

CODE OF ORDINANCES
OF THE
CITY OF
WALFORD, IOWA



Prepared By: Local Government Professional Services, Inc.
DBA Iowa Codification
P. O. Box 244
114 E 5th Street
Storm Lake, Iowa 50588
(641) 355-4072
www.sc-ic.com

CODE OF ORDINANCES

CITY OF WALFORD, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
1.02 Definitions
1.03 City Powers
1.04 Indemnity
1.05 Personal Injuries
1.06 Rules of Construction
1.07 Extension of Authority

1.08 Amendments
1.09 Catchlines and Notes
1.10 Altering Code
1.11 Severability
1.12 Warrants
1.13 General Standards for Action
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 Walford, 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 Walford, Iowa.
3. “Clerk” means the city clerk of Walford, 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 Walford, Iowa.
6. “Council” means the city council of Walford, Iowa.
7. “County” means Benton County or Linn County, Iowa.
8. “IAC” means the Iowa Administrative Code.
9. “May” confers a power.
10. “Measure” means an ordinance, amendment, resolution, or motion.
11. “Must” states a requirement.
12. “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.
13. “Ordinances” means the ordinances of the City of Walford, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

14. “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.

15. “Public way” includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

16. “Shall” imposes a duty.

17. “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.

18. “State” means the State of Iowa.

19. “Statutes” or “laws” means the latest edition of the *Code of Iowa*, as amended.

20. “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 that 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 this 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 this 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 this Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with this Code of Ordinances in any manner that will cause the law of the City to be misrepresented.

1.11 SEVERABILITY. If any section, provision, or part of this Code of Ordinances is adjudged invalid or unconstitutional, such adjudication will not affect the validity of this 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 this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00.

(Code of Iowa, Sec. 364.3[2] and 903.1[1a])

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CHAPTER 2

CHARTER

2.01 Title	2.04 Number and Term of Council
2.02 Form of Government	2.05 Term of Mayor
2.03 Powers and Duties of City Officers	2.06 Copies on File

- 2.01 TITLE.** This chapter may be cited as the charter of the City of Walford, 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 five Council Members elected at large 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[3])

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

3.01 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])

3.02 ENVIRONMENTAL VIOLATION. A municipal infraction that 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.

3.03 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 \$1,000.00 for each day a violation exists or continues.

[†] **EDITOR'S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14.

B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than \$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 24 hours from the time that the violation begins.
- (3) The violation does not continue in existence for more than eight hours.

3.04 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. A copy of 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 the original citation 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.
8. The legal description of the affected real property, if applicable.

If the citation affects real property and charges a violation relating to the condition of the property, including a building code violation, a local housing regulation violation, a housing code violation, or a public health or safety violation, after filing the citation with the Clerk of the District Court, the City shall also file the citation in the office of the County Treasurer.

3.05 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[9])

3.06 ALTERNATIVE 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[12])

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CHAPTER 4

PRECINCTS

4.01 Division
4.02 Benton County Precinct Number 1

4.03 Linn County Precinct Number 2

4.01 DIVISION. The City is divided into two precincts, as follows.

4.02 BENTON COUNTY PRECINCT NUMBER 1.

A part of Section 25 and 36, Township 82 North, Range 9 West of the 5th P.M., City of Walford, Benton County, Iowa, and more particularly described as follows: Beginning at the East ¼ corner of said Section 25; thence West along the North line of the Southeast ¼ of said Section 25 a distance of 2640 feet more or less to the center of said Section 25; thence South along the West line of said Southeast ¼ a distance of 2589 feet more or less to a point on the Northerly right of way of state Highway #151; thence Easterly along said Northerly right of way a distance of 572 feet more or less; thence Northeasterly along said Northerly right of way a distance of 748 feet more or less to a point on the West line of the Southeast ¼ of the Southeast ¼ of said Section 25; thence South along said West line a distance of 312 feet more or less to the Southwest corner of said Southeast ¼ of the Southeast ¼; thence West along the North line of the Northwest ¼ of the Northeast ¼ of Section 36 a distance of 135 feet more or less; thence South a distance of 181.5 feet more or less; thence West a distance of 115.5 feet more or less; thence South 1138.5 feet more or less to a point on the South line of the Northwest ¼ of the Northeast ¼; thence West along said South line a distance of 241 feet more or less; thence North a distance of 6715 feet more or less; thence West a distance of 710 feet more or less to a point on the Southerly right of way of the Cedar Rapids and Iowa City Railroad; thence Southwesterly along said Southerly right of way a distance of 365.5 feet more or less; thence Southeasterly a distance of 643 feet more or less to a point on the south line of the Northwest ¼ of the Northeast ¼ of Section 36; thence Westerly along said South line a distance of 116.7 feet more or less; thence Southeasterly a distance of 166 feet more or less; thence Southeasterly 325.1 feet more or less; thence Southeasterly 264.0 feet more or less; thence Southeasterly 262.9 feet more or less; thence Northeasterly a distance of 1079 feet more or less to a point on the South line of the Northeast ¼ of the Northeast ¼ of said Section 36; thence Easterly along South line a distance of 421 feet more or less; thence Southerly a distance of 242 feet more or less; thence Westerly a distance of 469 feet more or less to a point on the West line of Southeast ¼ of the Northeast ¼; thence Southerly along said West line a distance of 1080 feet more or less to the Southwest corner of the Southeast ¼ of the Northeast ¼ of said Section 36; thence Easterly along the South line of the Northeast ¼ a distance of 1320 feet more or less to

the East ¼ corner of said Section 36; thence Northerly a distance of 2640 feet more or less to the Northeast corner of said Section 36; thence Northerly a distance of 2640 feet more or less to the East ¼ corner of said Section 25 which is the point of beginning of this description;

Also

Beginning at the intersection of the South right of way line of Highway 151 and the Northerly right of way of the Cedar Rapids and Iowa City Railroad in the Northwest ¼ of the Northeast ¼ of Section 36; thence Westerly along the South right of way line of said Highway 151 a distance of 425.5 feet more or less; thence Southerly a distance of 252.5 feet more or less than point on the North right of way of said Cedar Rapids and Iowa City Railroad; thence Northeasterly along said North right of way line a distance of 494.7 feet more or less to the point of beginning.

4.03 LINN COUNTY PRECINCT NUMBER 2.

Fairfax Township, population 2,132 Fairfax Township, including the incorporated City of Fairfax, and that portion of the incorporated City of Walford which lies within Linn County.

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Powers and Duties
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings

5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts

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 such officer is certified as elected but not later than noon of the first day that 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 Walford 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 offices:

- 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[1a] and [3])

5.03 POWERS AND DUTIES. 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 that are combined with data processing software shall be in accordance with policies and procedures established by the City.

(Code of Iowa, Sec. 22.2 and 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[3a])

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[3b])

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

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

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[3e])

5. Newspaper. The designation of an official newspaper.

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

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[3g])

7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.

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

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 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[3i])

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.

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



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[3k])

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[3l])

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 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 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 in accordance with Section 372.13[2] of the *Code of Iowa*.

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 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, and 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, and 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.

(545 IAC 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.

(545 IAC 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.

(545 IAC 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, 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 net position calculated in accordance with generally accepted accounting principles, after adding back the net pension and other postemployment benefits, liabilities, and the related deferred inflows of resources and deducting the related deferred outflows of resources, in excess of:

A. The amount of the expenses of disbursements for operating and maintaining the utility or enterprise for the preceding three months; and

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

(545 IAC 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 each year at such time as directed by the Council.

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(*Code of Iowa, Sec. 384.15A*)

A. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.

B. If the City has an internet site, the notice shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

(1) The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(2) The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by the Council under Paragraph C of this subsection.

C. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.

D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.

E. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing

on the internet site along with resolutions posted for all subsequent budget years.

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

6. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

7. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 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 City Clerk and have a copy posted at one of the places designated for the posting of notices.

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

8. 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 submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. 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.

(545 IAC 2.2)

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.

(545 IAC 2.3)

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

(545 IAC 2.4)

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.

(545 IAC 2.4)

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 and Mayor 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 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 1 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
URBAN RENEWAL

EDITOR'S NOTE		
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.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
110	December 10, 1996	Walford Urban Renewal Area
122	November 9, 1998	1998 Addition to the Walford Urban Renewal Area
137	February 12, 2001	2001 Addition to the Walford Urban Renewal Area
152	September 9, 2002	2002 Addition to the Walford 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 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, 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 14 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 and 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 this Code of Ordinances and the laws of the State.

9. Licenses and Permits. Sign all licenses and permits that 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. Parks and Recreation Board
3. Zoning Board of Adjustment

15.04 COMPENSATION. The salary of the Mayor is \$3,500.00 per year, paid semiannually.

(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)

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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 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 five Council members elected at large for overlapping terms of four years.

(Code of Iowa, Sec. 372.4 and 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. 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 that may be specially assessed.

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

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

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

4. 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, Ch. 26)

5. 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])

6. 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 \$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 that fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

2. Overriding Mayor's Veto. Within 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 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 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. 380.1[a])

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 time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
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 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.
6. Special Meeting Fee. Any person requesting a special meeting with the Council shall pay a fee of \$250.00.

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 Engineer
4. Planning and Zoning Commission

17.06 COMPENSATION. The salary of each Council member is \$40.00 for each meeting of the Council attended, payable .

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation	18.08 Records
18.02 Powers and Duties: General	18.09 Attendance at Meetings
18.03 Publication of Minutes	18.10 Licenses and Permits
18.04 Recording Measures	18.11 Notification of Appointments
18.05 Other Publications	18.12 Elections
18.06 Authentication	18.13 City Seal
18.07 Certification	

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve for an indefinite term. The Clerk shall receive such compensation as established by resolution of the Council.

(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. Within 15 days following a regular or special meeting, the Clerk 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 and 2])

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

(Code of Iowa, Sec. 362.3)

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 or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.
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, except that ordinances and amendments may be published by posting in the following places:

City Hall
U.S. Post Office
Central State Bank

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than 10 days after the first date of posting.

Unauthorized removal of the posted ordinance or amendment prior to the completion of the 10 days shall not affect the validity of said ordinance or amendment. The Clerk shall note the first date of such posting on the official copy of the ordinance and in the official ordinance book immediately following the ordinance.

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 CERTIFICATION. 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 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 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 and 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 that by this Code of Ordinances are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 372.13[4 and 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. The Clerk shall attend all regular and special Council meetings and, 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 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 NOTIFICATION OF APPOINTMENTS. The Clerk shall inform all persons appointed by the Mayor or Council to offices in the City government of their positions and the time at which they shall assume the duties of their offices.

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

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections 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 that it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words "CORPORATE SEAL" and around the margin of which are the words "TOWN OF WALFORD – WALFORD, IOWA."

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer
19.04 Boards and Commissions

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

19.02 COMPENSATION. The Clerk 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.

19.04 BOARDS AND COMMISSIONS. The City Treasurer is the Treasurer of the Parks and Recreation Board and pays out all money under control of the board on orders signed by the chair and secretary of such board, but receives no additional compensation for such services.

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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 at the discretion of the Council. 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 that 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.

(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 that may be required for the use of the City.

