAPTER 160

PLUMBING CODE

160.01 Adoption of International Plumbing Code

160.02 Amendments, Modifications, Additions and
Deletions

160.01 ADOPTION OF INTERNATIONAL PLUMBING CODE. The *International Plumbing Code and Appendices*, 1997 Edition, as published by the International Conference of Building Officials, is hereby adopted in full by reference, except for such portions as may be hereinafter deleted, modified or amended. An official copy of the *International Plumbing Code* is on file in the office of the Clerk.

160.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions to the *International Plumbing Code*, 1997 Edition, are hereby made.

– NONE –

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CHAPTER 165

ZONING REGULATIONS

165.01 Title	165.23 Appeals from Decision of City Administrator
165.02 Purpose	165.24 Interpretation of Provisions
165.03 Definitions	165.25 Violations
165.04 Establishment of Districts	165.26 Separate Offenses May Be Charged
165.05 Adoption of Official Zoning Map	165.27 Other Remedies
165.06 Identification of Official Zoning Map	165.28 Construction Compliance Certificate
165.07 Changes in Official Zoning Map	165.29 Application for Compliance Certificate
165.08 Amending the Zoning Map	165.30 Fees
165.09 Interpretation of District Boundaries	165.31 Board of Adjustment Created
165.10 Schedules of District Regulations	165.32 Election of Chairperson
165.11 Supplementary District Regulations	165.33 Proceedings of the Board of Adjustment
165.12 Application of District Regulations	165.34 Hearings, Appeals and Notice
165.13 Nonconformities	165.35 Notice
165.14 Nonconformities May Not Be Enlarged	165.36 Appeal Fee
165.15 Nonconformities At Adoption	165.37 Stay of Proceedings
165.16 Nonconforming Lots of Record	165.38 Powers and Duties of the Board of Adjustment
165.17 Nonconforming Uses of Land	165.39 Conditions of Variance
165.18 Nonconforming Structures	165.40 Decisions of the Board of Adjustment
165.19 Nonconforming Uses of Structures	165.41 Appeals from the Board of Adjustment
165.20 Repairs and Maintenance	165.42 Changes and Amendments
165.21 Uses Under Special Exception Provisions	165.43 Style of Amendment
165.22 Administration and Enforcement	165.44 Application for Change of Zoning District Boundaries

165.01 TITLE. This chapter shall be known and cited as “The Zoning Ordinance of the City of West Union.”

165.02 PURPOSE. The Council deems it necessary to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the City; all in accordance with a comprehensive plan, and to that end to adopt this chapter.

165.03 DEFINITIONS. For use in this chapter, certain terms and words are hereby defined.

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land.
2. “Administrative Officer” means the individual designated by the Council to administer the Zoning Ordinance. This person may also be referred to as the “Zoning Administrator.”
3. “Agriculture” means the use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for treating or storing the

produce, provided that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. "Agriculture" does not include commercial animal or poultry feeding in confined lots or buildings as defined herein.

4. "Alley" means a public thoroughfare which affords only a secondary means of access to abutting property.

5. "Alterations, structural" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.

6. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.

7. "Apartment house" means a building arranged, intended or designed to be occupied by three or more families living independently of each other.

8. "Basement" means a story having part but not more than one-half its height below grade. A basement is counted as a story for the purpose of height regulations.

9. "Bed and Breakfast" means a private residence which provides lodging and meals for transient guests, in which the host or hostess resides and in which no more than two guest families are lodged at the same time and which, while it may advertise and accept reservations, does not hold itself out to be a public restaurant, hotel or motel, and serves food only to overnight guests. Adequate off-street parking must be provided.

10. "Billboard" means any structure or portion of a building used for the display of advertising of a business or attraction which is not carried on or manufactured in or upon the premises upon which said billboard is located. This includes painted exterior walls with pictures, words, or logos.

11. "Board" means the Zoning Board of Adjustment of the City.

12. "Boarding house" means a building other than a hotel where, for compensation and by arrangement, lodging or lodging and meals are provided with a maximum of five bedrooms, with two adults per bedroom.

13. "Building" or "structure" means anything constructed, erected or built, the use of which requires more or less permanent location on ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including, but without limiting the generality of the foregoing, installations such as signs, billboards, radio towers and other facilities not designed for storage of property or occupancy by persons.

14. "Building, height of" means the vertical distance from the grade to the highest point of the roof.

15. "Bulk station" means distributing stations commonly known as bulk or tank stations used for the storage and distribution of flammable liquids or liquefied petroleum products except anhydrous ammonia.

16. "Business/Commercial," when used in this chapter, refers to the engaging in the purchase, sale, or exchange of goods or services, or the operation for profit of offices, recreational or amusement enterprises.

17. "Carport" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purpose of this chapter, a

carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements herein.

18. "Cellar" means a story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

19. "City Building Inspector" means the Building Inspector, who is appointed by the City Administrator, subject to approval of the Council. It is the duty of the Building Inspector to enforce all ordinance provisions with regard to buildings or zoning and to inspect all buildings or structures being erected or altered as frequently as may be necessary to ensure compliance with this Code of Ordinances. The Building Inspector shall:

A. Act as plumbing, electrical, mechanical, water, and sewer inspector and shall have all the powers and perform all the duties connected with that office.

B. Have the power to order all work stopped on construction or alteration or repair of buildings in the City when such work is being done in violation of any provision of any ordinance relating thereto or in violation of this chapter. Work shall not be resumed after the issuance of such an order except on the written permission of the inspector. Such written order may be served by any police officer.

C. Have the power to make or cause to be made an entry into any building or premises where the work of altering, repairing or constructing any building or structure is going on, for the purpose of making inspections, at any reasonable hours.

D. Shall serve as secretary of the Board of Adjustment, secretary of the Planning and Zoning Commission, and secretary of the Board of Appeals of the Uniform Building Code.

20. "Clinic" means a building or buildings used by physicians, lawyers, dentists, osteopaths, chiropractors, and all professions for outpatient care of persons requiring such professional service, and does not include veterinary clinics.

21. "Commercial animal or poultry feeding" means the feeding of livestock, poultry or other animals in confined feed lots, dry lots, pens, cages or buildings as a commercial enterprise:

A. When not in conjunction with a farming operation, or

B. When feeding more than one thousand head of livestock or five thousand chickens, turkeys or laying hens.

22. "Commission" means the Planning and Zoning Commission of the City.

23. "Composting" means the product resulting from the controlled biological decomposition of organic material that has been sanitized through the generation of heat and stabilized to the point that it is beneficial to plant growth.

24. "Condominium" means a residential or commercial building consisting of multiple units, each under individual ownership of the space contained within each unit and co-ownership of the remaining real property by the individual owners as tenants in common, subject to certain joint agreements and regulations.

25. "Day nursery," "nursery school" or "day care" (public) means any agency, institution, establishment, or place which provides supplemental parental care and/or educational work, other than lodging overnight, for six (6) or more children of pre-school age for compensation.
26. "District" means a section or sections of the City within which the regulations governing the use of buildings and premises and the height and area of buildings and premises are uniform.
27. "Drive-in restaurant" means any place or premises used for the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages on the premises.
28. "Dwelling" means any building or portion thereof which is designed for and used exclusively for residential purposes.
29. "Dwelling, multiple" means a building designed for or occupied exclusively by more than two families, excluding condominiums, townhouses/rowhouses.
30. "Dwelling, single-family" means a building designed for or occupied by one family.
31. "Dwelling, two-family" means a building designed for or occupied by two families.
32. "Dwelling unit" means one room or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy or for rental or lease on a weekly, monthly or other basis, and physically separated from any other rooms or dwelling units which may be located in the same structure, and containing independent cooking and sleeping facilities.
33. "Family" means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four (4) persons.
34. "Farm" means an area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided that the operation of any such accessory uses shall be secondary to that of the normal farming activity and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings as defined herein.
35. "Farmstead dwelling" means a dwelling located on a farm and occupied by a person or family employed fully or partially in the agricultural pursuits of the farm on which it is located.
36. "Floor area" means the square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. "Floor area" does not include porches, garages or space in a basement or cellar which is used for storage or incidental use.
37. "Frontage" means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or

if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

38. “Garage, private” means an accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle of not more than two-ton capacity. Private garages that will be an accessory to a multi-family dwelling may be constructed to allow for the storage of one motor-driven vehicle per dwelling unit.

39. “Garage, public” means a building or portion thereof other than a private or storage garage designed or used for equipping, servicing, repairing, hiring, selling or storing motor-driven vehicles.

40. “Garage, storage” means any building or premises, including a mini-storage garage, used for storing motor-driven vehicles (other than commercial vehicles), recreational vehicles and trailers, boats, furniture, or other miscellaneous personal property, excluding such things as automobile fuels and oils or other hazardous or volatile substances, pursuant to previous arrangements.

41. “Grade” means the average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

42. “Group housing” means a building or place where lodging or boarding is provided for compensation or not; for five (5) or more individuals, but not open to transient guests as would be found in a motel/hotel. Group housing is normally associated with a charitable organization or government financed program to assist unique groups of people.

43. “Height of a building” means the vertical distance from the grade to the highest point of the roof.

44. “Home occupation” means an occupation or a profession which:

- A. Is customarily carried on in a dwelling unit, and
- B. Is carried on by a member of the family residing in the dwelling unit, and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
- D. Does not employ more than one person outside the resident family, and
- E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, other than one exterior sign mounted flush with the face of the building, which sign shall not exceed three (3) square feet in area, and
- F. Does not occupy more than thirty percent (30%) of the area of one floor of the dwelling unit, and

- G. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.
45. “Home occupation, farmstead” means an occupation customarily engaged in on a farm, as a supplementary source of income, which:
- A. Is clearly incidental and secondary to the operation of the farm, and
 - B. Is carried on by a member of the family residing in the farmstead dwelling, and
 - C. Does not employ more than one (1) person outside the resident family, and
 - D. Is conducted within or adjacent to the farmstead dwelling or the customary farm outbuildings, and
 - E. Has no exterior displays, or storage of materials visible from the public road, or other exterior indication or variation from the agricultural character of the farm, and
 - F. Has not more than one (1) sign, acknowledging the product or service available, which sign shall not exceed twelve (12) square feet in area, and
 - G. Produces no offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical interference detectable within the limits of the nearest neighboring farmstead or dwelling.
46. “Institution” means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.
47. “Junk or salvage yard” means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, or packed, disassembled or handled, including the dismantling or “wrecking” of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such activities are conducted entirely within a completely enclosed building. The presence on any subdivision lot of one (1) or more vehicles without current registration which, for a period exceeding three (3) months or ninety (90) days, have not been capable of operating under their own power, are not located in a garage or carport, and from which parts have been removed for re-use, salvage, or sale, shall constitute prima facie evidence of a junk yard.
48. “Kennel, dog (commercial)” means any parcel of land on which three (3) or more dogs are kept for the purposes of breeding, grooming, boarding or other activities associated with the care of dogs for commercial purposes.
49. “Kennel, dog (private)” means any parcel of land on which three (3) or more dogs are kept; however, this does not include breeding, grooming, boarding or other activities associated with the care of dogs others than the owner’s dogs.
50. “Loading space” means a space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having minimum dimensions of twelve (12) by fifty-five (55) feet and vertical clearance of at least fourteen (14) feet.

51. “Lot” means a parcel of land occupied or intended for occupancy by one (1) main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by the lot lines. The principal structure and any permitted accessory use and structure shall not occupy more than sixty (60) percent of the lot.
52. “Lot, corner” means a lot abutting upon two (2) or more streets at their intersections.
53. “Lot, depth of” means the mean horizontal distance between the front and rear lot lines.
54. “Lot, double frontage” means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.
55. “Lot, interior” means a lot other than a corner lot.
56. “Lot of record” means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder.
57. “Lot width” means the width of a lot measured at the building line and at right angles to its depth.[†]
58. “Manufactured home” means a factory-built, single-family structure which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, National Manufactured Home Construction and Safety Standards Act of 1974, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home unless it has been converted to real property and is taxed as a site-built dwelling. For the purpose of these regulations, a manufactured home built after June 15, 1976, shall bear the seal certifying that it is in compliance with the National Manufactured Home Construction and Safety Standards Act of 1974. For the purpose of these regulations, manufactured homes are subject to the same standards as site-built dwellings.
59. “Mobile home” means a vehicle used, or so originally constructed as to permit being used, as a conveyance upon the public streets or highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof for human habitation, dwellings, or sleeping places for one or more persons, provided further that this definition refers to and includes all portable contrivances used or intended to be used generally for living and sleeping quarters and which are capable of being moved by their own power, towed or transported by another vehicle. This definition also includes and applies to such vehicles or structures that are located on a permanent or temporary foundation but does not include mobile homes converted to real estate as defined herein.
60. “Mobile home converted to real estate” means an unencumbered mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the assessor, the mobile home title, registration and license plates collected from the owner and the property entered on the tax rolls.

[†] **EDITOR’S NOTE:** *See illustrations regarding lots at the end of this chapter.*

61. “Mobile home park” means any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored either free of charge or for revenue purposes and shall include any building, structure, vehicle or enclosure intended for use as part of the equipment of such mobile home park.
62. “Mobile home subdivision” means a subdivision created for the purpose of and restricted to the sale or lease of individual lots for occupancy by independent mobile homes or mobile homes converted to real estate and having public streets, utilities and other public facilities installation approved by the Council in accordance with the Subdivision Regulations of the City.
63. “Mobile vendor” means a person who sells consumer products from a mobile structure; i.e. a self-contained motor vehicle, and/or trailer who sells such items as popcorn, hamburgers, fast foods, and other general merchandise on a temporary basis.
64. “Nonconforming use” means any building or land lawfully used at the time of the effective date of this zoning ordinance which does not conform, after the effective date, with the use regulations of the district in which it is situated.
65. “Nursing home” means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, or shelter and care, for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.
66. “Owner” means the person or persons who hold the fee simple title to the property and the person or persons who have acquired any interest in the property by contract of purchase or otherwise.
67. “Parking space” means a surfaced area, enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than one hundred and eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.
68. “Permanent foundation” means a site-built or site-assembled system of stabilizing devices when the running gear assembly is removed. It must be capable of transferring design dead loads and live loads required by Federal regulations, and other design loads unique to local home sites, wind, seismic, soil, and water site conditions that may be imposed on the structure. The foundation shall be to a depth of not less than forty-two inches (42") below grade and constructed of appropriate load bearing materials.
69. “Place” means any open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.
70. “Premises” means the land together with any buildings or structure located thereon.
71. “Public housing” means public housing developments, rest, nursing and convalescent homes; homes for orphans and aged, provided that such use is compatible with surrounding development and that adequate off-street parking is provided.
72. “Recyclable materials” include but are not limited to:

- A. Newspapers;
 - B. Paper (brown, high quality white, computer);
 - C. Corrugated cardboard;
 - D. Glass bottles;
 - E. Certain types of plastics and plastic containers;
 - F. Scrap metals, such as tin cans, aluminum cans and foil;
 - G. Styrofoam products.
73. “Recycling” means the collection of used materials such as newspapers, cans, corrugated cardboard, etc., and the conversion thereof into new products by reprocessing or remanufacturing.
74. “Recycling drop boxes” means containers designed for collection of recyclable materials, no processing allowed. Restrictions:
- A. Industrial and commercial zones.
 - B. All collected items must be fully contained within drop box.
 - C. Sign on drop box to identify purpose.
75. “Recycling plant/community recycling center” means a totally enclosed building within which the receipt, separation, storage, conversion, baling, and/or processing of paper, iron, metal, glass, newspaper, and other non biodegradable recyclable materials can occur for the purpose of reutilization of such materials.
- A. All outdoor storage of salvageable materials shall be contained within bins, or pallets or located on a paved area.
 - B. All storage areas shall be enclosed by view obscuring walls, fences, or buildings. No storage facilities shall be seen from a public right-of-way or from any residential land use.
 - C. All separation, sorting, processing, baling, or other activities shall occur entirely within an enclosed building.
 - D. The ambient noise level shall not be increased as measured at any property line.
 - E. The facility and signage shall be unobtrusive and compatible with the area surrounding the subject site.
 - F. No garbage or food wastes shall be permitted at the site. If any incidental amounts of biodegradable refuse material enters the site, it shall be removed by the next working day or within 48 hours of entering the site, whichever is sooner.
 - G. Liquid wastes, hazardous and biodegradable materials, including but not limited to food, beverages, drugs, cosmetics, hazardous chemicals, poisons, medical wastes, syringes, needles, pesticides and other similar materials shall not be permitted on the site.
 - H. The owner/operator of the salvage site shall prevent or eliminate immediately any nuisance created by dust, odors, blowing material, litter, ponding water, noise or other nuisance.

- I. All building and structures within the site shall be rodent-proofed and any rodent infestation shall be controlled immediately.
 - J. Any infestation or accumulation of flies or other insects of public health significance shall be immediately controlled.
 - K. In anticipation of emergency situations (breakdown of facilities, power failure, landfill closure), provisions are made to ensure non-salvageable waste materials will be properly contained and that no continuous storage be allowed.
 - L. Any representative of a regulatory governmental agency shall be permitted access to the recycling plant at any reasonable time for the purpose of obtaining information or inspecting operations.
 - M. Burning of wastes shall be prohibited.
 - N. Fire protection and prevention facilities, including, but not limited to, fire sprinklers, shall be provided in a manner subject to approval of the Fire Marshal.
 - O. A detailed site and operations plan, including, but not limited to, traffic routes, shall be subject to approval of the Planning Commission.
 - P. Violation of any condition or any terms set forth shall result in the immediate closing of the recycling plant until such time as the violations are corrected to the satisfaction of the applicable regulatory agency.
 - Q. A recycling plant shall not be located on a property located within 400 feet of any "R" structure or any property containing a public or institutional land use (for example, a church, school, park, or library).
 - R. Restrictions. Industrial zone only.
76. "Security fence" means a fence of sufficient height to protect a company's assets from danger, theft, sabotage, or attack. Security fences shall be constructed of standard fencing materials. Any other materials shall be approved by the Planning and Zoning Commission.
77. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:
- A. Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants or premises, or other identification of premises not having commercial connotations.
 - B. Flags and insignia of any government except when displayed in connection with commercial promotion.
 - C. Legal notices, identification, information or directional signs erected or required by governmental bodies.
 - D. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
78. "Solid waste transfer station" means an enclosed building which serves as a receiving station for solid waste or recyclables delivered by commercial garbage haulers and/or the general public. The transfer station is an interim storage and

transfer point between the collection route and a disposal site. A solid waste transfer station may provide for processing and recycling of solid waste. Restrictions:

- A. Industrial Zone.
- B. No exposed materials.
- C. Nothing to constitute a nuisance.

79. "Special exception" means a use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning division or district as special exceptions if specific provision for such special exceptions is made in this zoning ordinance.

80. "Stable" means a building or structure used or intended to be used for the housing of horses and/or small animals. Riding instruction may be given in connection with the stable or riding academy.

81. "Story" means that portion of a building other than a cellar included between the surface of any floor and the surface of the floor next above it or; if there be no floor above it, then the space between the floor and the ceiling next above it.

82. "Story, half" means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

83. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

84. "Street line" means the right-of-way of a street.

85. "Townhouses/rowhouses/condominiums/duplexes" means multiple family dwellings with each maintaining private ingress and egress, attached to its own foundation with no independent dwelling above or below each unit, and which is further attached to other single-family dwellings by a common fire wall.

86. "Trailer camp" or "tourist campground" means any area providing spaces for two or more travel trailers, camping trailers or tent sites for temporary occupancy with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

87. "Travel trailer" or "camping trailer" means a 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 to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight (8) feet in width, provided its overall length does not exceed thirty-eight (38) feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes. If used as a place of human habitation for more than ninety (90) days in any 12-month period, it shall be classified as a mobile home regardless of the size and weight limitation provided herein. This definition shall also include house cars and camp cars having motive power and designated for temporary occupancy as herein defined.

88. “Variance” means a relaxation of the terms of the zoning ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

89. “Yard” means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building or any projection thereof shall be used. In any residentially zoned district, the principal structure and any permitted accessory use and structure shall not occupy more than sixty percent (60%) of the lot.

90. “Yard, front” means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projection thereof, other than the projection of the usual uncovered steps, uncovered balconies or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front his building on the street parallel to the lot line having the greater dimension.

91. “Yard, rear” means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof, other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

92. “Yard, side” means a yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

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165.04 ESTABLISHMENT OF DISTRICTS. The City is hereby divided into districts which shall be designated as follows:

- A-1 Agricultural
- R-1 Single-Family Residential
- R-2 Mixed Residential
- R-3 Mobile Home Park
- C-1 Highway Commercial
- C-2 Central Business
- C-3 General Office and Residential
- M-1 Industrial Park
- M-2 Industrial

The locations and boundaries of these districts are shown on the Official Zoning Map.

165.05 ADOPTION OF OFFICIAL ZONING MAP. The Official Zoning Map, including the explanatory material thereon, is hereby adopted by reference and declared to be a part of this chapter.

165.06 IDENTIFICATION OF OFFICIAL ZONING MAP. The Official Zoning Map shall be identified by the signature of the Mayor and attested to by the Clerk under the following statement:

This is to certify that this is the Official Zoning Map referred to in Article II, Section 16.0202 of the Zoning Ordinance of West Union, Iowa, as adopted the _____ day of _____, 19__ A.D.

The Official Zoning Map shall be on file in the City office and shall be the final authority as to the current zoning status of land, buildings and other structures in the City and in all unincorporated area within two miles of its corporate limits.

165.07 CHANGES IN OFFICIAL ZONING MAP. No changes in the Official Zoning Map shall be made except as may be required by amendments to this chapter. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, approving such change in the Official Zoning Map. Any unauthorized change of any kind whatsoever in the Official Zoning Map by any person or persons shall constitute a violation of this chapter.

165.08 AMENDING THE ZONING MAP. Amendments to the official zoning map shall be in the form of an ordinance giving a legal description of the land involved and the name of the district into which it is to be placed and if

removed from a district, the name of such district. A copy of such amending ordinance shall be attached to the official map and noted on the map. At not more than five-year intervals such amendments shall be incorporated into the map and, if necessary for clarity, the map may be redrawn, correcting errors or omissions and the new map certified to as the new official zoning map of the date of certification by the Mayor and Clerk, but no correction or addition shall cause a change in the original map except as amended by the Council.[†]

165.09 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.

1. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following township lines or section lines shall be construed as following said township lines or section lines.
4. Boundaries indicated as following shore lines of streams or other bodies of water shall be construed to follow such shore lines, and in the event of change in the shore lines shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines, and in the event of change in the centerline shall be construed as moving with the actual centerlines.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 5 above, the Board of Adjustment shall interpret the district boundaries.
7. Where a district boundary divides a lot of record which was in single ownership at the time of the effective date of this zoning ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot into the remaining portion of the lot, so long as such extension does not extend more than fifty feet beyond the district boundary.

165.10 SCHEDULES OF DISTRICT REGULATIONS. The following schedules of district regulations are hereby adopted:

- A-1 Agricultural
- R-1 Single-Family Residential
- R-2 Mixed Residential

[†] See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.