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

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CHAPTER 21

PLANNING AND ZONING COMMISSION

21.01 Planning and Zoning Commission
21.02 Term of Office
21.03 Vacancies

21.04 Compensation
21.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 and 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such improvements. Such requirements and recommendations shall not act as a stay upon

action for any such improvement if the Commission, after 30 days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

6. Fiscal Responsibilities. The Commission shall have full, complete, and exclusive authority to expend, for and on behalf of the City, all sums of money appropriated to it and to use and expend all gifts, donations, or payments that are received by the City for City planning and zoning purposes.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 22

PARKS AND RECREATION BOARD

22.01 Parks and Recreation Board Created
22.02 Board Organization
22.03 Duties of the Board
22.04 Reports

22.05 Rules
22.06 Fund; Treasurer
22.07 Damage to Facilities
22.08 Closing Hours

22.01 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. It shall also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

 **22.02 BOARD ORGANIZATION.** The Board shall consist of five members, all residents of the City, appointed by the Mayor with the approval of the Council, for overlapping terms of three years. Members shall serve without compensation. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

22.03 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. The Board shall also have the following specific powers and duties:

1. **Elect Officer.** To meet annually in January and elect from its members a Chairperson, a Secretary, and other such officers as it deems necessary.
2. **Development.** To recommend development and extension of playgrounds and recreational facilities to the Council and accomplish the same as specific municipal budget allocations permit.
3. **Purchasing.** To select and purchase all items considered necessary for the operation of the playgrounds and recreational facilities subject to their specific municipal budget allocation.
4. **Nonresident Use.** To authorize the use of the playgrounds and recreational facilities by nonresidents of the City to fix charges for this privilege as well as fixing charges, if any, for use by residents of the City.
5. **Expenditure of Funds.** To control exclusively, subject to municipal budget allocation, the expenditure of all portions of the municipal funds allocated for playgrounds and recreational purposes by the Council and of all money available by gifts or otherwise, not including specific Council allocations or grants for the erection or construction of specific playgrounds and recreational facilities and of all other funds belonging to the Board, including charges made and collected for the use of playgrounds and recreational facilities.

6. Policy and Public Relations. To perform its legal responsibilities, to be responsible for sound programming and personnel policies, to maintain good public relations and to keep records of its proceedings.

22.04 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 at the Council's request.

22.05 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.



22.06 FUND; TREASURER. All money allocated by budget by the Council for the municipal playgrounds and recreational facilities fund shall be deposited with the City Treasurer. Expenses shall be paid out by approval of the Board as budgeted or granted by the Council.

22.07 DAMAGE TO FACILITIES. No person shall damage in any manner in whole or in part any of the playgrounds, recreational facilities or equipment owned by the City.

22.08 CLOSING HOURS. No person shall be upon or within any City park, playground, or recreational facility during the hours from 10:30 p.m. until 6:00 a.m. of any day.

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CHAPTER 30

CONTRACT LAW ENFORCEMENT

30.01 CONTRACT LAW ENFORCEMENT. The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such other entity shall have and exercise the powers and duties as provided in said contract and as required by law or ordinance.

(Code of Iowa, Sec. 28E.30)

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CHAPTER 35

FIRE PROTECTION AGREEMENT

35.01 CONTRACT. Pursuant to Chapter 28E of the *Code of Iowa*, the City has entered into a contract agreement with the City of Fairfax for fire protection and prevention within the City.
(Code of Iowa, Sec. 28E.12)

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CHAPTER 36

DISASTER RECOVERY AND RECONSTRUCTION

36.01 Authority

36.02 Purposes

36.03 Definitions

36.04 Recovery Organization

36.05 Recovery Plan

36.06 General Provisions

36.07 Temporary Regulations

36.08 Demolition of Damaged Buildings

36.09 Temporary and Permanent Housing

36.10 Hazard Mitigation Program

36.11 Recovery and Reconstruction Strategy

36.01 AUTHORITY. The ordinance codified by this chapter is adopted by the Linn County Board of Supervisors and the respective City Councils acting under authority of the City's Code of Ordinances, Chapter 29C of the *Code of Iowa* (Emergency Management and Security), and all applicable federal laws and regulations.

36.02 PURPOSES. It is the intent of the Linn County Board of Supervisors and the respective City Councils under this chapter to:

1. Authorize creation of an organization to plan and prepare in advance of a major disaster for orderly and expeditious post-disaster recovery and to direct and coordinate recovery and reconstruction activities.
2. Direct the preparation of a pre-event plan for post-disaster recovery and reconstruction to be updated on a continuing basis.
3. Authorize in advance of a major disaster the exercise of certain planning and regulatory powers related to disaster recovery and reconstruction to be implemented upon declaration of a local emergency.
4. Identify means by which the county and the cities will take cooperative action with other governmental entities in expediting recovery.
5. Implement means by which the county and the cities will consult with and assist citizens, businesses, and community organizations during the planning and implementation of recovery and reconstruction procedures.

36.03 DEFINITIONS. As used in this chapter, the following definitions shall apply:

1. "Assessed value" means the value of a property, building, or other structure routinely assessed by the County or City Assessor for tax purposes. The assessed value will be the pre-event value of the property as reflected in the Assessor's records at the time of the disaster event, unless extenuating circumstances can be established and approved by the Assessor.
2. "Building Official" means the person at the county or municipal level authorized to enforce established building codes.
3. "Damage Assessment Survey" means a field survey to determine levels of damage for structures and/or to post placards designating the condition of structures.
4. "Development moratorium" means a temporary hold, for a defined period of time, on the issuance of building permits, approval of land use applications, or other

permits and entitlements related to the use, development, and occupancy of private property in the interests of protection of life and property.

5. “Chair” means the Chair of the Recovery Organization or an authorized representative and/or the Chair of the Recovery Task Force.

6. “Disaster Assistance Centers” (DACs) are multi-agency centers organized by FEMA for coordinating assistance to disaster victims.

7. “Disaster Field Office” (DFO) means a center established by FEMA for coordinating disaster response and recovery operations, staffed by representatives of federal, State, and local agencies as identified in the Federal Response Plan (FRP) and determined by disaster circumstances.

8. “Disaster Survey Report” (DSR) means a claim by a local jurisdiction for financial reimbursement for repair or replacement of a public facility damaged in a major disaster, as authorized under the Stafford Act and related federal regulations, plans and policies.

9. “Emergency” means a local emergency, as defined by the *Code of Iowa*, which has been declared by the Board of Supervisors and the Mayor or Mayors of the affected municipalities for a specific disaster and that has not been terminated.

10. “Event” means any natural, man-made, or civil occurrence, which results in the declaration of a state of emergency and includes tornadoes, fires, floods, winter storms, hazardous material releases, as referenced in the Hazard Mitigation Plan.

11. “Federal Response Plan” (FRP) means a plan prepared by FEMA and over two dozen other federal departments and agencies to coordinate efforts of a large number of federal, State, and local agencies in providing response and recovery assistance in an expeditious manner.

12. “Flood Insurance Rate Map” (FIRM) means a map showing the outer boundaries of the floodway and flood plain as determined by the Flood Insurance Administration through the National Flood Insurance Program.

13. “Hazard Mitigation Grant Program” means a program for assistance to federal, State and local agencies whereby a grant is provided by FEMA as an incentive for implementing mutually desired mitigation programs, as authorized by the Stafford Act and related federal regulations, plans, and policies.

14. “Historic building or structure” means any building or structure included on the national register of historic places, the State register of historic places or points of interest, or a local register of historic places.

15. “Individual Assistance Program” means a program for providing small grants to individuals and households affected by a disaster to offset loss of equipment, damage to homes, or the cost of relocation to another home, as authorized under the Stafford Act and related federal regulations.

16. “In-kind” means the same as the prior building or structure in size, height and shape, type of construction, number of units, general location, and appearance.

17. “Major disaster” means a locally declared emergency also proclaimed as a state of emergency by the Governor of the State and by the President of the United States.

18. “Multi-Agency Hazard Mitigation Team” means a team of representatives from FEMA, other federal agencies, State emergency management agencies, and related

State and local agencies, formed to identify, evaluate, and report on post-disaster mitigation needs.

19. “Public Assistance Program” means a program for providing reimbursement to federal, State, and local agencies and non-profit organizations for repair and replacement of facilities lost or damaged in a disaster, as authorized under the Stafford Act and related federal regulations, plans, and policies.

20. “Recovery” means the process by which most of private and public buildings and structures not severely damaged or destroyed in a major disaster are repaired and most public and commercial services are restored to normal.

21. “Reconstruction” means the rebuilding of permanent replacement housing, construction of large-scale public or private facilities badly damaged or destroyed in a major disaster, addition of major community improvements, and full restoration of a healthy economy.

22. “Recovery organization” means an interdepartmental organization, which coordinates staff actions in planning and implementing disaster recovery and reconstruction functions.

23. “Recovery plan” means a pre-event plan for post-disaster recovery and reconstruction comprised of policies, plans, implementation actions, and designated responsibilities related to expeditious and orderly post-disaster recovery and rebuilding, as well as long-term mitigation.

24. “Recovery strategy” means a post-disaster strategic program identifying and prioritizing major actions contemplated or under way regarding such essential recovery functions as business resumption, economic reinvestment, industrial recovery, housing replacement, infrastructure restoration, and potential sources of financing to support these functions.

25. “Hazard mitigation plan” means a plan that addresses protection of the community from unreasonable risks, associated with the effects of earthquakes, landslides, flooding, wildland and urban fires, wind, coastal erosion, and other natural and technological disasters. This plan will be incorporated into the County-wide Multi-Hazard Emergency Operations Plan.

26. “Stafford Act” means the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288), as amended.

36.04 RECOVERY ORGANIZATION. There is hereby identified, the Recovery Organization, for the purpose of coordinating County and City actions in planning and implementing disaster recovery and reconstruction activities. The Recovery Organization will be the existing Linn County Emergency Management Commission. This Commission is constituted under the provisions of Section 29C.9 of the *Code of Iowa* and is comprised of a member of the Board of Supervisors, the Sheriff, and the Mayor of each municipality or their designated representatives. The Commission is already charged to oversee multi-hazard emergency planning, response, mitigation, and recovery actions.

1. Powers and Duties. The Recovery Organization shall have such powers as enable it to carry out the purposes, provisions, and procedures of this chapter, as identified in this chapter.

2. Recovery Task Force. The Recovery Organization shall include a Recovery Task Force comprised of the following officers and members:

- A. The Chair of the Linn County Board of Supervisors shall be Acting Chair. The Acting Chair shall call the initial meeting of the Recovery Task Force. At the initial meeting, the members will elect the Chair and Vice Chair. The other members of the Recovery Task Force will be the Mayors of each affected municipal jurisdiction.
- B. The Vice Chair of the Board of Supervisors, the Mayor Pro-Tem, or City Manager may act in the absence of the Chair of the Board of Supervisors, or Mayor of the affected jurisdiction.
- C. The County and affected City Attorneys who shall be Legal Advisers as requested by their respective elected official.
- D. Other supporting staff may include the County and affected City Building Officials, County and affected City Engineers, Community Development/Planning Director, Fire Chiefs, Emergency Management Director, General Services Directors, Sheriff, Police Chiefs, Public Works Directors, Utilities Director, together with representatives from such other departments and offices as may be deemed necessary by the Chair for effective operations.

In the actions of the Recovery Task Force, each jurisdiction will have one vote.

- 3. Operations and Meetings. The Chair of the Emergency Management Commission shall have responsibility for Recovery Organization operations. When an emergency declaration is not in force, the Recovery Organization shall meet monthly or more frequently, upon call of the Chair of the Emergency Management Commission. After a declaration of an emergency, and for the duration of that declared emergency period, the Recovery Task Force shall meet daily or as frequently as determined by the Task Force Chair.
- 4. Succession. In the absence of the Chair of either the Recovery Organization or Recovery Task Force, the Vice Chair shall serve as Acting Chair of the respective organization and shall be empowered to carry out the duties and responsibilities of the Chair.
- 5. Organization. The Recovery Task Force may create such standing or ad hoc committees as determined necessary by the Chair.
- 6. Relation to Emergency Management Organization. The Recovery Organization shall be the Linn County Emergency Management Commission, which has interrelated functions and similar membership. The Emergency Management Director should be considered for any staff support as deemed necessary.

36.05 RECOVERY PLAN. Before a major disaster, the Recovery Organization shall prepare a pre-event plan for post-disaster recovery and reconstruction, referred to as the Recovery Plan, which shall be comprised of pre-event and post-disaster policies, plans, implementation actions, and designated responsibilities related to expeditious and orderly post-disaster recovery, rebuilding, and long-term hazard mitigation.