- R-3 Mobile Home Park
- C-1 Highway Commercial
- C-2 Central Business
- C-3 General Office and Residential
- M-1 Industrial Park
- M-2 Industrial

A-1	AGRICULTURAL	A-1
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1. Agriculture, horticulture, dairy farming, livestock farming, poultry farming, general farming and other agricultural activities, including one (1) mobile home/manufactured home per farmstead	None	
2. Single-family dwellings	2 places per unit	
3. Parks, playgrounds or playfields	5 places for each acre developed for active usage	
4. Fairgrounds	25 places plus 1 place for every 4 seats in the main stadium or auditorium	
5. Cemetery or mausoleum	None	
6. Elementary or secondary school	1 place per classroom and office plus 1 place for every 6 seats in the main auditorium or stadium	
7. Churches and temples	1 place for every 4 seats in the main auditorium	
8. Golf courses and country clubs except miniature courses or driving ranges operated for a profit	3 places per green or 1 place for every 100 square feet of floor area whichever is greater	
9. Community meeting or recreation building	1 place for every 50 square feet of floor area	
10. Lakes, ponds and outdoor recreation facilities	5 places for each acre developed for active usage	
11. Golf courses, country clubs, miniature courses, and/or driving ranges	3 places per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater	
12. Kennels (commercial and private)	1 place for every 200 square feet of sales, service or office floor area	
13. Stables	1 place for every 200 square feet of sales, service or office floor area.	
14. Mines, quarries, sand gravel pits, and related facilities required for obtaining, processing, storing, and transporting minerals, raw materials at their point of origin	1 place for each employee plus 1 space for each vehicle used by the industry	
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Farm buildings incidental to agricultural uses. 2. Private garages. 3. Private swimming pools and tennis courts. 4. Private greenhouses not operated for commercial purposes. 5. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership. 6. Roadside stands for the sale of produce raised on the premises. 7. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon the completion of the construction work. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<p>Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:</p> <ol style="list-style-type: none"> 1. Stables and kennels, provided the facility is at least three hundred (300) feet from any dwelling unit other than that of the owner. 2. Public utilities but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking places per substation or one (1) per employee at the site be provided. 3. Communications station and tower provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to their full height, that the height and location shall not interfere with the operation of any airport or landing strip, and that one (1) parking place per employee and one (1) place for each vehicle used by the facility be provided. 		

R-1	SINGLE-FAMILY RESIDENTIAL	R-1
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings		2 places per unit
2. Parks, playgrounds or playfields		5 places for each acre developed for active usage
3. Community meeting or recreation building		1 place for every 100 square feet of floor area
4. Elementary or secondary school		1 place per classroom and office plus 1 place for every 6 seats in the main auditorium or stadium
5. Churches and temples		1 place for every 4 seats in the main auditorium
6. Manufactured homes on a permanent foundation		2 places per unit
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Private garage. 2. Private swimming pools and tennis courts. 3. Private greenhouses not operated for commercial purposes. 4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, located on the same lot or a contiguous lot under the same ownership. 5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work. 6. Solar collectors. 7. Satellite dishes. 8. A detached building shall be located a minimum of five (5) feet from the principal structure, and sixty (60) feet from the front property line. 9. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear setback regulations. 10. Garages opening onto the alley shall have a rear yard of eighteen (18) feet. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<p>Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:</p> <ol style="list-style-type: none"> 1. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit. 2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking places per substation or one (1) per employee at the site be provided. 3. Two-family dwellings. 4. Condominiums/townhouses/rowhouses. 5. Other special exception uses as recommended by the Planning and Zoning Commission and approved by the Board of Adjustment. 		
SPECIAL REQUIREMENTS		
<ol style="list-style-type: none"> 1. All new structures constructed or placed in R-1 Districts shall have a minimum width of twenty-four (24) feet and a minimum length of twenty-four (24) feet as measured at the narrowest points, excluding porches, garages and accessory buildings. 		

R-1 SINGLE-FAMILY RESIDENTIAL R-1		
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
<p>Dwellings:</p> <p style="padding-left: 40px;">Area: 9,600 square feet Width: 80 feet</p> <p>Condominiums, Townhouses/Rowhouses:</p> <p style="padding-left: 40px;">Area: 12,000 square feet for 3 units plus 1,200 square feet for each additional unit</p> <p style="padding-left: 40px;">Width: 100 feet</p>	<p>Dwellings and other non-institutional uses:</p> <p style="padding-left: 40px;">Front: 30 feet Rear: 30 feet Side: one story 8 feet two or more stories 10 feet Side street, corner lot 25 feet</p> <p>Schools, Churches or Other Public or Institutional Buildings:</p> <p style="padding-left: 40px;">Front: 40 feet Rear: 40 feet Side: 25 feet Side street, corner lot 30 feet</p>	<p>2 1/2 stories</p> <p>or</p> <p>35 feet</p>
PERMITTED SIGNS		
<ol style="list-style-type: none"> 1. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area. 2. Identification signs and home occupation signs not to exceed six (6) square feet in area. 3. Church or public bulletin boards not to exceed twelve (12) square feet in area. 4. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area. 5. Illumination of all signs shall be indirect, non-intermittent lighting. 6. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building. 7. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall promptly be removed. 8. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere, with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer. 9. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit. 		

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R-2	MIXED RESIDENTIAL	R-2
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings		2 places per unit
2. Two-family dwellings		2 places per unit
3. Condominiums, Townhouses/Rowhouses		2 places per unit
4. Multiple-family dwelling		2 places per unit
5. Community meeting or recreation building		1 place for every 100 square feet of floor area
6. Park, playground or playfield		7 places for each acre developed for active usage
7. Elementary or secondary school		1 place per classroom and office plus 1 place for every 4 seats in the main auditorium or stadium
8. Day Nurseries/Centers		2 places plus 1 place for each employee
9. Churches and temples		1 place for every 4 seats in the main auditorium
10. Group housing, public housing developments		2 places per unit
11. Rooming or boarding house		1 place for every bed plus 2 per unit
12. Manufactured homes on a permanent foundation		2 places per unit
13. Any use permitted in the R-1 District		
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Private garages. 2. Private swimming pools and tennis courts. 3. Private greenhouses not operated for commercial purposes. 4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, located on the same lot or a contiguous lot under the same ownership. 5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work. 6. Solar collectors. 7. Satellite dishes 8. Garages opening onto the alley shall have a rear yard of eighteen (18) feet. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<p>Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:</p> <ol style="list-style-type: none"> 1. Hospitals, sanitariums, rest, nursing and convalescent homes; homes for orphans and aged on sites of one (1) acre or more; off-street parking and yards comparable for other institutional uses of this chapter be provided. 2. Public utilities; but not including equipment storage or maintenance yards and buildings or general administrative and sales offices; provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking places per substation or one (1) per employee at the site be provided. 3. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit. 4. Bed and breakfast operations, and they shall have one (1) parking place for every bed plus two (2) per unit. 5. Other special exception uses as recommended by the Planning and Zoning Commission and approved by the Board of Adjustment. 		
SPECIAL REQUIREMENTS		
<ol style="list-style-type: none"> 1. All new structures constructed or placed in R-2 Districts shall have a minimum width of twenty-four (24) feet and a minimum length of twenty-four (24) feet as measured at the narrowest points, excluding porches, garages and accessory buildings. 		

R-2	MIXED RESIDENTIAL	R-2
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
<p>Single-family Dwellings:</p> <p style="padding-left: 40px;">Area: 8,400 square feet Width: 70 feet</p> <p>Two-family Dwellings:</p> <p style="padding-left: 40px;">Area: 9,600 square feet Width: 80 feet</p> <p>Condominiums, Townhouses/Rowhouses:</p> <p style="padding-left: 40px;">Area: 12,000 square feet for 3 units plus 1,200 square feet for each additional unit</p> <p style="padding-left: 40px;">Width: 100 feet</p>	<p>Dwellings and other non-institutional uses:</p> <p style="padding-left: 40px;">Front: 25 feet Rear: 25 feet Side: one story 7 feet two or more stories 8 feet Side street, corner lot 20 feet</p> <p>Schools, Churches or Other Public or Institutional Buildings:</p> <p style="padding-left: 40px;">Front: 35 feet Rear: 35 feet Side: 20 feet Side street, corner lot 25 feet</p> <p>EXCEPTION: When the front yard setback requirement is greater or less than the setback of surrounding structures, the front yard may be reduced to the existing building line.</p>	<p>2 1/2 stories</p> <p>or</p> <p>35 feet</p>
PERMITTED SIGNS		
<ol style="list-style-type: none"> 1. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area. 2. Identification signs and home occupation signs not to exceed six (6) square feet in area. 3. Church or public bulletin boards not to exceed twelve (12) square feet in area. 4. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area. 5. Illumination of signs shall be indirect, non-intermittent lighting. 6. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building. 7. All signs and billboards shall be maintained in a neat presentable condition and in the event their use shall cease, they shall promptly be removed. 8. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere, with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer. 9. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit. 		

[The next page is 781]

R-3	MOBILE HOME PARK DISTRICT	R-3
STATEMENT OF INTENT		
<p>The R-3 Mobile Home Park District is established to accommodate mobile home parks where their use will be compatible with existing and indicated future development.</p>		
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family units		2 places per unit
2. Two-family units		2 places per unit
3. Parks and recreation area not operated for profit		5 places for each acre developed for active usage
4. Community meeting or recreation building not operated for profit		1 place for every one hundred (100) square feet of floor area.
5. Nursery schools and day care centers		3 places plus 1 for each employee
6. Laundromat		1 place per 300 square feet of floor area
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Private garages. 2. Private swimming pools and tennis courts. 3. Private greenhouses not operated for commercial purposes. 4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, located on the same lot or a contiguous lot under the same ownership. 5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work. 6. Solar collectors. 7. A detached building shall be located a minimum of five (5) feet from the principal structure, and ten (10) feet from the front property line. 8. Structures attached to the principal building shall be considered part of the principal building and shall conform to the same front, side, and rear setback regulations. 9. Garages opening onto the alley shall have a rear yard of five (5) feet. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<p>Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:</p> <ol style="list-style-type: none"> 1. Hospitals; sanitariums, rest, nursing and convalescent homes; homes for orphans and aged on sites of one (1) acre or more; off-street parking and yards comparable for other institutional uses of this chapter be provided. 2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking places per substation or one (1) per employee at the site be provided. 3. Group housing developments. 4. Swimming pools, golf courses and country clubs, except miniature courses or driving ranges operated for a profit. 		

R-3 MOBILE HOME PARK DISTRICT R-3		
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
<p>Mobile Home:</p> <p>Area: 3,500 square feet Width: 35 feet</p> <p>Permanent Single-family Unit:</p> <p>Area: 8,400 square feet Width: 70 feet</p> <p>Permanent Two-family Unit:</p> <p>Area: 9,600 square feet Width: 80 feet</p>	<p>Front: 10 feet Rear: 5 feet Side: 10 feet</p> <p>For Permanent Built Homes:</p> <p>Front: 25 feet Rear: 25 feet Side: one story 7 feet two or more stories 8 feet</p>	<p>1 story</p> <p>For Permanent Built Homes: 35 feet</p>
PERMITTED SIGNS		
<ol style="list-style-type: none"> 1. Nameplates attached flat against the wall of the main building not to exceed three (3) square feet in area. 2. Identification signs and home occupation signs not to exceed six (6) square feet in area. 3. Church or public bulletin boards not to exceed twelve (12) square feet in area. 4. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area. 5. Illumination of all signs shall be indirect, non-intermittent lighting. 6. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building. 7. All signs and billboards shall be maintained in a neat presentable condition and in the event their use shall cease, they shall promptly be removed. 8. Signs which are located in such a manner as not to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device or which does not obstruct, or interfere, with the driver's view of approaching, merging, or intersecting traffic as determined by the Administrative Officer. 9. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit. 		

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C-1	HIGHWAY COMMERCIAL	C-1
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1. Automotive display, sales, service, and repair		1 place for every 300 square feet of sales, service or office floor area
2. Dry cleaners or laundry		
3. Monument and marker display and sales		
4. Greenhouse and plant nursery		1 place for every 100 square feet of floor area
5. Restaurant, night club, cafe or tavern		
6. Dance hall and skating rink		
7. Drive-in eating and drinking establishment		
8. Bowling alley		5 places for each lane or alley
9. Drive-in bank		4 places for each teller window
10. Motel, hotel or tourist camp		1 place per unit
11. Dwelling unit above a store or shop		1 place per unit
12. Bus terminal		6 places plus 1 off-street loading place for each bus serving the terminal
13. Funeral parlor		1 place for each 4 seats in the main auditorium
14. Farm implement display, sales, service and repair		1 place for every 300 square feet of sales, service or office floor area used by the industry
15. Public utilities but not including storage or maintenance yards and buildings		
16. Boats, motors, travel trailers and mobile home display, sales, service and repair		
17. Rental storage facilities		1 place for every 100 square feet of sales, service and office floor area
18. Retail businesses		
19. Personal service and repair shops		
20. Business and professional offices and studios		
21. Laboratories or research establishments		
22. General administrative offices		
23. Any use permitted in the R-2 District		
24. Recycling drop boxes		
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district. 2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district. 3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. No outside storage shall be permitted for rental storage facilities. 2. Bed and breakfast with one (1) off-street parking space for each bedroom. 3. Mobile Vendors. Applications will be submitted to the Planning and Zoning Commission with a public hearing with final approval by the Council. The following items must be considered: parking, permission of adjacent land owner, not on City property, accessibility to utilities, lot size, required side and front yards, maximum height of structure, permitted signs, exterior storage, traffic control, such not to impair any adequate supply of light and air to surrounding property, not to unduly increase congestion in the streets or public danger of fire and safety, not to diminish or impair established surrounding property values, shall be in accord with the intent, purpose, and spirit of this ordinance and the land use policies of the City, that the best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed, required state permits, and size of mobile unit. 4. Other special exception uses as recommended by the Planning and Zoning Commission and approved by the Board of Adjustment. 		

C-1 HIGHWAY COMMERCIAL C-1		
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT AND SIDE YARDS	MAXIMUM HEIGHT
Commercial Uses: None	Front: 15 feet Street Side, corner lot: 15 feet No side or rear yard except where apartments are above a store or shop, a rear yard of 20 feet shall be provided and where adjacent to an "A" or "R" District, a side yard of 10 feet and a rear yard of 20 feet shall be provided.	2 1/2 stories or 35 feet
PERMITTED SIGNS		
<ol style="list-style-type: none"> 1. Trade, business or industry identification signs provided that they: <ol style="list-style-type: none"> (a) Do not exceed twenty-five (25) feet in height. (b) Are not within twenty-five (25) feet of an "A" or "R" District. (c) Do not overhang the public right-of-way except those signs which project not more than one (1) foot beyond the front face or integral part of the building other than identification signs of less than two (2) square feet in area. (d) Are not within twenty-five (25) feet of a highway intersection or highway structure. 2. Advertising signs and billboards provided that they: <ol style="list-style-type: none"> (a) Do not exceed twenty-five (25) feet in height. (b) Are not within twenty-five (25) feet of an "A" or "R" District. (c) Are not within seventy-five (75) feet of another billboard. (d) Do not exceed one hundred (100) square feet in area. 3. No sign shall be located in, overhang, or project into a required yard. 4. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish. 5. Any sign not conforming to the provisions of this chapter shall be made to conform or be removed within three (3) years after the adoption of this ordinance. 6. Signs which do not resemble any traffic sign, signal, or device. Revolving beacons are prohibited. 7. Any sign, permanent or temporary, larger than six (6) square feet shall require a sign permit. 		
SPECIAL REQUIREMENTS		
<ol style="list-style-type: none"> 1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site. 2. Exterior storage other than the display of finished products for retail sale shall be enclosed by a six (6) foot high fence or suitable landscape planting, the design or type of which shall be approved by the Planning and Zoning Commission, and which will screen the stored materials from the view of adjacent public streets, places of public assembly, parks, recreation areas, and residential properties. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the site. 		

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C-2	CENTRAL BUSINESS DISTRICT	C-2
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
<ol style="list-style-type: none"> 1. Automotive sales, service, and repair 2. Farm implement sales, service and repair 3. Dry cleaners or laundry 4. Bus terminal 5. Clubs and lodges 6. Retail businesses 7. Personal service and repair shops 8. Business and professional offices and studios 9. Medical, dental, chiropractic clinics 10. Restaurants, night club, cafe or tavern 11. Public buildings and utilities but not including storage or maintenance yards or buildings 12. Public garages, public/private storage garages and parking lots 13. Plumbing and heating sales, service and repair shops 14. Hotels and motels 15. Printing, publishing and engraving 16. Dance or music schools 17. Dwelling unit above a store or shop 18. Commercial amusements 19. Wholesale display and salesroom 20. Lumber yard or building material sales yard 21. Any use permitted in the R-2 District 		<p>No off-street parking is required in this district.</p>
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district. 2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district. 3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Other special exception uses as recommended by the Planning and Zoning Commission and approved by the Board of Adjustment. 		

C-2	CENTRAL BUSINESS DISTRICT	C-2
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
Commercial Uses: None	None	4 stories or 50 feet
PERMITTED SIGNS		
<ol style="list-style-type: none"> 1. Advertising signs, billboards and trade, business or industry identification signs provided that: <ol style="list-style-type: none"> (a) Free standing signs shall not exceed twenty-five (25) feet in height and sixty (60) square feet in area per face. (b) Signs attached to a building shall not project above the height of the building or more than eight (8) feet from the wall of the building and shall not be less than ten (10) feet above ground level. (c) No projecting or wall-mounted sign shall exceed seventy-five (75) square feet in area or more than one (1) square foot per foot of building frontage, whichever is smaller. 2. No sign or billboard shall be located in, overhang or project. 3. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish. 4. Signs which do not resemble any traffic sign, signal, or device. Revolving beacons are prohibited. 5. Any sign, permanent or temporary, larger than six (6) square feet shall require a sign permit. 		
SPECIAL REQUIREMENTS		
<ol style="list-style-type: none"> 1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site. 2. Exterior storage other than the display of finished products for retail sale shall be enclosed by a six (6) foot high fence or suitable landscape planting, the design or type of which shall be approved by the Planning and Zoning Commission, and which will screen the stored materials from the view of adjacent public streets, places of public assembly, parks recreation areas, and residential properties. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other junk, debris or waste product be permitted to accumulate on the site. 3. Any projection constructed into the public right-of-way in the C-2 District must have at least a 10-foot clearance from the sidewalk to the bottom of the balcony and be cantilevered from the wall. No support posts resting on the right-of-way will be permitted. 		

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C-3	GENERAL OFFICE AND RESIDENTIAL	C-3
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1. Business and professional offices and studios	2 places plus 1 place for each employee	
2. Single-family dwellings	2 places per unit	
3. Two-family dwellings	2 places per unit	
4. Condominiums, townhouses/rowhouses	2 places per unit	
5. Multiple family dwelling	2 places per unit	
6. Community meeting or recreation building	1 place for every 100 square feet of floor area	
7. Park, playground or playfield	7 places for each acre developed for active usage	
8. Elementary or secondary school	1 place per classroom and office plus one place for every 4 seats in the main auditorium or stadium	
9. Day nurseries	2 places plus 1 place for each employee	
10. Churches and temples	1 place for every 4 seats in the main auditorium	
11. Group housing, public housing developments	2 places per unit	
12. Rooming or boarding house	1 place for every bed	
13. Bed and breakfast	1 place for every bed	
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Private garages/multiple garages. 2. Private swimming pools and tennis courts. 3. Private greenhouses not operated for commercial purposes. 4. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations, and located on the same lot or a contiguous lot under the same ownership. 5. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work. 6. Solar collectors. 7. Satellite dishes. 8. Garages opening onto the alley shall have a rear yard of eighteen (18) feet. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<p>Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:</p> <ol style="list-style-type: none"> 1. Hospitals; sanitariums, rest, nursing and convalescent homes; homes for orphans and aged on sites of one (1) acre or more; off-street parking and yards comparable for other institutional uses of this ordinance be provided. 2. Public utilities, but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than twenty-five (25) feet, and that two (2) parking places per substation or one (1) per employee at the site be provided. 		
SPECIAL REQUIREMENTS		
<ol style="list-style-type: none"> 1. All new structures constructed or placed in C-3 Districts shall have a minimum width of twenty-four (24) feet and a minimum length of twenty-four (24) feet as measured at the narrowest points, excluding porches, garages and accessory buildings. 		

C-3 GENERAL OFFICE AND RESIDENTIAL C-3		
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
<p>Single-family Dwelling:</p> <p style="padding-left: 40px;">Area: 8,400 square feet Width: 70 feet</p> <p>Two-family Dwelling:</p> <p style="padding-left: 40px;">Area: 9,600 square feet Width: 80 feet Cul-de-sac Width..40 feet</p> <p>Multi-family Dwelling, Condominiums, Townhouses/ Rowhouses:</p> <p style="padding-left: 40px;">Area: 12,000 square feet for 3 units plus 1,200 square feet for each additional unit Width: 100 feet Cul-de-sac Width 40 feet</p> <p>General Office:</p> <p style="padding-left: 40px;">Area: 8,400 square feet Width: 70 feet Cul-de-sac Width 40 feet</p>	<p>Dwellings and Other Non-institutional Uses:</p> <p style="padding-left: 40px;">Front: 25 feet Rear: 25 feet Side: one story 7 feet two or more stories 8 feet Side Street, corner lot..... 20 feet</p> <p>Schools, Churches or other Public or Institutional Buildings:</p> <p style="padding-left: 40px;">Front: 35 feet Rear: 35 feet Side..... 20 feet Side Street, corner lot..... 25 feet</p> <p>EXCEPTION: When the front yard setback requirement is greater or less than the setback of surrounding structures, the front yard may be reduced to the existing building line.</p>	<p>2 1/2 stories</p> <p>or</p> <p>35 feet</p>
PERMITTED SIGNS		
<ol style="list-style-type: none"> 1. Advertising signs, billboards and trade, business or industry identification signs provided that: <ol style="list-style-type: none"> (a) Free standing signs shall not exceed twenty-five (25) feet in height and sixty (60) square feet in area per face. (b) Signs attached to a building shall not project above the height of the building or more than eight (8) feet from the wall of the building and shall not be less than ten (10) feet above ground level. (c) No projecting or wall mounted sign shall exceed seventy-five (75) square feet in area or more than one (1) square foot per foot of building frontage whichever is smaller. 1. No sign or billboard shall be located in, overhang or project. 2. All signs and billboards shall be maintained in a neat presentable condition and in the event their use shall cease, they shall promptly be removed and the surrounding area restored to a condition free from refuse and rubbish. 3. Signs which do not resemble any traffic sign, signal or device. Revolving beacons are prohibited. 4. Any sign, permanent or temporary, larger than six (6) square feet, shall require a sign permit. 		

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M-1	INDUSTRIAL PARK	M-1
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1. Manufacturing and processing uses that are wholly contained within a building and create no offensive noise, dust, odor or vibration		1 place for every 2 employees per shift, plus 1 place for each vehicle used by the industry
2. Wholesaling and warehousing uses but not including the bulk storage of liquid fertilizer or petroleum products under pressure		
3. Farm implement display, sales, service and storage		
4. Lumber yard and building material sale and storage		
5. Truck and freight terminal		
6. Automotive and truck display, sales, repair and storage		
7. Public utilities including storage and maintenance yards		
8. Animal hospital or kennel	1 place for every 400 square feet of sales, service or office floor area	
9. Laboratories or research establishments	1 place for every 2 employees, plus 1 place for each vehicle used by the industry	
10. General administrative offices	1 place for every 2 employees, plus 1 place for each vehicle used by the industry	
11. Rental storage facilities	1 place for each employee plus 1 place for each vehicle used by the industry	
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Uses and structures clearly incidental to the permitted principal uses or structures of this district. 2. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work. 3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least two thousand four hundred (2,400) square feet is reserved and maintained for use by the occupants. 4. Security fence. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<p>Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:</p> <ol style="list-style-type: none"> 1. Concrete products manufacture and central mixing and proportioning plant; fertilizer manufacture or blending; iron and steel fabrication; provided that such use is located not closer than five hundred (500) feet to any existing dwelling unit or any park, school, church or place of public assembly; that it is located so that prevailing winds will not cause dust, smoke or odors to create a nuisance for developed properties in the vicinity; that one (1) parking place for each employee and one (1) place for each vehicle used by the industry be provided and at least one (1) loading place shall be provided for each ten thousand (10,000) square feet of floor area. 2. Bulk storage of liquid fertilizer and petroleum products provided that such uses shall not be located within five hundred (500) feet of any existing dwelling, park, school or place of public assembly; and that it is located so that prevailing winds will not cause fumes, odors or gases to be carried toward developed properties in the vicinity, and that one (1) parking place for each employee and one (1) place for each vehicle or trailer used by the industry be provided. No new petroleum products under pressure, including anhydrous ammonia, will be allowed in this district unless such installation meets all National Fire Protection Agency regulations and any Iowa State Administrative Codes that apply to such installation. 3. Communications station and tower provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to the full height, that the height and location shall not interfere with the operation of any airport or landing strip, and that one (1) parking place per employee and one (1) place for each vehicle used by the facility be provided. 4. No outside storage shall be permitted for rental storage facilities. 		