- 1. Recovery Plan Content. The Recovery Plan shall address policies, implementation actions and designated responsibilities for such subjects as business resumption, damage assessment, demolitions, debris removal and storage, expedited repair permitting, fiscal reserves, hazards evaluation, hazard mitigation historical buildings, illegal buildings and uses, moratorium procedures, nonconforming buildings and uses, rebuilding plans, redevelopment procedures, relation to emergency response

plan and comprehensive general plan, restoration of infrastructure, restoration of standard operating procedures, temporary and replacement housing, and such other subjects as may be appropriate to expeditious and wise recovery.

2. Coordination of Recovery Plan with FEMA and Other Agencies. The Recovery Plan shall identify relationships of planned recovery actions with those of state, federal or mutual aid agencies involved in disaster recovery, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the Environmental Protection Administration (EPA), the Department of Transportation (DOT), the U.S. Army Corps of Engineers (COE), the Iowa Emergency Management Division (IENID) and other entities which may provide assistance in the event of a major disaster. The Recovery Organization shall distribute a draft copy of the plan to such agencies in sufficient time for comment prior to action on the Recovery Plan by the County Board of Supervisors and the respective City Councils.

3. Recovery Plan Adoption. Following formulation, the Recovery Plan shall be submitted by the Recovery Organization for review and approval. The Recovery Organization shall hold one or more public hearings to receive comments from the public on the Recovery Plan. Following one or more public hearings, the Recovery Organization may adopt the Recovery Plan by resolution, including any modifications deemed appropriate, or transmit the plan back to the Recovery Plan Development subcommittee for further modification prior to final action.

4. Recovery Plan Implementation. The Recovery Task Force shall be responsible for coordinating the implementation of the plan after a major disaster. The coordination of the recovery effort will be the responsibility of the Task Force, while the implementation of the recovery effort shall be the responsibility of the affected jurisdiction. After a declaration of emergency in a major disaster, the Chair of the Recovery Task Force shall report to the Recovery Organization as often as necessary on implementation actions taken in the post-disaster setting, identify policy and procedural issues, and receive direction and authorization to proceed with plan modifications necessitated by specific circumstances.

5. Recovery Plan Training and Exercises. The Recovery Organization shall organize and conduct periodic training and exercises annually, or more often as necessary, in order to develop, convey and update the contents of the Recovery Plan. Such training and exercises will be conducted in coordination with similar training and exercises related to the County Multi-Hazard Emergency Operations Plan.

6. Recovery Plan Consultation with Citizens. The Recovery Organization shall schedule and conduct community meetings, periodically convene advisory committees comprised of representatives of homeowner, business and community organizations, or implement such other means as to provide information and receive input from members of the public regarding preparation, adoption, or amendment of the Recovery Plan.

7. Recovery Plan Amendments. During implementation of the Recovery Plan, the Recovery Organization shall address key issues, strategies and information bearing on tax orderly maintenance and periodic revision of the plan. In preparing modifications to the plan, the Recovery Organization shall consult with County and City departments, business and community organizations and other government entities to obtain information pertinent to possible Recovery Plan amendments.

8. Recovery Plan Coordination with Related Plans. The Recovery Plan shall be prepared in coordination with related elements of the Linn County Multi-Hazard Emergency Operations Plan, or such other plans as may be pertinent. Such related plan elements shall be periodically amended by the Emergency Management Commission to be consistent with key provisions of the Recovery Plan and vice versa.

36.06 GENERAL PROVISIONS. The following general provisions shall be applicable to implementation of this chapter following a major disaster:

1. Powers and Procedures. Following a declaration of local emergency in a major disaster and while such declaration is in force, the Recovery Task Force shall have authority to exercise powers and procedures authorized by this chapter, subject to extension modification or replacement of all or portions of these provisions by separate ordinances adopted by the Board of Supervisors and affected City Councils.

2. Post-Disaster Operations. The Recovery Task Force shall coordinate post-disaster recovery and reconstruction operations with the local jurisdictions, which may include but is not limited to the following:

A. Activate and deploy damage assessment teams to identify damaged structures and to determine further actions that should be taken regarding such structures;

B. Activate and deploy hazards evaluation teams to locate and determine the severity of natural or technological hazards, which may influence the location, timing, and procedures for repair and rebuilding processes;

C. Maintain liaison with the Linn County Emergency Operations Center (EOC) and other public and private entities, such as, the American Red Cross, and the State Emergency Management Division in providing necessary information on damaged and destroyed buildings or infrastructure, natural and technological hazards, street and utility restoration priorities, temporary housing needs, and similar recovery concerns;

D. Establish “one-stop” field offices located in or near impacted areas, staffed by trained personnel from appropriate departments, to provide information about repair and rebuilding procedures, issue repair and reconstruction permits, and provide information and support services on such matters as business resumption, industrial recovery, and temporary and permanent housing;

E. Activate streamlined procedures to expedite repair and rebuilding of properties damaged or destroyed in the disaster;

F. Recommend to the Board of Supervisors and the affected City Councils and other appropriate entities necessary actions for reconstruction of damaged infrastructure; prepare plans and proposals for action by the Board of Supervisors and affected City Councils for redevelopment projects, redesign of previously established projects, or other appropriate special measures addressing reconstruction of heavily damaged areas;

G. Formulate proposals for action by the Board of Supervisors and affected City Councils to amend the Linn County Multi-Hazard Emergency Operations Plan and other relevant pre-disaster plans, programs and regulations in response to new needs generated by the disaster;

- H. Such other recovery and reconstruction activities identified in the Recovery Plan or by this chapter, or as deemed by the Recovery Task Force as necessary to public health, safety, and well-being.
3. Coordination with FEMA and Other Agencies. The Recovery Task Force shall coordinate recovery and reconstruction actions with those of State, federal, or mutual aid agencies involved in disaster response and recovery, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), The U.S. Army Corps of Engineers (COE), the State Emergency Management Division, and other entities which provide assistance in the event of a major disaster. Intergovernmental coordination tasks may include but are not limited to the following:
- A. Assign trained personnel to provide information and logistical support to the FEMA Disaster Field Office; supply personnel to provide information support for FEMA Disaster Assistance Centers (DACs);
 - B. Participate in damage assessment surveys conducted in cooperation with FEMA and other entities; participate in the Multi-Agency Hazard Mitigation Team with FEMA and other entities;
 - C. Cooperate in the joint establishment with other agencies of one-stop service centers for issuance of repair and reconstruction permits, business resumption support, counseling regarding temporary and permanent housing, and other information regarding support services available from various governmental and private entities;
 - D. Coordinate within city government the preparation and submittal of Disaster Survey Reports (DSRS) to FEMA. Determine whether damaged structures and units are within flood plains identified on Flood Insurance Rate Map (FIRM) maps and whether substantial damage has occurred;
 - E. Implement such other coordination tasks as may be required under the specific circumstances of the disaster.
4. Consultation with Residents. The Recovery Task Force shall schedule and conduct community meetings, convene ad hoc advisory committees comprised of representatives of business and community organizations, or implement such other means as to provide information and receive input from members of the public regarding measures undertaken under the authority of this chapter.

36.07 TEMPORARY REGULATIONS. The Recovery Task Force shall provide consultation on the local authority to administer the provisions of this section temporarily modifying provisions of the County and Municipal Codes dealing with building and occupancy permits, demolition permits, and restrictions on the use, development, or occupancy of private property, provided that such action, in the opinion of the Recovery Task Force, is reasonably justifiable for protection of life and property, mitigation of hazardous conditions, avoidance of undue displacement of households or businesses, or prompt restoration of public infrastructure. This consultation or coordination is to reduce conflicting guidance from multiple jurisdictions.

1. Duration. The provisions of this section shall be in effect for a period of six months from the date of a local emergency declaration following a major disaster or until termination of the local emergency declaration, whichever occurs earlier, or until these provisions are extended, modified, replaced by new provisions, or terminated, in

whole or in part, by action of the Board of Supervisors and affected City Councils through separate ordinances.

2. **Damage Assessment.** The Recovery Task Force shall coordinate damage assessment teams having authority to conduct field surveys of damaged structures and post placards designating the condition of such structures as follows:

A. **Inspected—Lawful Occupancy Permitted (GREEN TAG).** Is to be posted on any budding in which no apparent structural hazard has been found. This does not mean there are not other forms of damage, which may temporarily affect occupancy.

B. **Restricted (YELLOW TAG).** Is to be posted on any building in which damage has resulted in some form of restriction to continued occupancy. The individual posting this placard shall note in general terms the type of damage encountered and shall clearly and concisely note the restrictions on continued occupancy.

C. **Unsafe—Do Not Enter or Occupy (RED TAG).** Is to be posted on any building that has been damaged to the extent that continued occupancy poses a threat to life safety. Buildings posted with this placard shall not be entered under any circumstances except as authorized in writing by the department that posted the building or by authorized members of damage assessment teams. The individual posting this placard shall note in general terms the type of damage encountered. This placard is not to be considered a demolition order.

D. **Substantial Damage—(BLUE TAG).** Is a supplemental placard, usually issued by the jurisdiction Flood Plain Manager for flood related damages.

E. The chapter and section number, the name of the department, its address, and phone number shall be permanently affixed to each placard.

F. Once a placard has been attached to a building, it shall not be removed, altered or covered until done so by an authorized representative of the department or upon written notification from the department. Failure to comply with this prohibition will be considered a misdemeanor punishable by a \$500.00 fine.

3. **Development Moratorium.** The Recovery Task Force shall coordinate the affected jurisdictions having the authority to establish a moratorium on the issuance of building permits, approval of land use applications or other permits and entitlements related to the use, development, and occupancy of private property authorized under other chapters and sections of the County and Municipal Codes and related ordinances, provided that, in the opinion of the Recovery Task Force, such action is reasonably justifiable for protection of life and property and subject to the following:

A. **Posting—**Notice of the moratorium shall be posted in a public place and shall clearly identify the boundaries of the area in which a moratorium is in effect as well as the exact nature of the development permits or entitlements which are temporarily held in abeyance;

B. **Duration—**The moratorium shall be in effect subject to review by the Board of Supervisors and the affected City Councils at the earliest possible time, but for no longer than 90 days, at which time the Council shall take action to extend, modify, or terminate such moratorium by separate ordinance.

4. Debris Clearance. The Recovery Task Force shall coordinate with the jurisdictions having the authority to remove from public rights-of-way debris and rubble, trees, damaged or destroyed cars, trailers, equipment, and other private property, without notice to owners, provided that in the opinion of the Task Force such action is reasonably justifiable for protection of life and property, provision of emergency evacuation, assurance of firefighting or ambulance access, mitigation of otherwise hazardous conditions, or restoration of public infrastructure. This action is to facilitate a coordinated course of action that will meet the immediate needs of the community and to address resource allocation to accomplish the task in the most efficient manner.

5. One-Stop Center for Permit Expediting. The Recovery Task Force shall coordinate the establishment of one-stop centers, staffed by representatives of pertinent departments, for the purpose of establishing and implementing streamlined permit processing to expedite repair and reconstruction of buildings, and to provide information support for provision of temporary housing and encouragement of business resumption and industrial recovery. The Recovery Task Force shall coordinate such centers and procedures in coordination with other governmental entities, which may provide services and support, such as FEMA, SBA, HUD, COE or the State Emergency Management Division.

6. Temporary Use Permits. The Recovery Task Force shall coordinate with the jurisdictions having the authority to issue permits in any zone for the temporary use of property, which will aid in the immediate restoration of an area adversely impacted by a major disaster, subject to the following provisions:

A. Critical Response Facilities. Any police, fire, emergency medical, or emergency communications facility which will aid in the immediate restoration of the area may be permitted in any zone for the duration of the declared emergency;

B. Other Temporary Uses. Temporary use permits may be issued in any zone, with conditions, as necessary, provided written findings are made establishing a factual basis that the proposed temporary use:

- (1) will not be detrimental to the immediate neighborhood;
- (2) will not adversely affect the Comprehensive General Plan or any applicable specific plan; and
- (3) will contribute in a positive fashion to the reconstruction and recovery of areas adversely impacted by the disaster.