M-1 INDUSTRIAL PARK M-1		
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
None	Front: 25 feet Rear: 25 feet Side: 20 feet Side Street, corner lot..... 25 feet	None
PERMITTED SIGNS		
1. Temporary signs advertising the sale or lease of the premises not to exceed thirty-two (32) square feet in area. 2. Trade, business or industry identification signs for the firm located on the site provided that: (a) Free standing signs shall not exceed one hundred fifty (150) square feet in area or twenty-five (25) feet in height. (b) Signs mounted flush on the wall of a building. (c) Overhanging signs, attached to a building may project above the height of the building. (d) Not more than one (1) sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign. 3. All signs shall be maintained in a neat and presentable condition and in the event that they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free from refuse and debris. 4. Signs which do not resemble any traffic sign, signal, or device. Revolving beacons are prohibited. 5. Any sign, permanent or temporary, larger than six (6) square feet shall require a sign permit.		
SPECIAL REQUIREMENTS		
1. All required yards shall be open landscaped area and not utilized for parking, storage or other structures other than a trade, business or industry identification sign for the firm located on the site.		

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M-2	INDUSTRIAL	M-2
PERMITTED PRINCIPAL USES AND STRUCTURES		MINIMUM REQUIRED OFF-STREET PARKING
1.	Manufacturing and processing uses.	1 place for every 2 employees plus 1 place for each vehicle used by the industry
2.	Animal hospital or kennel	1 place for every 200 square feet of sales, service or office floor area
3.	Wholesaling and warehousing not including the bulk storage of liquid fertilizer or petroleum products under pressure	1 place for each employee per shift plus 1 place for each vehicle used by the industry
4.	Farm implement display, sales, service and repair	
5.	Lumber yard and building material sale and storage	
6.	Truck and freight terminal	
7.	Automotive and truck display, sales, repair and storage	
8.	Grain storage bins	
9.	Grain elevator and feed mill	
10.	Welding and repair shop	
11.	Tool, die, gauge and machine shops	
12.	Public utilities including storage and maintenance yards	
13.	Automobile paint and body shops	
14.	Plumbing, heating, air conditioning and sheet metal shops	
15.	Processing and handling of cheese, butter and other milk products	
16.	Concrete products manufacture and central mixing and proportioning plant	
17.	Fertilizer manufacture or blending	
18.	Iron and steel fabrication	
19.	Rental storage facilities	
20.	Recycling drop box	
21.	Recycling plant/community recycling center	
22.	Fairgrounds	10 parking places for each acre developed for active uses and 1 parking place for each 4 seats in the main grandstand
PERMITTED ACCESSORY USES AND STRUCTURES		
<ol style="list-style-type: none"> 1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district. 2. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work. 3. Dwelling units for watchmen or caretakers employed on the premises provided that an open yard of at least two thousand four hundred (2,400) square feet is reserved and maintained for use by the occupants. 4. Security fence. 		
SPECIAL EXCEPTION USES AND STRUCTURES		
<p>Subject to Section 165.38(2) and the other requirements contained herein, the Board of Adjustment may permit the following:</p> <ol style="list-style-type: none"> 1. Stockyards, rendering works, loading pens, buying stations and/or sale barns and yards, commercial feedlots, and commercial poultry raising, provided that it is not closer than one-fourth (1/4) mile to any dwelling unit other than that of the owner or operator, or any park, school, church or place of public assembly, that the provisions of drainage, sanitation, waste disposal, and fly control are approved by the Local Health officer, that it is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; that one (1) parking place for each employee and one (1) place for each vehicle used by the industry be provided. 2. Auto wrecking and junk yards provided that the front yard be maintained as an open place free of weeds and debris; that the site be enclosed with a six (6) foot high fence or a suitable landscape planting that will screen the operation from the view of adjacent public streets and places of public assembly, parks, recreation areas and residential properties; and that a minimum of one (1) parking place for each employee and one (1) place for each vehicle used by the facility be provided. 		

M-2 INDUSTRIAL M-2		
SPECIAL EXCEPTION USES AND STRUCTURES (Continued)		
<p>3. Bulk storage of liquid fertilizer and petroleum products provided that such uses shall not be located within five hundred (500) feet of any existing dwelling, park, school or place of public assembly; and that it is located so that prevailing winds will not cause fumes, odors or gases to be carried toward developed properties in the vicinity, and that one (1) parking place for each employee and one (1) place for each vehicle or trailer used by the industry be provided. No new petroleum products under pressure, including anhydrous ammonia, will be allowed in this district such installation meets all National Fire Protection Agency regulations and any Iowa State Administrative Codes that apply to such installation.</p> <p>4. No outside storage shall be permitted for rental storage facilities.</p> <p>5. Composting.</p>		
MINIMUM LOT AREA AND WIDTH	MINIMUM REQUIRED FRONT, SIDE AND REAR YARDS	MAXIMUM HEIGHT
None	Front: 25 feet Rear: 25 feet Side: 20 feet Side Street, corner lot..... 25 feet	None
PERMITTED SIGNS		
<p>1. Temporary signs advertising the sale or lease of the premises not to exceed thirty-two (32) square feet in area.</p> <p>2. Trade, business or industry identification signs for the firm located on the site provided that:</p> <p>(a) Free standing signs shall not exceed one hundred fifty (150) square feet in area or twenty-five (25) feet in height.</p> <p>(b) Signs mounted flush on the wall of a building.</p> <p>(c) Overhanging signs, attached to a building may project above the height of the building.</p> <p>(d) Not more than one (1) sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.</p> <p>3. All signs shall be maintained in a neat and presentable condition and in the event that they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free from refuse and debris.</p> <p>4. Signs which do not resemble any traffic sign, signal, or device. Revolving beacons are prohibited.</p> <p>5. Any sign, permanent or temporary, larger than six (6) square feet shall require a sign permit.</p>		
SPECIAL REQUIREMENTS		
<p>1. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building nor shall any other debris or waste product be permitted to accumulate on the site.</p>		

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165.11 SUPPLEMENTARY DISTRICT REGULATIONS. Subject to Section 165.10, the following provisions, regulations or exceptions shall apply equally to all districts except as hereinafter provided.

1. **Visibility at Intersection.** On a corner lot in any district, except in the C-2 Central Business District and the C-3 General Office and Retail District, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersecting of the right-of-way lines, and measured along the right-of-way lines.
2. **Accessory Buildings/Structure.** No accessory building/structure shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five (5) feet of any main building or within five (5) feet of a rear lot line, except garages opening onto the alley shall have a rear yard of eighteen (18) feet.
3. **More Than One Principal Structure on a Lot.** In any district, more than one (1) principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
4. **Height Regulation Exception.** The height limitations contained in the schedules of district regulations do not apply to grain storage bins, grain elevators, feed mills, or to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housings or other structures placed above the roof level and not intended for human occupancy.
5. **Use of Public Right-of-way.** No portion of the public road, street or alley rights-of-way shall be used or occupied by any abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.
6. **Proposed Use Not Covered in Chapter.** Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Commission for a recommendation as to the proper district in which such use should be permitted and the chapter amended before a permit is issued for such proposed use.
7. **Buildings to Have Access.** Every building hereafter erected or structurally altered, shall be on a lot or parcel having a frontage on a public street or road.
8. **Mobile Homes or Trailers.** Mobile homes occupied as a permanent or temporary place of residence shall be located only in an approved mobile home park.
9. **Fences.** Fences shall not exceed six (6) feet in height in any required front yard, subject to the further restriction of subsection 1 above.
10. **Security Fence.** Security fences shall be allowed only in an M-1 and M-2 District.
11. **Agricultural Uses.** Any vacant parcel of land regardless of size in any district may be used for agricultural purposes, the raising of feed and grain crops, fruit or vegetables, provided that no livestock, poultry or other animals other than customary

household pets shall be kept on land or in confinement within three hundred (300) feet of any dwelling unit other than that of the owner.

12. Off-Street Parking. Off-street parking space may be located within the required front yard in any C-1, C-2, C-3, I-1 or I-2 District, provided such space is fifty (50) feet or more away from any "R" District. No off-street parking is permitted in the front yard of any R-1, R-2 or R-3 District, except upon a regularly constructed, duly authorized driveway.

13. Solar Access Easements. To receive and act upon applications for solar access easements in conformity with the provisions of Chapter 564A, *Code of Iowa*. Where any provisions of Chapter 564A, *Code of Iowa*, conflict with any provisions contained elsewhere in this Chapter, the provisions of Chapter 564A, *Code of Iowa*, shall control.

165.12 APPLICATION OF DISTRICT REGULATIONS. Subject to Section 165.10, the regulations and restrictions of this chapter shall apply as follows:

1. Regulations To Be Uniformly Applied. The regulations set by this chapter shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.

2. All Uses and Structures to Conform. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

3. Height, Density or Yards Shall Not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner contrary to the provisions of this chapter.

4. Minimum Yards and Lot Areas May Not Be Reduced. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

5. New Areas. All territory which may hereafter become a part of the incorporated area of the City through annexation shall be classified in the A-1 Agricultural District until otherwise classified, provided that the Commission may recommend the appropriate district classification prior to such territory becoming a part of the City and upon holding of a public hearing and approval by the Council the territory upon becoming part of the community may immediately be so classified.

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165.13 NONCONFORMITIES. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this chapter was adopted or amended but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. Subject to Section 165.10, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

165.14 NONCONFORMITIES MAY NOT BE ENLARGED. A nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after the effective date of this zoning ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

165.15 NONCONFORMITIES AT ADOPTION. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this zoning ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

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

shall be obtained only through action of the Board of Adjustment. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this zoning ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established herein, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this chapter.

165.17 NONCONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this zoning ordinance, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provision.

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
3. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

165.18 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this zoning ordinance that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued for as long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

165.19 NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of this zoning ordinance that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure or structure and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require appropriate conditions and safeguards in accord with the provisions of this chapter.
4. Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure or structure and premises in combination is discontinued for six consecutive months or for eighteen months during any three (3) year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.
6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

165.20 REPAIRS AND MAINTENANCE. Nothing in this chapter shall prohibit the maintenance and repair of nonconforming structures to keep such a structure in sound and safe condition, provided that no structural enlargement, extension, alteration or change shall be made to increase the degree of nonconformity. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

165.21 USES UNDER SPECIAL EXCEPTION PROVISIONS. Any uses for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

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165.22 ADMINISTRATION AND ENFORCEMENT. The City Administrator shall administer and enforce this chapter and may be provided with the assistance of such other persons as the Council may direct. If the City Administrator shall find that any of the provisions of this chapter are being violated, the City Administrator shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The City Administrator shall order discontinuance of illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

165.23 APPEALS FROM DECISION OF CITY ADMINISTRATOR. Appeals from any decision of the City Administrator may be made to the Board of Adjustment.

165.24 INTERPRETATION OF PROVISIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion and protection of the public health, safety and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinance, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

165.25 VIOLATIONS. Any person who violates or fails to comply with the provisions of this chapter shall be guilty of a simple misdemeanor and, in addition to the penalty therefor, shall pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues shall constitute a separate offense.

165.26 SEPARATE OFFENSES MAY BE CHARGED. The owners or tenants of any building, structure, land or part thereof and any architect, engineer, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be charged with a separate offense.

165.27 OTHER REMEDIES. Nothing herein contained shall prevent the Council or its agents from taking other lawful action as is necessary to prevent or remedy any violation.