Temporary use permits may be issued for a period of one year following the declaration of local emergency and may be extended for an additional year, to a maximum of two years from the declaration of emergency, provided such findings are determined to be still applicable by the end of the first year. If, during the first or the second year, substantial evidence contradicting one or more of the required findings comes to the attention of the Recovery Task Force, then the temporary use permit shall be revoked.

7. Temporary Repair Permits. Following a disaster, temporary emergency repairs to secure structures and property damaged in the disaster against further damage or to protect adjoining structures or property may be made without fee or permit where such repairs are not already exempt under other chapters of the County and Municipal Codes. The building official must be notified of such repairs within 10 working days, and regular permits with fees may then be required.

8. Deferral of Fees for Reconstruction Permits. Except for temporary repairs issued under provisions of this chapter, all other repairs, restoration, and reconstruction of buildings damaged or destroyed in the disaster shall be approved through permit under the provisions of other chapters of this Code. Fees for such repair and reconstruction permits may be deferred until issuance of certificates of occupancy.

9. Nonconforming Buildings and Uses. Buildings damaged or destroyed in the disaster which are legally nonconforming as to use, yards, height, number of stories, lot area, floor area, residential density, parking, or other provisions of the zoning ordinance may only be repaired, reconstructed, or replaced in conformance with adopted building or zoning regulations.

36.08 DEMOLITION OF DAMAGED BUILDINGS. The Recovery Task Force shall coordinate with the jurisdictions having authority to order the condemnation and demolition of historic buildings and structures damaged in the disaster under the standard provisions of the County and Municipal Codes.

36.09 TEMPORARY AND PERMANENT HOUSING. The Recovery Task Force shall assign staff to work with FEMA, SBA, HUD, COE, the State Emergency Management Division, and other appropriate governmental and private entities to identify special programs by which provisions can be made for temporary or permanent replacement housing which will help avoid undue displacement of people and businesses. Such programs may include deployment of mobile homes and mobile home parks under the temporary use permit procedures provided in Section 36.07 of this chapter, use of SBA loans and available Section 36.08 and Community Development Block Grant funds to offset repair and replacement housing costs, and other initiatives appropriate to the conditions found after a major disaster.

36.10 HAZARD MITIGATION PROGRAM. Prior to a major disaster, the Emergency Management Commission/Recovery Organization shall establish a comprehensive hazard mitigation program, which includes both long-term and short-term components:

1. Hazard Mitigation Plan. The long-term component shall be prepared and adopted by resolution of the Board of Supervisors and the respective City Council as the Hazard Mitigation of the County-wide Multi-hazard Plan, for the purpose of enhancing long-term mitigation against future disasters. The hazard mitigation plan shall identify and map the presence, location, extent, and severity of natural, man-made, or civil hazards, such as:

- A. Severe flooding;
- B. Wildland and urban fires;
- C. Seismic hazards such as ground shaking and deformation, fault rupture, liquefaction, and dam failure;
- D. Slope instability, mudslides, landslides, and subsidence;
- E. Tornadoes and other high winds;
- F. Technological hazards, such as oil spills, natural gas leakage and fires, hazardous and toxic materials contamination, nuclear power plant and radiological accidents, other industrial accidents, and ground, air, and rail transportation accidents;
- G. Civil incidents such as riots, terrorist actions, and crowd control issues;

H. The safety element shall determine and assess the community's vulnerability to such known hazards and shall propose measures to be taken both before and after a major disaster to mitigate such hazards.

2. Short-Term Action Program. A short-term hazard mitigation program shall be included in the Recovery Plan. It shall be comprised of hazard mitigation program elements of highest priority for action, including preparation and adoption of separate ordinances dealing with specific hazard mitigation and abatement measures, as necessary. Such ordinances may require special site planning, land use and development restrictions or structural measures in areas affected by flooding, urban/wildland fire, wind, seismic, or other natural hazards, or remediation of known technological hazards such as toxic contamination.

3. Post-Disaster Actions. Following a major disaster, the Recovery Task Force shall participate in the Multi-Agency Hazard Mitigation Team with FEMA and other entities, as called for in Section 409 of the Stafford Act and related federal regulations. As appropriate, the Recovery Task Force may recommend to the Board of Supervisors and the affected City Councils that the County and affected Cities participate in the Hazard Mitigation Grant Program, authorized in Section 404 of the Stafford Act in order to partially offset costs of recommended hazard mitigation measures.

4. New Information. As new information is obtained regarding the presence, location, extent, and severity of natural or technological hazards, or regarding new mitigation techniques, such information shall be made available to the public, and shall be incorporated as soon as practical possible within the Linn County Multi-Hazard Emergency Operations Plan and the Recovery Plan through amendment.

36.11 RECOVERY AND RECONSTRUCTION STRATEGY. At the earliest practicable time following the declaration of local emergency in a major disaster, the Recovery Task Force shall prepare a strategic program for recovery and reconstruction.

1. Functions. To be known as the Recovery Strategy, the proposed strategic program shall identify and prioritize major actions contemplated or under way regarding such essential functions as business resumption, economic reinvestment, industrial recovery, housing replacement, infrastructure restoration, and potential sources of financing to support these functions.

2. Review. The Recovery Strategy shall be forwarded to the Board of Supervisors and the affected City Council for review and approval following consultation with FEMA, other governmental agencies, and business and citizen representatives. The Recovery Strategy shall provide detailed information regarding proposed and ongoing implementation of initiatives necessary to the expeditious fulfillment of critical priorities and will identify amendment of any other plans, codes, or ordinances that might otherwise contradict or otherwise block strategic action. The Recovery Task Force shall periodically report to the Board of Supervisors and the affected City Councils regarding progress toward implementation of the Recovery Strategy, together with any adjustments which may be called for by changing circumstances and conditions.

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CHAPTER 37

FLOODPLAIN REGULATIONS

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37.01 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Appurtenant structure” means a structure that is on the same parcel of the property as the principal structure to be insured, and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the “100-year flood”).
3. “Base Flood Elevation” or “BFE” means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building that has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials. “Development” does not include “minor projects” or “routine maintenance of existing buildings and facilities” as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 37.17(2)(D)(1) of this chapter, and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking, or storage, and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation, and

- D. The enclosed area is not a “basement” as defined in this section.
7. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the first floodplain management regulations adopted by the community.
8. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. “Expansion of existing factory-built home park or subdivision” the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. “Factory-built home” means any structure, designed for residential use, is wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also include “recreational vehicles” that are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. “Factory-built home park or subdivision” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. “500 year flood” means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
13. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
14. “Flood Insurance Rate Map” or “FIRM” means the official map prepared as part of (but published separately from) the Flood Insurance Study that delineates both the flood hazard areas and the risk premium zones applicable to the community.
15. “Flood Insurance Study” or “FIS” means a report published by FEMA for a community issued along with the community's Flood Insurance Rate Maps. The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. “Floodplain” means any land area susceptible to being inundated by water as a result of a flood.
17. “Floodplain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing, and floodplain management regulations.
18. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

19. “Floodway” means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.
20. “Floodway fringe” means those portions of the Special Flood Hazard Area outside the floodway.
21. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. “Historic structure” means any structure that is:
 - A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.
23. “Lowest floor” means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.
24. “Maximum damage potential development” means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency; or other buildings or building complexes similar in nature or use.
25. “Minor projects” means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.
26. “New construction” means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. “New factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.

28. “Recreational vehicle” means a vehicle that is:
- A. Built on a single chassis;
 - B. 400 square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. “Routine maintenance of existing buildings and facilities” means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles, and replacing siding;
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work;
 - C. Basement sealing;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems, and repairing wells or septic systems.
30. “Special Flood Hazard Area” or “SFHA” means the land within a community subject to the “base flood”. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. “Start of construction” includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units and not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
32. “Structure” means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.
33. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal

or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. “Substantial improvement” means any improvement to a structure that satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (i) before the “start of construction” of the improvement, or (ii) if the structure has been “substantially damaged” and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an “historic structure”, provided the alteration will not preclude the structure’s designation as an “historic structure”.

B. Any addition that increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. “Variance” means a grant of relief by a community from the terms of the floodplain management regulations.

36. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

37.02 STATUTORY AUTHORITY, FINDINGS OF FACT, AND PURPOSE. The Legislature of the State of Iowa has in Chapter 414 of the *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

1. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

2. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges, and property of the City and its residents and to preserve and

improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 37.02(1)(A) of this chapter with provisions designed to:

- A. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- C. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- D. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

37.03 LANDS TO WHICH ORDINANCE APPLIES. The provisions of this chapter shall apply to all lands within the jurisdiction of the City which are located within the boundaries of the Floodplain Overlay District as established in Section 37.16.

37.04 ESTABLISHMENT OF OFFICIAL FLOODPLAIN ZONING MAP. The Flood Insurance Rate Map (FIRM) for Linn County and Incorporated Areas, City of Walford, Panels 19133C0390E, 05257E, dated July 20, 2021, which were prepared as part of the Flood Insurance Study for Linn County, are hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The Linn County Flood Insurance Study is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations.

37.05 RULES FOR INTERPRETATION OF FLOODPLAIN OVERLAY DISTRICT. The boundaries of the Floodplain Overlay District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Administrator in the enforcement or administration of this chapter.

37.06 COMPLIANCE. No structure or land shall hereafter be used, and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

37.07 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

37.08 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

37.09 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Floodplain Overlay District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

37.10 SEVERABILITY. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

37.11 APPOINTMENT, DUTIES, AND RESPONSIBILITIES OF ADMINISTRATOR.

1. The Mayor or the Mayor's designee is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.
2. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:
 - A. Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.
 - B. Review floodplain development applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.
 - C. Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.
 - D. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.
 - E. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.
 - F. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.
 - G. Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.
 - H. Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the Board of Adjustment of potential conflict.

- I. Maintain the accuracy of the community's Flood Insurance Rate Maps when:
 - (1) Development placed within the floodway results in any of the following:
 - a. An increase in the Base Flood Elevations, or
 - b. Alteration to the floodway boundary
 - (2) Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
 - (3) Development relocates or alters the channel.
- J. Perform site inspections to ensure compliance with the standards of this chapter.
- K. Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

37.12 FLOODPLAIN DEVELOPMENT PERMIT. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operations), including the placement of factory-built homes.

37.13 APPLICATION FOR PERMIT. Application shall be made on forms furnished by the Administrator and shall include the following:

1. Description of the work to be covered by the permit for which application is to be made.
2. Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address, or similar description) that will readily identify and locate the work to be done.
3. Location and dimensions of all structures and additions.
4. Indication of the use or occupancy for which the proposed work is intended.
5. Elevation of the base flood.
6. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
7. For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
8. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

37.14 ACTION ON PERMIT APPLICATION. The Administrator shall, within a reasonable time, determine whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the

applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

37.15 CONFORMANCE TO APPLICATION. Floodplain Development Permits authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure. Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

37.16 ESTABLISHMENT OF ZONING OVERLAY DISTRICT. The floodplain areas within the jurisdiction of this chapter are designated as the Floodplain Overlay District. The Floodplain Overlay District covers those areas identified as Zone A on the Official Flood Plain Zoning Map. The boundaries shall be as shown on the Official Floodplain Zoning Map. Within this district, all uses not allowed as Permitted Uses are prohibited unless a variance to the terms of this chapter is granted after due consideration by the Board of Adjustment.

37.17 STANDARDS FOR FLOODPLAIN OVERLAY DISTRICT.

1. Permitted Uses.
 - A. All development within the Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Floodplain District.
 - B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation, or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe, and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.
 - C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:
 - (1) The bridge or culvert is located on a stream that drains less than two square miles, and
 - (2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), Iowa Administrative Code.
2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

- A. All Development. All development shall:
- (1) Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.
- B. Residential Structures.
- (1) All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.
 - (2) All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.
- C. Nonresidential Structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.
- D. All New and Substantially Improved Structures.
- (1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this

requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two openings, with positioning on at least two walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access, and low damage potential storage.