165.28 CONSTRUCTION COMPLIANCE CERTIFICATE. Subsequent to the adoption of this chapter, a construction compliance certificate shall be obtained from the City Administrator before any building or structure shall be

erected, reconstructed or structurally altered to increase the exterior dimensions, height or floor area, or remodeled to increase the number of dwelling units or accommodate a change in use of the building and/or premises or part thereof. The construction compliance certificate shall state that the proposed construction complies with all provisions of this chapter, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this chapter. Any maintenance item such as a new roof, windows, siding, doors, and other repair items which do not enlarge the structure, shall not require a construction compliance certificate. The construction of a new or the maintenance of old driveways shall not require a construction compliance certificate.

165.30 APPLICATION FOR COMPLIANCE CERTIFICATE. An application for a compliance certificate shall be made prior to beginning construction on fully completed application forms obtained from the City Administrator, properly staked out, and accompanied by such plans and information necessary to determine that the proposed construction complies with all applicable provisions of this chapter. The signature of the applicant on the compliance certificate shall certify that the new occupancy complies with all provisions of this chapter, and no subsequent modifications shall be made to the occupancy, use, method or operation that would be in violation of this chapter.

165.30 FEES. The City Administrator is directed to issue a construction compliance certificate as required by this chapter for proposed construction, reconstruction or alteration which complies with all provisions contained herein and to charge a fee therefor as established by resolution of the Council. There shall be no fees charged to the United States Government, the State of Iowa, or any political subdivision thereof. All fees as are required shall be paid to the City Administrator, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the General Fund of the City. Any construction compliance certificate in which no construction work has been commenced within six (6) months after the date of issue of said permit or under which the proposed construction, reconstruction or alteration has not been completed within two (2) years of the date of issue, shall expire by limitation; and no work or operation shall take place under such permit after such expiration. A construction compliance certificate may be once extended for a period not exceeding six (6) months by the City Administrator.

165.31 BOARD OF ADJUSTMENT CREATED. Board of Adjustment is hereby established. The board shall consist of five (5) members to be appointed by the Council for overlapping terms of five (5) years. Members of the Board of Adjustment may be removed from office by the Council for cause upon

written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member.

165.32 ELECTION OF CHAIRPERSON. The Board shall annually elect its own Chairperson at the first meeting on or after January 1 of each year. Such Chairperson, or in the absence of the Chairperson, the acting Chairperson may administer oaths and compel the attendance of witnesses. There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of three (3) members shall be necessary to constitute a quorum. The concurring vote of the three (3) members shall be necessary on all matters upon which it is required to pass under the provisions of this chapter.

165.33 PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. 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 public record and be immediately filed in the office of the Board.

165.34 HEARINGS, APPEALS AND NOTICE. Appeals of the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by a decision of the City Administrator. Such appeals shall be taken within a reasonable time not to exceed thirty (30) days by filing with the City Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The City Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

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

165.36 APPEAL FEE. A fee of seventy-five dollars (\$75.00) shall be paid to the City Administrator at the time the notice of appeal is filed, which the City Administrator shall forthwith pay over to the credit of the General Fund of the City.

165.37 STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the City Administrator certifies to the Board that, after the notice of appeal is filed with the City Administrator,

by reason of facts stated in the certificate a stay would in the opinion of the City Administrator cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the City Administrator and on due cause shown.

165.38 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT.

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

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the City Administrator in the enforcement of this chapter.
2. Special Exceptions. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter. To decide such questions as are involved in determining whether special exceptions should be granted, to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. In any case where a special exception has not been established within one (1) year after the date of granting thereof, then, without further action by the Board of Adjustment the use on review or authorization shall be null and void. A special exception shall not be granted by the board unless and until:
 - A. A written application for a special exception has been submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested; and
 - B. Notice shall have been given at least four (4) days in advance of the public hearing on said application for the special exception by publication in a newspaper of general circulation in the City; and
 - C. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or attorney; and
 - D. The Board shall have made a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and the Board shall have determined that the granting of the special exception will not adversely affect the public interest. In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter. The Board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.
 - E. The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.
3. Variances. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result

in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the board unless and until:

A. A written application for a variance shall have been submitted demonstrating:

(1) 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; and

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter; and

(3) That the special conditions and circumstances do not result from the action or actions of the applicant; and

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

(5) The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.

B. Notice of public hearing shall have been given as in subsection 2(B) of this section, and

C. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or by attorney, and

D. The Board shall have made findings that the requirements of subsection 3(A) of this section have been met by the applicant for a variance, and

E. The Board shall further have made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure, and

F. The Board shall further have made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

165.39 CONDITIONS OF VARIANCE. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. In any case where a variance has not been established within one (1) year after the date of granting thereof, then, without further action by the Board of Adjustment, the use on review or authorization shall become null and

void. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.40 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the City Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

165.41 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons or any board, taxpayer, department, board or bureau of the community aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board by a court of record in the manner provided by the laws of the state and particularly by Chapter 414, *Code of Iowa*.

165.42 CHANGES AND AMENDMENTS. The regulations imposed and the districts created by this chapter may be amended from time to time by the Council, but no such amendment shall be made without public hearing before said Council and without a report made upon the amendment by the Planning and Zoning Commission. At least seven (7) days notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City, and in no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice. In case the Commission does not approve the change, or in the case of a written protest filed with the Council against a change in district boundaries signed by the owners of twenty percent (20%) or more of the property which is located within two hundred (200) feet of the exterior boundaries of the property for which the change or repeal is proposed, such amendment shall not be passed except by the favorable vote of three-fourths ($\frac{3}{4}$) of all the members of the Council.

165.43 STYLE OF AMENDMENT. Amendments, supplements, or changes of the boundaries of districts as shown on the official zoning map shall be made by an ordinance amending the zoning ordinance, shall refer to the official zoning map, and shall set out the identification of the area affected by legal description and identify the zoning district as the same exists and the new district designation applicable to said property. Said ordinance shall, after adoption and publication, be recorded by the City Clerk and the official zoning map changed as provided in this chapter. Such amendatory ordinance shall, however, not repeal or reenact said map, but only amend it. The official zoning

map, as amended, shall be the final authority to the current zoning status of land and water areas, buildings, and other structures in the City.

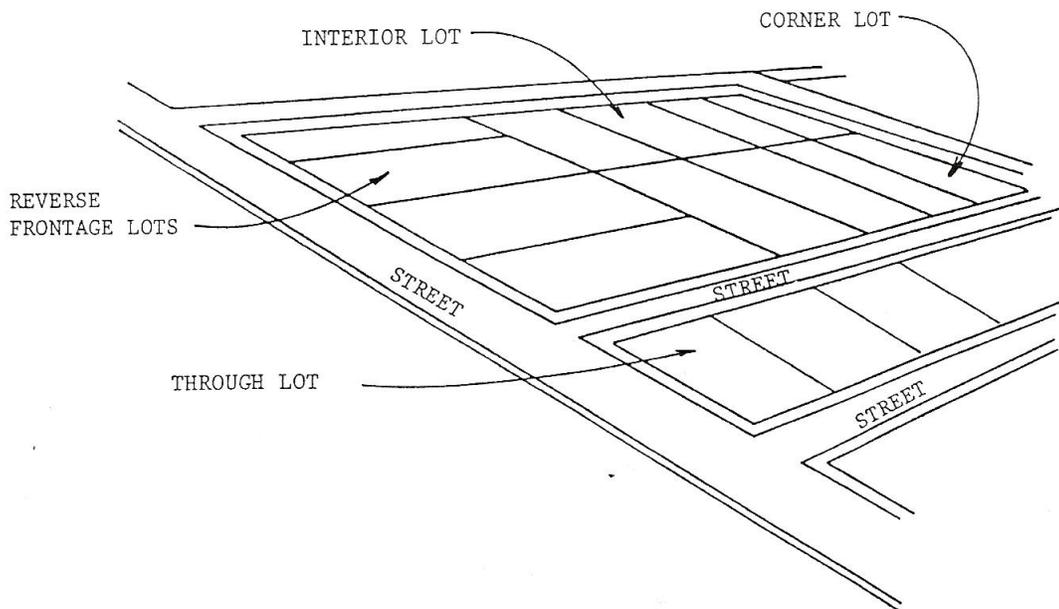
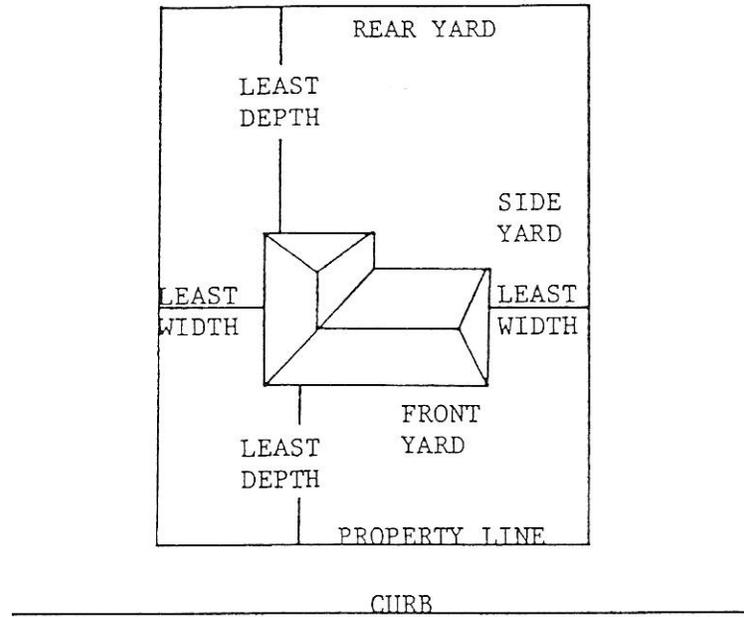
165.44 APPLICATION FOR CHANGE OF ZONING DISTRICT BOUNDARIES. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning map.

1. Such application shall be filed with the City Administrator accompanied by a fee of one hundred seventy-five dollars (\$175.00) and shall contain the following information.
 - A. The legal description and local address of the property, and
 - B. The present zoning classification and the zoning classification requested for the property, and
 - C. The existing use and proposed use of the property, and
 - D. The names and addresses of the owners of all property within two hundred (200) feet of the exterior boundaries of the property for which the change is requested, and
 - E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid, and
 - F. A plat showing the locations, dimensions and use of the applicant's property and all property within two hundred (200) feet of the exterior boundaries thereof, including streets, alleys and other physical features.
2. Upon receipt of the application by the City Administrator, a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall prior to making a recommendation, determine the following:
 - A. Whether or not the current district classification of the property to be rezoned is valid, and
 - B. Whether there is a need for additional land zoned for the purpose requested, and
 - C. Whether the proposed change is consistent with the current land use plan, considering such factors as:
 - (1) Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area, and
 - (2) Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity, and
 - D. Whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within one (1) year from the date of approval by the City Council.
3. The Commission shall report its determinations and recommendations to the Council within thirty (30) days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the

Commission. The Council shall then call a public hearing as provided in Section 165.42.

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LOT DIAGRAMS



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CHAPTER 166

AIRPORT ZONING REGULATIONS

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166.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. “Airport” means the West Union Municipal Airport.
2. “Airport elevation” means the highest point of an airport’s usable landing area measured in feet above mean sea level, which elevation is established to be 1,228 feet.
3. “Airport hazard” means any structure or tree or use of land which would exceed the Federal obstruction standards as contained in fourteen (14) Code of Federal Regulations Sections 77.21, 77.23 and 77.25 and which obstructs the airspace required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
4. “Airport primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
5. “Airspace height” means for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
6. “Control zone” means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five (5) statute miles in radius, with extensions where necessary to include instrument approach and departure paths.
7. “Instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.
8. “Minimum descent altitude” means the lowest altitude expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.
9. “Minimum en route altitude” means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

10. “Minimum obstruction clearance altitude” means the specified altitude in effect between radio fixes on VOR airways, off-airways routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within twenty-two (22) miles of a VOR.

11. “Runway” means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

166.02 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS.

In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Municipal Airport Height Zoning Map. A structure located in more than one (1) zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. **Horizontal Zone.** The land lying under a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of runways seventeen (17) and thirty-five (35) connecting the adjacent arcs by lines tangent to those arcs. No structure shall exceed one hundred and fifty (150) feet above the established airport elevation in the horizontal zone, as depicted on the Municipal Airport Height Zoning Map.