(2) New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(3) New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

E. Factory-built homes.

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.

(2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

F. Utility and Sanitary Systems.

(1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of Materials and Equipment. Storage of materials and equipment that are flammable, explosive or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.

I. Watercourses. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain Overlay District.

K. Accessory Structures to Residential Uses.

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than one foot above the base flood elevation must be constructed of flood-resistant materials.

b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

- c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
 - d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.
 - e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
 - f. The structure's walls shall include openings that satisfy the provisions of Section 37.17(2)(D)(I) of this chapter.
- (2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
- L. Recreational Vehicles.
 - (1) Recreational vehicles are exempt from the requirements of Section 37.17(2)(E) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
 - a. The recreational vehicle shall be located on the site for less than 180 consecutive days; and
 - b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
 - (2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 37.17(2)(E) of this chapter regarding anchoring and elevation of factory-built homes.
- M. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.
- N. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the two-tenths percent annual chance flood; and that the structure, below the two-tenths percent annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where two-tenths percent chance flood elevation data has not

been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

37.18 DUTIES OF BOARD OF ADJUSTMENT. The Board of Adjustment created and appointed pursuant to Section 165.22 of this Code of Ordinances shall hear and decide appeals and requests for variances to the provisions of this ordinance, and shall take any other action that is required of the Board.

1. Appeals. Appeals to the Board of Adjustment from a decision of the Administrator shall be taken and heard according to the provisions of Sections 162.22-165.25.
2. Variances.
 - A. In addition to the requirements of Sections 162.22-165.25, the Board of Adjustment shall only grant a variance from the requirements of this Chapter 37 upon the following:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create nuisances for or cause fraud on or victimization of the public, or conflict with existing local codes or ordinances.
 - B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
 - C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator of the following:
 - (1) That the issuance of a variance will result in increased premium rates for flood insurance, up to amounts as high as \$25.00 for \$100.00 of insurance coverage, and
 - (2) That such construction increases risks to life and property.
 - E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.
3. Hearings and Decisions of the Board of Adjustment
 - A. Hearings. Upon the filing with the Board of Adjustment of an appeal or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as

well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The Board shall arrive at a decision on an appeal or variance within a reasonable time. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse, or affirm, wholly or in part, or modify the order, requirement, decision, or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a variance, the Board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in Section 37.20(3)(B)(2).

(1) Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for variances, the Board shall consider all relevant factors specified in other sections of this chapter and the following:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept onto other land or downstream to the injury of others.
- c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- e. The importance of the services provided by the proposed facility to the City.
- f. The requirements of the facility for a floodplain location.
- g. The availability of alternative locations not subject to flooding for the proposed use.
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site.

l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.

m. Such other factors that are relevant to the purpose of this chapter.

(2) Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but are not limited to:

a. Modification of waste disposal and water supply facilities.

b. Limitation of periods of use and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.

e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

37.19 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any

alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in 37.19(1)(B), any use which has been permitted as a variance shall be considered a conforming use.

37.20 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

37.21 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment

40.03 Disorderly Conduct

40.04 Failure to Disperse
40.05 Noise and Noise Limits

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

1. Pain or Injury. Any act that is intended to cause pain or injury to another or that is intended to result in physical contact that 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 that 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])

An act described in Subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the 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 of serious injury or breach of the peace; (ii) if the person doing any of the 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, 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 that is reasonably related to that sport.

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

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

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

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

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

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[1d])

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[1e])

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[1f])

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. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
- A. Make loud and raucous noise that 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 that 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 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)

40.05 NOISE AND NOISE LIMITS. A person who plays or operates, or who permits to be played or operated, a sound production or amplification device at a volume that disturbs others shall be guilty of a simple misdemeanor, punishable by a fine of \$100.00, or a municipal infraction. Noise levels that exceed the levels listed below when measured at the boundary line of the complaint during regulated times shall be deemed to be per se disturbances. Official City events and activities shall be exempt from the requirements of this section.

Land Use	Legal	Sound Level Limit (dBA)
Residential	Sunday – Thursday	
	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	50
	Friday – Saturday	
	7:00 a.m. to 11:00 p.m.	60
	11:00 p.m. to 7:00 a.m.	50
Commercial	At all times	65
Industrial	At all times	75

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances	41.08 Abandoned or Unattended Refrigerators
41.02 False Reports to or Communications with Public Safety Entities	41.09 Antenna and Radio Wires
41.03 Providing False Identification Information	41.10 Barbed Wire and Electric Fences
41.04 Refusing to Assist Officer	41.11 Discharging Weapons
41.05 Harassment of Public Officers and Employees	41.12 Throwing and Shooting
41.06 Interference with Official Acts	41.13 Urinating and Defecating
41.07 Removal of an Officer's Communication or Control Device	41.14 Fireworks
	41.15 Drug Paraphernalia
	41.16 Failure to Assist

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 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to 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 that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

41.04 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)

41.05 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)

41.06 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, medical examiner, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, medical examiner, or firefighter, or person performing bailiff duties, 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)

41.07 REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE. No person shall knowingly or intentionally remove or attempt to remove a communication device or any device used for control from the possession of a peace officer or correctional officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer.

(Code of Iowa, Sec. 708.12)

41.08 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)

41.09 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])

41.10 BARBED WIRE AND ELECTRIC FENCES. It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits without the written consent of the Council unless such land consists of 10 acres or more and is used as agricultural land.

41.11 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.

41.12 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])

41.13 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.

41.14 FIREWORKS. The sale, use or exploding of fireworks within the City is subject to the following:

1. Words and phrases used in this ordinance shall have the meanings assigned to them by Section 727.2 of the *Code of Iowa*.
2. Consumer Fireworks and Novelties. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any consumer fireworks or novelties, except in accordance with the provisions of Section 727.2 of the *Code of Iowa*.
3. Sales of Consumer Fireworks.
 - A. Any person or individual who intends to sell consumer fireworks within the City shall comply with all resolutions and ordinances of the City, including but not limited to Chapters 122 and 165 of this Code of Ordinances.
 - B. Prior to any seller selling consumer fireworks within the City, the seller shall cause to be filed with the City Clerk a copy of the seller's license to sell fireworks, as issued by the State Fire Marshal. The seller shall further provide to the City Clerk the name and telephone number of a contact person for the seller, the address of the location from which consumer fireworks will be sold, and the dates during which fireworks will be sold.
 - C. No person shall sell consumer fireworks to a person who is fewer than 18 years old, or to a person who is intoxicated. A violation of this Subsection 3(C) shall be a simple misdemeanor punishable by a fine of not less than \$250.00.
 - D. No person or entity shall cause fireworks to be stored or warehoused in a building that contains no more than 5,000 square feet in floor space.
4. Use of Consumer Fireworks.
 - A. A person shall not use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.
 - B. A person shall not use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:
 - (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.

(2) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.

C. A person shall not use or explode consumer fireworks on any real property other than that person’s real property, unless the owner of the real property has consented to the use or explosion of consumer fireworks on the real property.

D. No person under the age of 18 years shall use or explode consumer fireworks.

E. No person shall modify any consumer fireworks or novelties or use any consumer fireworks or novelties in any way except in a manner intended by the manufacturer.

F. No person shall use or explode consumer fireworks while intoxicated or allow another person to use or explode consumer fireworks while intoxicated.

G. A violation of this Subsection 4 shall be a simple misdemeanor punishable by a fine of not less than \$250.00.

5. Display Fireworks. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any display fireworks; except that the City may, upon application in writing, grant a permit for the display of display fireworks be 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: \$250,000.00 per person.
- B. Property Damage:..... \$50,000.00
- C. Total Exposure: \$1,000,000.00

6. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer, or jobber of such fireworks as are not prohibited; the sale or use of any kind of fireworks if they are to be shipped out of State; 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.

7. A violation of any portion of this Section 45.25 that is not specifically designated a simple misdemeanor shall be a municipal infraction punishable pursuant to Chapter 3 of this Code of Ordinances.

41.15 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

1. As used in this section “drug paraphernalia” means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled

substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

- A. Manufacture a controlled substance.
- B. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
- C. Test the strength, effectiveness, or purity of a controlled substance.
- D. Enhance the effect of a controlled substance.

Drug paraphernalia does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

- 2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

41.16 FAILURE TO ASSIST. A person who reasonably believes another person is suffering from a risk of serious bodily injury or imminent danger of death shall, if the person is able, attempt to contact local law enforcement or local emergency response authorities, if doing so does not place the person or other person at risk of serious bodily injury or imminent danger of death. No person shall without lawful cause violate the provisions of this section. A person shall not be required to contact local law enforcement or emergency response authorities if the person knows or reasonably believes that the other person is not in need of help or assistance.

(Code of Iowa, Sec. 727.12)

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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 Other Public Property Offenses

42.01 TRESPASSING.

1. Prohibited. It is unlawful for a person to knowingly trespass upon the property of another.

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

(Code of Iowa, Sec. 716.7[1])

A. “Property” includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.

B. “Public utility” is a public utility as defined in Section 476.1 of the *Code of Iowa* or an electric transmission line as provided in Chapter 478 of the *Code of Iowa*.

C. “Public utility property” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.

D. “Railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.

E. “Railway property” means all tangible real and personal property owned, leased, or operated by a railway corporation, with the exception of any administrative building or offices of the railway corporation.

- F. “Trespass” means one or more of the following acts:

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

(1) 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.

(2) 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 the agent or employee of 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.

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(4) 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.

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

3. Specific Exceptions. "Trespass" does not mean either of the following:

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

A. 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. This paragraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

B. Entering upon the right-of-way of a public road or highway.

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 OTHER PUBLIC PROPERTY OFFENSES. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions that 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
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 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

1. A person or persons under legal age shall not purchase or attempt to purchase, consume, or individually or jointly have alcoholic beverages in their possession or control; except in the case of any alcoholic beverage 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 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 from any liquor control licensee or wine or beer 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 that 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 in a public place.

3. A person shall not simulate intoxication in a public place.

4. 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 Section 62.01(50) and (51) of this Code of Ordinances.]*

45.04 SOCIAL HOST. A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of 18, to consume or possess on such property any alcoholic beverage. The provisions of this Section shall not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic beverage in connection with a religious observance, ceremony, or rite.

(Code of Iowa, Sec. 123.47)

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CHAPTER 46

MINORS

46.01 Cigarettes and Tobacco

46.02 Contributing to Delinquency



46.01 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes 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* or who 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 18 years of age to commit any act of delinquency.

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

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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 that 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 that, 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, that 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.

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 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 that are deemed to be nuisances:

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

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.

† **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.

- 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 that 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 Subsections 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.
(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 \$500.00, the City may permit the assessment to be paid in up to 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 3 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 having 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 that has become the habitat for rats, mice, snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.
 - F. Defective or Obsolete Condition. Any other vehicle that, 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, except 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 a garage or other enclosed structure.

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 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	55.16	Tag and Collar
55.02	Animal Neglect	55.17	Exercise Areas
55.03	Livestock Neglect	55.18	Number of Animals
55.04	Abandonment of Cats and Dogs	55.19	Unhealthful or Unsanitary Conditions and Other Regulations
55.05	Livestock	55.20	Tethering of Animals
55.06	At Large Prohibited	55.21	Releasing or Molesting Dogs or Cats
55.07	Damage or Interference	55.22	Keeping of Dangerous or Vicious Animals Prohibited
55.08	Annoyance or Disturbance	55.23	Seizure, Impoundment, and Disposition of Dangerous and Vicious Animals
55.09	Rabies Vaccination	55.24	Hold Harmless
55.10	Control of Disease Outbreak	55.25	Pet Awards Prohibited
55.11	Owners', Physicians', and Veterinarians' Duties	55.26	Tampering With A Rabies Vaccination Tag
55.12	Confinement	55.27	Tampering With An Electronic Handling Device
55.13	At Large: Impoundment		
55.14	Disposition of Animals		
55.15	Impounding Costs		



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.
(Code of Iowa, Sec. 717E.1)
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.
(Code of Iowa, Sec. 162.2)
4. "At heel" means, with reference to dogs, except female dogs in heat, within three feet of a person subject to that person's strict obedient command and control.
5. "At large" means off the owner's real property, including, by way of illustration but not limited to, on the public streets, alleys, public grounds, school grounds, parks, and real property of others. An animal is not at large if:
 - A. The animal is on a leash, cord, chain, or similar restraint not more than six feet in length and is under the control of the person, or
 - B. The animal is within a motor vehicle, or
 - C. The animal is housed in a veterinary hospital, licensed kennel, pet shop, animal shelter, or police vehicle, or
 - D. The animal is accompanied by and at heel beside the owner or a competent, responsible person.
6. "Business" means any enterprise relating to any of the following:
(Code of Iowa, Sec. 717E.1)
 - 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.
7. “Commercial establishment” means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.
- (Code of Iowa, Sec. 717.B1)*
8. “Confined” means securely confined in a dwelling house or an enclosed locked building, enclosed fence, pen, or other structure having a height of at least six feet with locked gates and with secure sides and at all points embedded into the ground, or, if such enclosed fence is less than six feet in height, having a secure and complete top securely fastened to the sides.
9. “Dangerous animal” means:
- A. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so;
 - B. Any animal declared to be dangerous by the Council or its designee; and
 - C. The following animals, which are deemed to be dangerous animals per se:
 - (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
 - (2) Wolves, coyotes, and foxes;
 - (3) Badgers, wolverines, weasels, skunk, and mink;
 - (4) Raccoons;
 - (5) Bears;
 - (6) Monkeys and chimpanzees;
 - (7) Bats;
 - (8) Alligators and crocodiles;
 - (9) Scorpions;
 - (10) Snakes that are venomous, or constrictors;
 - (11) Gila monsters;
 - (12) Any dog or other animal which has a known propensity, tendency, or disposition to attack human beings or domestic animals without provocation, as to cause injury to or to otherwise endanger their safety; or any dog or other animal that manifests a disposition to snap or bite. This includes the following:
 - a. Any dog or other animal which, when unprovoked, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the animal

- are off the property of the owner or keeper of the dog or other animal.
- b. Any dog or other animal which, when unprovoked, inflicts bodily injury upon a person.
- c. Any dog or other animal which, when unprovoked, on two separate occasions, has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.
10. “Fair” means any of the following:
(*Code of Iowa, Sec. 717E.1*)
- 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.
11. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
(*Code of Iowa, Sec. 717E.1*)
12. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.
(*Code of Iowa, Sec. 717.B1*)
13. “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*)
14. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
15. “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.
(*Code of Iowa, Sec. 717E.1*)
16. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.
(*Code of Iowa, Sec. 162.2*)
17. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or

function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

(Code of Iowa, Sec. 162.2)

18. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.

(Code of Iowa, Sec. 717.B1)

19. “Veterinary hospital” means a public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injuries of animals.

20. “Vicious animal” means any animal, except for a dangerous animal, that:

- A. Has bitten or clawed a person or persons in an aggressive manner while running at large and the attack was unprovoked,
- B. Has bitten or clawed a person or persons in an aggressive manner on two separate occasions within a 12 month period;
- C. Has bitten or clawed once causing injuries above the shoulders of a person;
- D. Could not be controlled or restrained by the owner at the time of an attack; or
- E. Has attacked any domestic animal or fowl on three separate occasions within a 12 month period.

55.02 ANIMAL NEGLECT.



1. It is unlawful for a person who owns or has custody of an animal and confines that animal to fail to provide the animal with any of the following conditions for the animal’s welfare:

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

- A. Access to food in an amount and quality reasonably sufficient to satisfy the animal’s basic nutrition level to the extent that the animal’s health or life is endangered.
- B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal’s basic hydration level to the extent that the animal’s health or life is endangered. Access to snow or ice does not satisfy this requirement.
- C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal’s health or life is endangered.
- D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal’s health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.
- E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

- F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:
- (1) A condition caused by failing to provide for the animal's welfare as described in this section.
 - (2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.
2. This section does not apply to any of the following:
- A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the Code of Iowa, or a person acting under the direction or supervision of that person, if all of the following apply:
- (1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.
 - (2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the Code of Iowa, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the Code of Iowa; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the Code of Iowa.
- B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the Code of Iowa, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

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 that 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. It is unlawful for a person who owns or has custody of a cat or dog to relinquish all rights in and duties to care for the cat or dog. This section does not apply to any of the following:

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

1. The delivery of a cat or dog to another person who will accept ownership and custody of the cat or dog.
2. The delivery of a cat or dog to an animal shelter or that has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship under Chapter 162 of the Code of Iowa.
3. A person who relinquishes custody of a cat at a location in which the person does not hold a legal or equitable interest, if previously the person had taken custody of the cat at the same location and provided for the cat's sterilization by a veterinarian.

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 or Chapter 56 of this Code of Ordinances.

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

55.07 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.

55.08 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.

55.09 RABIES VACCINATION. Every owner of a dog or cat shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog or cat 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.

(Code of Iowa, Sec. 351.33)

55.10 CONTROL OF DISEASE OUTBREAK. Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia or rabies, the Mayor, if that person deems it necessary, shall issue a proclamation ordering every owner of an animal, dog, or cat to confine the same securely on the owner's premises at all times, for such period of time as deemed necessary.

55.11 OWNERS', PHYSICIANS', AND VETERINARIANS' DUTIES. It is the duty of the owner of any dog, cat, or other animal that 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)

55.12 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 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 does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

55.13 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.

55.14 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two 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 or cat, by having it immediately vaccinated. If the owner fails to redeem the animal within seven 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)

55.15 IMPOUNDING COSTS. Impounding costs are established and charged by the Cedar Valley Humane Society or other impounding facility used by the City.

55.16 TAG AND COLLAR. Every owner shall be required to provide each dog and/or cat with a collar to which the rabies tag and identification tag must be securely fixed. Such rabies tag and identification tag and collar shall be constantly worn by every animal, and it shall be the responsibility of the owner of such animal to assure the constant wearing of such collar and tag. In the event the animal's tags are lost or destroyed, the owner is required to replace them.

55.17 EXERCISE AREAS. The Mayor, with the approval of the City Council, may designate areas, if such are available, where owners may take their dogs for exercise and obedience training, provided such dogs attending such areas are under the control of competent persons while in such designated areas.

55.18 NUMBER OF ANIMALS. No person shall harbor or maintain such number of animals to create unhealthful or unsanitary conditions for the humans or animals occupying the premises or create any other conditions constituting a nuisance. If such conditions exist, the Mayor is authorized to make an investigation. After notice to and hearing for the person or persons occupying or maintaining the residence or premises, or the persons harboring or maintaining the animals, the Mayor may order such number of animals be moved from the residence or premises to remedy or correct the unhealthful, unsanitary, or other conditions constituting a nuisance. Upon the failure of the person to follow the orders issued by the Mayor, appropriate action may be pursued in the courts to enforce the order of the Mayor.

55.19 UNHEALTHFUL OR UNSANITARY CONDITIONS AND OTHER REGULATIONS.

1. An owner shall keep all structures, pens, coops, and yards wherein animals are confined clean, devoid of vermin, 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 the 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 until it is removed pursuant to refuse collection procedures 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.

55.20 TETHERING OF ANIMALS. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street, alley, or private property other than the owner's.

55.21 RELEASING OR MOLESTING DOGS OR CATS.

1. No person shall willfully open any door or gate on any private premises for the purpose of enticing or enabling any dog or cat to leave such private premises and be at large, as defined in this chapter.
2. No person shall willfully molest, tease, provoke, or mistreat a dog or cat.

55.22 KEEPING OF DANGEROUS OR VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor a dangerous animal for any reason within the City except in the following circumstances:

1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit, or show.
2. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the *Code of Iowa*.
4. Animals under the control of a law enforcement or military agency.

55.23 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF DANGEROUS AND VICIOUS ANIMALS.

1. In the event that a dangerous or vicious animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering, or harboring a dangerous animal or vicious animal on premises in the City, the Mayor shall cause the matter to be investigated and if, after investigation, the facts indicate that the person named in the complaint is keeping, sheltering, or harboring a dangerous or vicious animal in the City, the Mayor shall order the person named in the complaint to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor shall cause the animal to be immediately seized and impounded, or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous or vicious animal issued by the Mayor may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three days after receipt of the order contained in the notice to remove dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Mayor.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered in person or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor, the Council shall order in its written decision that the person owning, sheltering, harboring, or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals, or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor is not appealed and is not complied with within three days, or the order of the Council after appeal is not complied with within three days of its issuance, the Mayor is authorized to seize, impound, or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

55.24 HOLD HARMLESS. Absent a showing of reckless conduct, no person granted authority to enforce the provisions of this chapter shall be liable for damage to or destruction of any animal occurring during the course of enforcement of this chapter.

55.25 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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 that 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.

55.26 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful to tamper with a rabies vaccination tag.



(Code of Iowa, Sec. 351.45)

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:
 - A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.
 - B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

55.27 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE. It is unlawful to tamper with an electronic handling device.



(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:
 - A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
 - B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

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CHAPTER 56

URBAN CHICKENS

56.01 Definitions

56.02 Permit Required

56.03 Number and Type of Chickens Allowed

56.04 Zoning Districts Allowed

56.05 Non-Commercial Use Only

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56.07 Odor and Noise Impacts

56.08 Predators, Rodents, Insects, and Parasites

56.09 Feed and Water

56.10 Waste Storage and Removal

56.11 Chickens at Large

56.12 Unlawful Acts

56.13 Nuisances

56.01 DEFINITIONS.

1. "Chicken" means a member of the subspecies *Gallus gallus domesticus*, a domesticated fowl.
2. "Urban chicken" means a chicken kept on a permitted tract of land pursuant to a permit issued under this chapter.
3. "Tract of land" means a property or a zoned lot that has one single-family dwelling located on that property or zoned lot.
4. "Single-family dwelling" means any building that contains only one dwelling unit used, intended, rented, leased, let, or hired to be occupied for living purposes.
5. "Permitted tract of land" means the tract of land as identified by the application upon which a permit is granted for keeping chickens pursuant to this chapter.
6. "Permittee" means an applicant who has been granted a permit to raise, harbor, or keep chickens pursuant to this chapter.

56.02 PERMIT REQUIRED.

1. Permit Required. No person shall raise, harbor, or keep chickens within the City without a valid permit obtained from the Mayor under the provisions of this chapter.
2. Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the City Clerk and paying all fees required by this chapter.
3. Requirements. The requirements to the receipt of a permit include:
 - A. All requirements of this chapter are met.
 - B. All fees for the permit, as may be provided for from time to time by Council resolution, are paid in full.
 - C. All judgments in the City's favor and against the applicant have been paid in full.
 - D. The tract of land to be permitted shall contain only one single-family dwelling occupied and used as such by the permittee.
 - E. The applicant has provided notice and approval of all residents in immediately adjacent dwellings of the applicant's intent to obtain a permit.