(Note: The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.)

2. **Conical Zone.** The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) feet to one (1) for a horizontal distance of four thousand (4,000) feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Municipal Airport Height Zoning Map.

3. **Approach Zone.** The land lying under the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

A. **Visual Other Than Utility Runway and Non-precision Instrument Runway.** The inner edge of the approach surface is five hundred (500) feet wide for runways 17 and 35.

B. **Non-precision Instrument Utility Runways.** The outer edge of the approach zone is two thousand (2,000) feet for runways 17 and 35.

C. Visual and Non-precision Instrument Runways. The approach zone extends for a horizontal distance of five thousand (5,000) feet at a slope of fifty (50) to one (1) for runways 17 and 35.

No structure shall exceed the approach surface to any runway, as depicted on the Municipal Airport Height Zoning Map.

4. Transitional Zone. The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven (7) to one (1) from the sides of the primary surface and from the sides of the approach surfaces. No structures shall exceed the transitional surface, as depicted on the Municipal Airport Height Zoning Map.

5. Increase in Elevation of Structures. No structure shall be erected in the County that raises the published minimum descent altitude for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any Federal airway in the County.

166.03 USE RESTRICTIONS. Notwithstanding any other provisions of 166.02, no use may be made of land or water within the City or County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. Lighting. All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Municipal Airport or in the vicinity thereof.
2. Visual Hazards. No operation from any use shall produce smoke, glare or other visual hazards within three (3) statute miles of any usable runway of the Municipal Airport.
3. Electronic Interference. No operation from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

166.04 LIGHTING. Notwithstanding the provisions of 166.03, the owner of any structure over two hundred (200) feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure constructed after the effective date of Ordinance No. 263, adopted June 19, 1978, and exceeding nine hundred forty-nine (949) feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City or County at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

166.05 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property in violation of any section of this chapter, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the board of adjustment unless a copy of the application has been submitted to Municipal Airport Zoning Commission for an opinion as to the aeronautical effects of such a variance. If the Municipal Airport Zoning Commission does not respond to the Board of Adjustment within fifteen (15) days from receipt of the copy of the application, the board may make its decision to grant or deny the variance.

166.06 BOARD OF ADJUSTMENT ESTABLISHED. There is hereby created a Board of Adjustment to have and exercise the following powers:

1. Appeals. To hear and decide appeals from any order, requirement, decision, or determination made by the Municipal Airport Zoning Commission in the enforcement of this chapter.
2. Special Exemptions. To hear and decide special exemptions to the terms of this chapter upon which such board of adjustment under such regulations may be required to pass.
3. Variances. To hear and decide specific variances.

166.07 BOARD OF ADJUSTMENT. The Board of Adjustment shall consist of two members selected by the Council, two members selected by the County Board of Supervisors; and, one additional member to act as Chairperson and to be selected by a majority vote of the members selected by the Council and the County Board of Supervisors. Members are removable for cause by the appointing authority upon written charges, after a public hearing. Vacancies are filled for the unexpired term of any member whose office becomes vacant in the same manner in which the member was selected. The terms of the members are for five (5) years, and are staggered.

166.08 BOARD OF ADJUSTMENT PROCEDURES. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in his or her absence the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations, and other official actions, all of which shall immediately be filed in the offices of the Clerk and County Auditor, and on due cause shown.

166.09 POWERS OF BOARD OF ADJUSTMENT. The Board of Adjustment shall have the powers established in the *Code of Iowa*, Section 414.12.

166.10 VOTE ON VARIATIONS OR ORDERS. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant, on any matter upon which it is required to pass under this chapter, or to effect variations of this chapter.

166.11 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the court of record as provided in the *Code of Iowa*, Section 414.15.

166.12 ADMINISTRATIVE AGENCY. It is the duty of the Airport Zoning Commission to administer the regulations prescribed herein. Applications for permits and variances shall be made to Airport Zoning Commission upon a form furnished by the Commission. Applications required by this chapter to be submitted to the Airport Zoning Commission shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Commission.

166.13 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict is with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

166.14 PENALTIES. Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a simple misdemeanor, and each day a violation continues to exist shall constitute a separate offense.

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CHAPTER 170

SUBDIVISION REGULATIONS

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170.01 SHORT TITLE. This chapter shall be known and may be cited as the “West Union Subdivision Control Ordinance.”

170.02 PURPOSE. The purpose of this chapter is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety, and general welfare in the City.

170.03 DEFINITIONS. For the purpose of this chapter, certain terms or words used herein shall be interpreted or defined as follows:

1. “Alley” means a public right-of-way, other than a street, twenty (20) feet or less in width affording secondary means of access to abutting property.
2. “Block” means an area of land within a subdivision that is entirely bounded by streets or highways, and/or the exterior boundaries of the subdivision.
3. “Building lines” means a line on a plat between which line and public right-of-way no buildings or structures may be erected.
4. “Collector street” means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.
5. “Commission” means the Planning and Zoning Commission of the City.
6. “Cul-de-sac” means a minor street having one end open to traffic and terminated by a vehicular turn-around.
7. “Easement” means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons.
8. “Engineer” means the City Engineer or a consulting engineer acting in that capacity.

9. "Final plat" means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the County Recorder.
10. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose whether immediate or future, of transfer of ownership or for building development.
11. "Performance bond" means a surety bond or cash deposit made out to the City, in an amount equal to the full cost of the improvements which are required by this chapter, said cost estimated by the City Engineer, and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
12. "Preliminary plat" means a study or drawing indicating the proposed manner or layout of the subdivision which is submitted to the Council and Commission for consideration.
13. "Residential or minor street" means a street which is used primarily for access to the abutting properties.
14. "Subdivider" means a person undertaking the subdivision or resubdivision of a tract or parcel of land.
15. "Subdivision" means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.
16. "Thoroughfare" means a street intended for cross-county or through traffic.

170.04 PLATTING REQUIRED; JURISDICTION. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat the same for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or, pursuant to Section 354.9 of the *Code of Iowa*, within two (2) miles from the corporate limits, shall cause plats of such area to be made in form and containing the information hereinafter set forth before selling any lots therein contained or placing the plat of record.

170.05 PROCEDURE - PLATS WITHIN CITY. In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat, a performance bond and a final plat in accordance with the requirements hereafter set forth.

170.06 PROCEDURE - PLATS OUTSIDE CORPORATE LIMITS. The procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as plats within the City, except that five (5) copies of the plat shall be filed with the City Clerk and the Clerk shall refer one (1) copy to the County Engineer and one (1) copy to the County

Planning and Zoning Commission and request their recommendations to be submitted to the Commission. The Commission shall have forty-five (45) days in which to take action on the plat but shall not act prior to receiving the recommendations of the County Planning and Zoning Commission, provided that such recommendation shall be received within thirty (30) days of referral.

170.07 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall first prepare and file with the Clerk nine (9) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point, and date.
2. Subdivision boundary lines, showing dimensions, bearings, angles and references to section, township, and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their rights-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords, and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public, or community purposes.
7. Present and proposed easements, showing locations, widths, purposes, and limitations.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation, and location of each.
9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County.
10. Names and addresses of the owner, subdivider, builder and engineer, surveyor who prepared the preliminary plat, and the engineer or surveyor who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is ten percent (10%) or greater.

170.08 REFERRAL OF PRELIMINARY PLAT. The Clerk shall forthwith refer seven (7) copies of the preliminary plat to the Commission, one (1) copy to the City Engineer, and one (1) copy for the City files.

170.09 ACTION BY THE ENGINEER. The Engineer shall carefully examine said preliminary plat as to its compliance with the laws and regulations of the City, the existing street system, and good engineering practices, and shall, as soon as possible, submit findings to the Commission together with one (1) copy of the plat received.

170.10 ACTION BY THE COMMISSION. The Commission shall, upon receiving the report of the Engineer, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the Commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. When Resubmission Required. In the event that substantial changes or modifications are made by the Commission or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.
2. Conditional Approval. If approved, the Commission shall express its approval as "Conditional Approval" and state the conditions of such approval if any.
3. Return Copy to Subdivider. The action of the Commission shall be noted on the two (2) copies of the preliminary plat referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the Commission and filed in the City Clerk's office.
4. Authorization to Proceed. The "Conditional Approval" by the Commission shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

One copy of the recommendations shall be forwarded to the subdivider and one copy to the City Council.

170.11 ACTION BY THE COUNCIL. The Council, upon receipt of the Commission's recommendation or after thirty (30) days, or any extension thereof, shall have passed, shall by resolution grant approval or reject the preliminary plat. If the preliminary plat is rejected, the Council shall advise the owner or developer of any changes which are desired or should have consideration before approval will be given. Approval of the preliminary plat by the Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

170.12 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute

only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided however, that such portion conforms to all requirements of these regulations.

170.13 REFERRAL OF FINAL PLAT. The subdivider shall, within twelve (12) months of the “Conditional Approval” of the preliminary plat by the Commission, prepare and file nine (9) copies of the final plat and other required documents with the Clerk as hereafter set forth and upon failure to do so within the time specified, the “Conditional Approval” of the preliminary plat shall be null and void unless an extension of time is applied for and granted by the Commission. Upon receipt of the final plat and other required documents, the Clerk shall transmit seven (7) copies of the final plat to the Commission for its recommendations and approval, one (1) to the City Engineer and retain one (1) for the City files.

170.14 REQUIREMENTS OF THE FINAL PLAT. The final plat shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch with India ink on a reproducible tracing. It shall show:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arcs, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City plan. Setback lines and utility or other easements shall be shown or provided by a general statement.
4. Location, type, materials, and size of all monuments and markers including all U. S., county, or other official benchmarks.
5. A sealed certification of the accuracy of the plat by the professional engineer or land surveyor who drew the final plat.

170.15 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A certificate by the owner and spouse, if any, that the subdivision is with their free consent and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds;
2. A correct description of the subdivision land.
3. A certificate of dedication of streets and other public property.
4. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

5. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots, including utility or other public easements.
6. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.
7. A certificate by the City Engineer or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the municipal attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision. In the case of the latter, the subdivider shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement, plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.
8. The encumbrance bond, if any.

170.16 INSTRUMENTS TO ACCOMPANY THE FINAL PLAT WHEN FILING. The final plat shall also be accompanied by the following instruments at the time it is presented for filing with the County Recorder.

1. A complete abstract of title and an opinion from an attorney at law showing that the fee title is in the proprietor and that the land platted is free from encumbrance, or is free from encumbrance other than that secured by a bond as provided in Section 354.11 of the *Code of Iowa*.
2. 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*.
3. 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.

170.17 ACTION BY THE COMMISSION. The Commission shall, upon receiving the final plat, as soon as possible, but not more than thirty (30) days thereafter, consider the final plat, and, if the same is approved, shall submit its recommendation of approval to the Council together with a certified copy of its resolution showing the action of the Commission.

170.18 ACTION BY THE COUNCIL. Upon receipt of the certification by the Commission, the Council shall, within a reasonable time, either approve or disapprove the final plat.

1. Council Disapproval. In the event that said plat is disapproved by the Council, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. Approval by Council. In the event that said plat is found to be acceptable and in accordance with this chapter, the Council shall accept the same.
3. Recording Necessary to Finalize Plat. The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder and shall file satisfactory evidence of such recording in the office of the Clerk before the City shall recognize the plat as being in full force and effect.

170.19 DESIGN STANDARDS. The following general requirements shall be followed by all subdividers:

1. Relation to Existing Streets.
 - A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
 - B. The arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing principal streets in surrounding areas or conform to a plan for the neighborhood approved by the Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.
2. Acreage Subdivisions.
 - A. Where a plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in light of the adjustments in connection with the street system of the part not submitted.
 - B. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
 - C. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Thoroughfares.
 - A. Minimum right-of-way for a thoroughfare shall be one hundred (100) feet.
 - B. Minimum width of surface, back-to-back of curbs, to be provided shall be fifty-three (53) feet.
4. Collector Streets.
 - A. Minimum right-of-way for a collector street shall be seventy (70) feet.