4. Issuance of Permit. If the Mayor concludes as a result of the information contained in the application that the requirements for a permit have been met, said official shall issue the permit.
5. Renewal of Permit. A permittee shall apply to renew a permit every 12 months.
6. Denial, Suspension, Revocation, Non-Renewal. The Mayor may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:
 - A. False statements on any application or other information or report required by this section to be given by the applicant.
 - B. Failure to pay any application, penalty, re-inspection, or reinstatement fee required by this chapter or Council resolution.
 - C. Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - D. Failure to comply with the provisions of an approved mitigation/remediation plan by the Mayor.
 - E. Failure to comply with any provision of this chapter.
7. Notification. A decision to revoke, suspend, deny, or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.
8. Effect of Revocation. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one year from the date of the denial or revocation.
9. Appeals. No permit may be denied, suspended, revoked, or not renewed without notice and an opportunity to be heard is given the applicant or holder of the permit. In any instance where the Mayor has denied, revoked, suspended, or not renewed a permit, the applicant or holder of the permit may appeal the Mayor's decision to the Council within 10 business days of receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of the Council or any decision by the Mayor which is not appealed in accordance with this chapter shall be deemed final action.

56.03 NUMBER AND TYPE OF CHICKENS ALLOWED.

1. The maximum number of chickens allowed is four per tract of land regardless of how many dwelling units are on the tract. A permittee may request that this provision be waived by the Council. The Council may waive this provision if the proposed tract of land provides adequate space and distance from other buildings, and if the character of the neighborhood will not be affected by such a permit.
2. In no case shall a permit be granted for more than four chickens.
3. Only female chickens (hens) are allowed.

56.04 ZONING DISTRICTS ALLOWED. Permits will be granted only for tracts of land located in residential districts as identified on the current Official Zoning Map on file with the City.

56.05 NON-COMMERCIAL USE ONLY. A permit shall not allow the permittee to engage in chicken breeding or fertilizer production for commercial purposes.

56.06 ENCLOSURES.

1. Chickens must be kept in an enclosure or fenced area at all times. Chickens shall be secured within a henhouse or chicken pen during non-daylight hours.
2. Enclosures must be kept in a clean, dry, odor-free, neat, and sanitary condition at all times.
3. Henhouses and chicken pens must provide adequate ventilation and adequate sun and shade and must be impermeable to rodents, wild birds, and predators, including dogs and cats.
4. Henhouses and chicken pens shall be designed to provide safe and healthy living conditions for the chickens, with a minimum of four square feet per bird, while minimizing adverse impacts to other residents in the neighborhood.
5. A henhouse or chicken pen shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Windows and vents must be covered with predator and bird-proof wire of less than one-inch openings.
6. The materials used in making a henhouse or chicken tractor shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials is prohibited. Henhouses and chicken pens shall be well maintained.
7. Henhouses, and chicken pens shall only be located in the rear yard required by Chapter 165 of this Code of Ordinances, unless the setback requirements cannot be met, in which case they may be kept in other yard but within the required setbacks.
8. Henhouses and chicken pens must be located at least 10 feet from the property line and at least 25 feet from any adjacent residential dwelling, church, school, or place of business.
9. Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.

56.07 ODOR AND NOISE IMPACTS.

1. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible beyond the boundaries of the permitted tract of land.
2. Noise from chickens shall not be loud enough beyond the boundaries of the permitted tract of land at the property boundaries to disturb persons of reasonable sensitivity.

56.08 PREDATORS, RODENTS, INSECTS, AND PARASITES. The permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites, which may result in unhealthy conditions to human habitation, may be removed by a person or entity charged with controlling animals in the City.

56.09 FEED AND WATER. Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds, and predators.

56.10 WASTE STORAGE AND REMOVAL. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three cubic feet of

manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be removed. The henhouse, chicken pen, and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

56.11 CHICKENS AT LARGE. The permittee shall not allow the permittee's chickens to roam off the permitted tract of land. No dog or cat or other domesticated animal that kills a chicken off the permitted tract of land will, for that reason alone, not be considered a dangerous or aggressive animal or the City's responsibility to enforce its animal control provisions.

56.12 UNLAWFUL ACTS.

1. It is unlawful for any person to keep chickens in violation of any provision of this chapter or any other provision of this Code of Ordinances.
2. It is unlawful for any owner, renter, or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this chapter.
3. No person shall keep chickens inside a single-family dwelling unit, multi-family dwelling unit, or rental unit.
4. No person shall slaughter any chickens within the City.
5. No person shall keep a rooster.
6. No person shall keep chickens on a vacant or uninhabited tract of land.

56.13 NUISANCES. Any violation of the terms of this chapter which constitutes a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under the general nuisance abatement provision of Chapter 50 of this Code of Ordinances.

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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 Reports of Traffic Accidents

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Walford Traffic Code” (and are referred to herein as the “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 a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
1. “MPH” means miles per hour.
2. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
3. “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.
4. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
5. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
6. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
7. “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.
8. “Stop” means when required, the complete cessation of movement.
9. “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.

10. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.

11. “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.

12. “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 peace officer.

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

60.04 POWER TO DIRECT TRAFFIC. A peace officer or, 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 and 321.236[2])

60.05 REPORTS OF TRAFFIC ACCIDENTS. 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)

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)

60.08 PARADES REGULATED. No person shall conduct or cause any parade on any street except as provided herein:

1. **Approval Required.** No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.

2. **Parade Not a Street Obstruction.** Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.

3. Control by Peace Officers and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks

61.03 Standards
61.04 Compliance

61.01 INSTALLATION. The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic, and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 and 321.255)

61.02 CROSSWALKS. The Council is hereby authorized 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] and 321.255)

61.03 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)

61.04 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
62.07 Milling
62.08 Engine Brakes and Compression Brakes: Prohibited
Noises



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; exception.
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 – Limitation on liability; penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed; operation of commercial vehicles.
15. Section 321.174A – Operation of motor vehicle with expired license.
16. Section 321.180 – Instruction permits, commercial learner’s permits, and chauffeur’s instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restrictions on licenses; penalty.
19. Section 321.194 – Special minors’ licenses.
20. Section 321.208A – Operation in violation of out-of-service order; penalties.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card; penalty.

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 tobacco, tobacco products alternative nicotine products, vapor products, or cigarettes.
24. Section 321.218 – Operating without valid driver’s license or when disqualified; penalties.
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 – Driver’s license inspection for motor vehicle rental.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles, highway use.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.235B – Low-speed electric bicycles.
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.
39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
40. Section 321.263 – Information and aid; leaving scene of personal injury accident.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.
43. Section 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
50. Section 321.284 – Open container in motor vehicles, drivers.

51. Section 321.284A – Open container in motor vehicles, passengers.
52. Section 321.288 – Control of vehicle; reduced speed.
53. Section 321.295 – Limitation on bridge or elevated structures.
54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.306 – Roadways laned for traffic.
61. Section 321.307 – Following too closely.
62. Section 321.309 – Towing.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.

85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.
88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver’s view.
93. Section 321.364 – Preventing contamination of food by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.366 – Acts prohibited on fully-controlled access facilities.
96. Section 321.367 – Following fire apparatus.
97. Section 321.368 – Crossing fire hose.
98. Section 321.369 – Putting debris on highway.
99. Section 321.370 – Removing injurious material.
100. Section 321.371 – Clearing up wrecks.
101. Section 321.372 – Discharging pupils, stopping requirements; penalties.
102. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
103. Section 321.381A – Operation of low-speed vehicles.
104. Section 321.382 – Upgrade pulls; minimum speed.
105. Section 321.383 – Exceptions; slow vehicles identified.
106. Section 321.384 – When lighted lamps required.
107. Section 321.385 – Head lamps on motor vehicles.
108. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
109. Section 321.387 – Rear lamps.
110. Section 321.388 – Illuminating plates.
111. Section 321.389 – Reflector requirement.
112. Section 321.390 – Reflector requirements.
113. Section 321.392 – Clearance and identification lights.
114. Section 321.393 – Color and mounting.
115. Section 321.394 – Lamp or flag on projecting load.
116. Section 321.395 – Lamps on parked vehicles.
117. Section 321.398 – Lamps on other vehicles and equipment.
118. Section 321.402 – Spot lamps.
119. Section 321.403 – Auxiliary driving lamps.

120. Section 321.404 – Signal lamps and signal devices.
121. Section 321.404A – Light-restricting devices prohibited.
122. Section 321.405 – Self-illumination.
123. Section 321.408 – Back-up lamps.
124. Section 321.409 – Mandatory lighting equipment.
125. Section 321.415 – Required usage of lighting devices.
126. Section 321.417 – Single-beam road-lighting equipment.
127. Section 321.418 – Alternate road-lighting equipment.
128. Section 321.419 – Number of driving lamps required or permitted.
129. Section 321.420 – Number of lamps lighted.
130. Section 321.421 – Special restrictions on lamps.
131. Section 321.422 – Red light in front, rear lights.
132. Section 321.423 – Flashing lights.
133. Section 321.430 – Brake, hitch, and control requirements.
134. Section 321.431 – Performance ability.
135. Section 321.432 – Horns and warning devices.
136. Section 321.433 – Sirens, whistles, and bells prohibited.
137. Section 321.434 – Bicycle sirens or whistles.
138. Section 321.436 – Mufflers, prevention of noise.
139. Section 321.437 – Mirrors.
140. Section 321.438 – Windshields and windows.
141. Section 321.439 – Windshield wipers.
142. Section 321.440 – Restrictions as to tire equipment.
143. Section 321.441 – Metal tires prohibited.
144. Section 321.442 – Projections on wheels.
145. Section 321.444 – Safety glass.
146. Section 321.445 – Safety belts and safety harnesses; use required.
147. Section 321.446 – Child restraint devices.
148. Section 321.449 – Motor carrier safety rules.
149. Section 321.449A – Rail crew transport drivers.
150. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
151. Section 321.450 – Hazardous materials transportation regulations.
152. Section 321.454 – Width of vehicles.
153. Section 321.455 – Projecting loads on passenger vehicles.

- 154. Section 321.456 – Height of vehicles.
- 155. Section 321.457 – Maximum length.
- 156. Section 321.458 – Loading beyond front.
- 157. Section 321.460 – Spilling loads on highways.
- 158. Section 321.461 – Trailers and towed vehicles.
- 159. Section 321.462 – Drawbars and safety chains.
- 160. Section 321.463 – Maximum gross weight; exceptions, penalties.
- 161. Section 321.465 – Weighing vehicles and removal of excess.
- 162. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. 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.

62.07 MILLING. It is unlawful to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.

62.08 ENGINE BRAKES AND COMPRESSION BRAKES: PROHIBITED NOISE. It is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated, within the City limits, any engine break, compression brake, or mechanical exhaust device designed to aid in braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle, unless such use is necessary to avoid imminent danger. A violation of this section will be considered a non-moving violation and subject the driver to a fine not to exceed \$100.00.

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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 Zones

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 – 20 MPH.
2. Residence or School District – 25 MPH.
3. Suburban District – 45 MPH.

63.03 PARKS, CEMETERIES, AND PARKING LOTS. A speed in excess of 15 MPH 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 ZONES. 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 30 MPH Speed Zones. A speed in excess of 30 MPH is unlawful on any of the following designated streets or parts thereof.
 - A. First Street within the City limits.
2. Special 45 MPH Speed Zones. A speed in excess of 45 MPH is unlawful on any of the following designated streets or parts thereof.
 - A. Highway 151 within the City limits.
3. Special 15 MPH Speed Zones. A speed in excess of 15 MPH is unlawful on any of the following designated streets or parts thereof.
 - A. Diamond Drive.

63.05 MINIMUM SPEED. A person shall not 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 peace officer 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 and at any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Yield to Pedestrians In Crosswalks

65.01 STOP OR YIELD. Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Chapter 61 of this Traffic Code.

65.02 SCHOOL STOPS. At any school crossing zone, every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 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)

65.03 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)

65.04 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.

65.05 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)

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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 Routes

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 erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.471 and 472)

66.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The Council may, upon application and good cause being shown, 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 and 321E.2)

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 streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.473 and 475)

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 Council may cause to be posted and maintained signs, in accordance with Chapter 61 of this Traffic Code, 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. When truck routes have been designated in accordance with Chapter 61, any motor vehicle exceeding established weight limits shall comply with the following:

1. Use of Established Routes. Every such motor vehicle 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 those streets within the City designated as truck routes and none other.