- B. Minimum width of surface, back-to-back of curbs, to be provided shall be forty-five (45) feet
5. Residential Streets.
- A. Residential streets shall be so planned as to discourage through traffic.
- B. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty-five (85) feet and a street property line diameter of at least one hundred ten (110) feet. The right-of-way width of the straight portion of such streets shall be a minimum of sixty (60) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.
- C. Minimum right-of-way for a residential street shall be sixty (60) feet.
- D. Minimum width of surface, back-to-back, of curbs, to be provided shall be thirty-one (31) feet.
6. Frontage Street.
- A. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- B. Where a subdivision borders on a limited access highway right-of-way, the Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
7. Half Streets. Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Where a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
8. Street Geometrics.
- A. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
- B. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
- C. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200)

feet for minor and collector streets, and of such greater radii as the Commission shall determine for special cases.

D. Street right-of-way widths shall be as shown in the City's Master Plan, but in no event less than sixty (60) feet.

9. Intersections.

A. Insofar as is practical acute angles between streets at their intersection are to be avoided.

B. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than eighty (80) degrees.

C. Actual paving or curb and gutter construction at street intersections shall be rounded with a radius of twenty-one (21) feet, or of a greater radius where the Commission may deem it necessary. The Commission may permit comparable cut-offs or chords in place of rounded corners.

10. Street Names. Streets that are in alignment with others already existing and names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the Commission.

11. Street Grades.

A. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.

B. No street grade shall be less than one-half (1/2) of one (1) percent.

12. Alleys.

A. Alleys shall be provided in commercial and industrial districts, except that the Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

B. The minimum right-of-way widths and surface widths of alleys shall be twenty (20) feet.

C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the Commission.

13. Blocks.

A. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the Commission, extraordinary conditions unquestionably justify a departure from these limits.

B. In blocks over seven hundred (700) feet in length, the Commission may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

14. Lots.
- A. The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Minimum lot dimensions and sizes shall conform to the requirements of the zoning ordinance, provided:
- (1) Residential lots where not served by public sewer but served by public water shall not be less than eighty (80) feet wide nor less than forty thousand (40,000) square feet in area.
 - (2) Residential lots where not served by both public water and sewer shall not be less than one hundred (100) feet wide nor less than forty thousand (40,000) square feet in area.
 - (3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type and use of development contemplated.
 - (4) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.
- C. The subdividing of land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.
- D. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- E. Side lot lines shall be substantially at right angles to street lines or radial to curved street lines.
15. Building Lines. Building lines conforming with zoning standards shall be shown on all lots within the platted area. Where the subdivided area is not under zoning control the Commission may require building lines in accordance with the needs of each subdivision.
16. Easements.
- A. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.
- B. Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and further width for construction, or both, as will be adequate for the purpose.
17. Monuments. Monuments shall be placed at all block corners, angle points, points of curves in streets, and at intermediate points as shall be required by the City

Engineer. The monuments shall be of such material, size, and length as may be approved by the Engineer.

170.20 IMPROVEMENTS REQUIRED. The subdivider shall install and construct all improvements required by this chapter. All required improvements shall be installed and constructed in accordance with the specifications and under the supervision of the Council and to its satisfaction.

1. Streets and Alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council after receiving the report and recommendations of the City Engineer.
2. Roadways. All roadways shall be surfaced with four (4) inches of Class A road rock, spread and graded from gutter to gutter.
3. Curb and Gutter. Concrete curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Engineer.
4. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Engineer.
5. Water Lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the Water Department standards, procedure and supervision. There shall be a public water main in front of every lot, unless the Council finds that strict compliance would not be feasible or suitable for the long-range plan of water service. All service pipes shall connect to public mains in front of the lot served unless excepted due to the exception for mains. The City shall determine the size and type of main, which shall not be less than a six (6) inch main, and the subdivider shall pay the estimated cost and the actual cost of a larger main shall be a charge to the City water system. Provision for future public water system mains may be required.
6. Sewers.
 - A. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the Engineer.
 - B. Where sanitary sewers are not available, other facilities, as approved by the Council and the State Department of Health, must be provided for the adequate disposal of sanitary wastes.
 - C. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the Engineer.

170.21 COMPLETION OF IMPROVEMENTS. Before the Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City specifications and ordinances or other City requirements, and the agreements between subdivider and the City.

170.22 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the Council guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

170.23 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardships to the subdivider, because of unusual topography, the Council may vary, modify or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than a minimum easing of the requirements and in no instance shall it be in conflict with any zoning ordinance and such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Council.

170.24 CHANGES AND AMENDMENTS. Any regulations or provisions of this chapter may be changed and amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

170.25 CHAIN SUBDIVIDING. No more than two (2) building permits for each separate tract existing on January 1, 1970, shall be issued unless the tract has been platted in accordance with the regulations of this chapter, except that this provision shall not limit the number of building permits that may be issued for accessory buildings or additions already existing on said tract.

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CHAPTER 171

STORM WATER MANAGEMENT

171.01 Purpose

171.02 Definitions

171.03 Areas Requiring Storm Water Management Plan

171.04 Storm Water Management Plan Requirements

171.05 Storm Water Management Plan Design Requirements

171.06 Submission and Approval of Plan

171.07 Ownership by City

171.08 Private Ownership

171.09 Further Requirements

171.01 PURPOSE. It is the purpose of this chapter to establish policies to manage and control storm water runoff occurring from new development of residential, commercial and industrial areas. The goal is to reduce peak runoff caused by development of the land. This will result in cost savings to the overall storm sewer collection system by reducing the size of improvements required. In addition, increased safety and erosion control would be expected benefits.

171.02 DEFINITIONS. Wherever used in this chapter the terms listed below will have the meanings indicated.

1. “Capacity” (of a storm water facility) means the maximum volume or rate of conveyance available in a storm water management facility, including freeboard, to store or convey storm water without damage to public or private property.
2. “Civil engineer” means a professional engineer licensed in the State of Iowa to practice in the field of civil works.
3. “Control structure” means part of a storm water management facility designed to regulate the storm water runoff release rate.
4. “Design storm” means a storm with characteristics of the average storm for the desired return frequency.
5. “Detention basin” means a storm water management facility designed, constructed or modified to provide short term storage of storm water runoff, which reduces the peak outflow to a rate less than the peak inflow.
6. “Developed condition” means hydraulic and hydrologic site characteristics that occur upon completion of a development.
7. “Development” means the improvement of land from its existing state or an area of land improvement.
8. “Drainage area” means an area of land contributing to storm water runoff.
9. “Overflow path” means the path taken by storm water runoff as a result of flows exceeding the capacity of the underground drainage system or detention basin. The path may include streets, channels, drainage ways, or areas of sheet flows, and be located on public property or private property within an easement.
10. “Pre-developed condition” means hydraulic and hydrologic site characteristics that occur prior to a proposed development, including natural storage areas, drainage ways, drainage tiles, and highway drainage structures.

11. “Regional storm water management facilities” means those facilities designed to handle storm water runoff from several lots which may include the entire subdivision, or multiple subdivisions, and may include existing developed areas.
12. “Return frequency” means statistic parameter that defines the average occurrence time for a storm of a given magnitude.
13. “Site” means a lot, parcel, or tract of land, or portion thereof, where development is occurring, or has occurred, and may, or may not, require additional permits.
14. “Site plan” means an overall plan of the area to be developed including, but not limited to: proposed building locations, proposed parking and drive locations, proposed utilities, including storm sewer components and subsurface drain tile, proposed ground elevations with drainage patterns highlighted, roof drainage outlet locations, other underground utilities, and property boundaries.
15. “Storm sewer system” means facilities for the conveyance of storm water runoff, a series of conduits and appurtenances, to accommodate frequent storms not generating large peak discharges. These facilities usually include conduits, street gutters, and swales.
16. “Storm water management facilities” means a detention basin and the associated appurtenances to make the system functional.
17. “Storm water management plan” means a site plan, certified by a civil engineer, including materials, construction phasing, grading activities, and methods used for mitigation of increased storm water runoff from the site.
18. “Storm water runoff” means the flow of water resulting from precipitation upon a surface area, not absorbed by the soil or plant material.

171.03 AREAS REQUIRING STORM WATER MANAGEMENT PLAN. A storm water management plan shall be required for:

1. All new residential subdivisions and resubdivisions larger than two acres in size and all new commercial and industrial subdivisions of any size. Commercial and industrial development taking place on existing platted lots larger than one acre in size are also required to comply with this chapter by submitting a storm water management plan. Phased developments under two acres for residential or one acre for commercial/industrial as a part of a larger planned development must comply as well.
2. Other developments may be required to submit a storm water management plan at the discretion of the City Administrator if topography of the site and planned improvements may have an adverse effect on downstream runoff. No subdivision or development plan will be approved unless adequate drainage will be provided to an appropriate storm sewer, drainage watercourse, or storm water management facility.
3. At the discretion of the City Council, a fee may be charged the developer in lieu of providing storm water management facilities. This may be utilized when the City is constructing a larger regional storm water management facility to handle multiple existing or proposed developments.

171.04 STORM WATER MANAGEMENT PLAN REQUIREMENTS.

The storm water management plan shall include, but not be limited to, the following information:

1. Peak discharges for pre-developed and developed conditions based upon the design storms.
2. Individual parameters used for determining discharges shall be listed.
3. Hydraulic capacity of storm sewer inlets, pipes, open channels, or other means of conveying water.
4. Detention basin design with capacity listed.
5. Control structure/outlet design.
6. Review of existing or proposed downstream conveyance capacities.
7. The SCS TR-55 computerized runoff volume program or other technically proven method shall be utilized for runoff calculations.

171.05 STORM WATER MANAGEMENT PLAN DESIGN REQUIREMENTS. The design requirements of the storm water management plan shall include:

1. Developments requiring storm water management shall be required to detain the difference between the 5-year pre-developed storm and the 50-year developed storm.
2. The maximum release rate for storms up to an expected return frequency of 50 years shall be the 5-year pre-developed storm. A safe overflow path shall be designed for storms exceeding the capacity of the detention basin.
3. Regional storm water management facilities are encouraged.
4. For residential developments, storm water detention is not allowed within any front or side yard setbacks required by the Zoning Code, or within 25 feet from the estimated rear building line.
5. Dry-bottomed detention basins shall be oversized by 10% to help offset anticipated sedimentation.
6. Maximum side slopes of detention basins shall not exceed 3.5:1.
7. Provisions shall be made to keep the bottom of the detention basin dry unless a permanent pond or lake is being utilized for detention.

171.06 SUBMISSION AND APPROVAL OF PLAN. A site plan shall be a required attachment to a proposed storm water management plan, all of which is to be submitted to the City Administrator for review. The storm water management plan, including proposed storm water detention facilities, shall be reviewed and approved by the City Administrator prior to the issuance of any building permit for the proposed development. The City may inspect the site at any time to determine compliance with this chapter. Upon determination that a site is not in compliance with this chapter, the City may issue an order to

comply. The order shall describe the problem, specify a completion date, and indicate the penalties to be assessed for further noncompliance.

171.07 OWNERSHIP BY CITY. Regional storm water management facilities which are of sufficient size may be deeded to and be maintained by the City. The conditions for City ownership will be reviewed on a case by case basis. The City is under no obligation to accept ownership of the facility. If the City elects to obtain ownership of the facility, the property owner shall dedicate to the City any property on which public storm water detention basins will be located. Ingress-egress easements for maintenance of public facilities shall be provided prior to final approval.

171.08 PRIVATE OWNERSHIP. For sites on which privately owned storm water detention facilities are located, the property owner will be responsible for the following:

1. All future grading, repairs, and maintenance.
2. Maintenance of the minimum storm water detention capacity, as originally designed.
3. Maintenance of the detention basin control structures and discharge pipes to insure the maximum theoretical design release rate is not increased.
4. The property owner shall not place fill material, or erect any buildings, obstructions, or other improvements on the area reserved for storm water detention purposes, unless approved in writing by the City.

171.09 FURTHER REQUIREMENTS. Compliance with this chapter does not relieve the developer of other responsibilities relating to storm water discharge. This includes, but is not limited to, NPDES storm water discharge permits regulated by Iowa Department of Natural Resources, and other State of Iowa and Federal requirements.

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