(Code of Iowa, Sec. 321.473)

2. Deliveries Off Truck Route. Any such motor vehicle, 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 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)

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CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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)

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CHAPTER 68
ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

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

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CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled
69.02 Park Adjacent to Curb
69.03 Parking on One-Way Streets
69.04 Angle Parking
69.05 Manner of Angle Parking

69.06 Parking for Certain Purposes Illegal
69.07 Parking Prohibited
69.08 Persons with Disabilities Parking
69.09 Truck Parking Limited
69.10 Snow Emergency

69.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Chapter 61 of this Traffic Code. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

69.02 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 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)

69.03 PARKING ON ONE-WAY STREETS. 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 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)

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

(Code of Iowa, Sec. 321.361)

– NONE –

69.05 MANNER OF ANGLE PARKING. Upon those streets or portions of streets that 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 said vehicle is parked within a diagonal parking district, shall extend into the roadway more than a distance of 16 feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 72 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.

69.07 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 20 feet on either side of a mailbox that 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 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 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 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 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 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 50 feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than 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 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 do not apply to a vehicle parked in any alley that is 18 feet wide or less, provided that 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.

18. No Parking. There shall be no parking on any street within the City limits between the hours of midnight and 6:00 a.m. each day.

69.08 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 vehicle not displaying a persons with disabilities parking permit.

B. Use by an operator of a 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 vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
 - A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.
 - B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

69.09 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 pick-up, light delivery, or panel delivery trucks.

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any streets within the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.
3. Livestock. No such vehicle containing livestock shall be parked on any street, alley, or highway for a period of time of more than 30 minutes.

4. Semi Parking. No semis shall be parked on any residential street.

69.10 SNOW EMERGENCY. The purpose of this section is to provide for the removal of obstructions from snow- and ice-covered roadways to allow effective clearing and to provide a system for notifying citizens that a snow emergency is in effect.

1. Automatic Snow Emergency. At such time as two inches of snow accumulates on City streets, a snow emergency will go into effect and the parking restrictions set forth herein shall be in effect immediately and without further notice. The City may provide additional notice of the snow emergency as it deems appropriate and necessary.
2. Declared Snow Emergency.
 - A. Whenever the Mayor determines, on the basis of falling snow, sleet, freezing rain, other precipitation, or on the basis of a credible weather forecast, that weather conditions will make it necessary that parking on City streets be prohibited or restricted for snow plowing or other purposes.
 - B. The Mayor shall declare a snow emergency by notifying the City Clerk, stating the beginning time and, if known, the ending time for the snow emergency. A declared snow emergency shall take effect at a time set by the Mayor but not earlier than two hours after it is declared. If the office of the Clerk is closed, the Mayor shall file such notice promptly when the office next

is opened during normal business hours. The Mayor may cancel such declaration or change the beginning or ending time.

C. The public shall be notified of the declared snow emergencies in a timely manner by all appropriate means. The public shall be notified of the cancellation of or a change to a snow emergency in the same manner as the original snow emergency.

3. No person shall park, abandon, or leave unattended any vehicle on any public street during an automatic or declared snow emergency.

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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 and 321.485)

70.02 SCHEDULED VIOLATIONS. For violations of the Traffic Code that 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 and 805.8A)

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$25.00 for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for improper use of a persons with disabilities parking permit is \$100.00.

(Code of Iowa, Sec. 321.236[1b] and 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 71

GOLF CARTS

71.01 Purpose	71.07 Hours of Operation
71.02 Definition	71.08 Speed
71.03 Operation of Golf Carts Permitted	71.09 Inspection
71.04 Prohibited Streets	71.10 Permits
71.05 Unlawful Operation	71.11 Penalty
71.06 Equipment	

71.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on certain streets in the City, as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter applies whenever a golf cart is operated on any street or alley of the City.

71.02 DEFINITION. “Golf cart” means a three- or four-wheeled recreational vehicle generally used for transportation of persons in the sport of golf, and which is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds.

71.03 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon streets of the City by persons possessing a valid Iowa operator’s license, and at least 16 years of age except as prohibited in the City’s Traffic Code (Chapters 60 through 70) or this chapter.

71.04 PROHIBITED STREETS. Golf carts shall not be operated upon or cross Highway 151. Golf carts shall not be operated upon but may cross Linn/Benton Road.

71.05 UNLAWFUL OPERATION.

1. No golf carts shall be operated or parked upon City sidewalks.
2. No golf cart shall be operated while under the influence of intoxicating liquor, narcotics, or habit forming drugs.
3. No person shall operate a golf cart in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to same.
4. No golf cart shall carry more passengers than the golf cart is designed for.

71.06 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a minimum of the following safety features:

1. A slow moving vehicle sign.
2. A bicycle safety flag, the top of which shall be a minimum of five feet from ground level.
3. Adequate brakes.
4. Headlights and tail lights.
5. Rear view mirror on driver’s side.

71.07 HOURS OF OPERATION. Golf carts may be operated on City streets only between sunrise and sunset.

71.08 SPEED. No golf cart shall be operated on any City street at a speed in excess of 25 miles per hour. Posted speed must be followed in accordance with the *Code of Iowa*.

71.09 INSPECTION. No golf cart shall be permitted or operated upon the streets of the City until the golf cart passes inspection by the Sheriff's Department.

71.10 PERMITS. No person shall operate a golf cart on any public street or alley, for any purpose, unless the operator possesses a City permit to operate a golf cart on City streets, issued by the City Clerk.

1. Golf cart owners may apply for a permit from the City Clerk on forms provided by the City.
2. The Clerk shall not issue a permit until the owner/operator has provided the following:
 - A. Evidence that the operator is at least 16 years of age, and possesses a valid Iowa driver's license.
 - B. Proof that owner/operator has liability insurance covering operation of golf carts on City streets in the amount required by the *Code of Iowa*.
3. All permits shall be issued for a specific golf cart. Permits holders will be issued a number and will purchase three-inch minimum reflective numbers to affix to the left side rear fender or similar component.
4. The fee for such permits shall be \$25.00. Permits will be granted for one year, valid from January 1 through December 31. Permits may be purchased at any time during the year but will be valid only through December 31.
5. The permit may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder. There will be no refund of the permit fee.

71.11 PENALTY. In addition to the suspension or revocation of the permit, a person who violates this chapter is guilty of a municipal infraction under Chapter 3 of this Code of Ordinances, for which the penalty is a maximum of \$750.00 for the first offense and a maximum of \$1,000.00 for each repeat offense.

(Code of Iowa, Sec. 321.247)

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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 ATVs and UTVs

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 vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 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 vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

(Code of Iowa, Sec. 321I.1)

A. “Off-road utility vehicle – Type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – Type 2” includes vehicles, other than Type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – Type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 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 that 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 and 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 that 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 90 degrees 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 that 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 ATVS AND UTVS. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and off-road utility vehicles 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 operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10[1 and 3])

2. Trails. ATVs and off-road utility vehicles shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. Railroad Right-of-Way. ATVs and off-road utility vehicles 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 and off-road utility vehicles 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 and off-road utility vehicles 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.”

6. **Direct Crossing.** An all-terrain vehicle or off-road utility vehicle may make a direct crossing of a highway provided all of the following occur:

(Code of Iowa, Sec. 321I.10[5])

A. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing.

B. The all-terrain vehicle or off-road utility vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.



E. The crossing is made from a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City to a street, roadway, or highway designated as an all-terrain vehicle trail by any State agency, the County, or the City.

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 and 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 \$1,500.00 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 and 321I.11)

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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

95.10 Abandoned Sewer Lines

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 days at 20°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 feet (one and one-half 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 that 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 15 persons (1,500 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 that carries sewage and to which storm, surface, and ground waters 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 stormwaters 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 that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control 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 that 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 that 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 that 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 60 days after date of official notice from the City to do so provided that said public sewer is located within 100 feet 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])

(567 IAC 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 and 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.

 **95.10 ABANDONED SEWER LINES.** When an existing sanitary sewer service is abandoned or a service is renewed with a new connection in the main, all abandoned connections with the mains shall be capped off and made absolutely watertight.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Connection Charge
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements

96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 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 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 CONNECTION CHARGE. There shall be a connection charge in the amount of \$1,000.00 for residential and \$1,500.00 for commercial paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and

watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

4. Water Lines. When possible, building sewers should be laid at least 10 feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least 12 inches above the top of the building sewer.

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four inches.

6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:

- A. Recommended grade at one-fourth inch per foot.
- B. Minimum grade of one-eighth inch per foot.
- C. Minimum velocity of two feet per second with the sewer half full.
- D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.

8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9. Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in the *State Plumbing Code* except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe – A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe – A.S.T.M. A-74.
- C. Ductile iron water pipe – A.W.W.A. C-151.
- D. P.V.C. – SDR26 – A.S.T.M. D-3034.

10. Bearing Walls. No building sewer shall be laid parallel to or within three feet of any bearing wall that might thereby be weakened.

11. Jointing. Fittings, type of joint and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement

floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge, and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand, or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 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 saddle "Y" 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 or attached with a gasket and 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.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer, 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 of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 30 days after date of official notice from the Council of such violation. If not made within such time, the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Stormwater

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.01 STORMWATER. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers that 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 be in 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 (CN) in excess of two 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.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) 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.

B. 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: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) 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°F (65°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 that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°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 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 that 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 that 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 that, 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 that 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 that 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 OF SUPERINTENDENT. 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.)

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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[3ff])

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.

(567 IAC 69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private 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.

(567 IAC 69.1[3 and 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.

(567 IAC 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[3ff])

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 1,500 square feet.

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CHAPTER 99


SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Billing

99.05 Lien for Nonpayment
99.06 Lien Exemption
99.07 Lien Notice
99.08 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided. Charges for sewer service shall begin 60 days following connection to the City sewer system or immediately upon occupancy, whichever comes first.

(Code of Iowa, Sec. 384.84)

 **99.02 RATE.** Each customer shall pay sewer charges for the use of and for the service supplied by the municipal sanitary sewer system as follows:

Single Residence\$36.00 per month
Churches.....\$36.00 per month
Business Establishment.....\$57.60 per month
Industrial Establishments\$86.40 per month

99.03 SPECIAL RATES. Where, in the judgment of the Mayor 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 Mayor and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 BILLING. All bills shall be payable on the first day of the month following the period of service and shall be paid at the office of the Clerk. Bills not paid by the tenth day of the month in which due shall be considered delinquent and a charge of 10 percent of the amount of the bill shall be added thereto and collected therewith.

99.05 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 property or 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)

 **99.06 LIEN EXEMPTION.**

(Code of Iowa, Sec. 384.84)

1. Exemption. The lien for nonpayment shall not apply to the charges for any of the services of sewer systems, stormwater drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is 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 for such service. The City may require a deposit not exceeding the

usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership.

3. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsection 1 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

99.07 LIEN NOTICE. A lien for delinquent sewer 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 or premises 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 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

99.08 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.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Toxic and Hazardous Waste
105.03 Sanitary Disposal Required	105.09 Waste Storage Containers
105.04 Health and Fire Hazard	105.10 Prohibited Practices
105.05 Open Burning Restricted	105.11 Sanitary Disposal Project Designated
105.06 Separation of Yard Waste Required	

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[1])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that 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.
(567 IAC 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.
(567 IAC 20.2)
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials, or debris not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])
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.

(567 IAC 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.

(567 IAC 20.2)

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.

(567 IAC 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.

(567 IAC 100.2)

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that 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. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

(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.

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

15. “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 that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

16. “Yard waste” means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

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 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:

(567 IAC 23.2 and 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.

(567 IAC 23.2[3]“a”)

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(567 IAC 23.2[3]“b”)

3. 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.

(567 IAC 23.2[3]“c”)

4. 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 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.

(567 IAC 23.2[3]“d”)

5. 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.

(567 IAC 23.2[3]“e”)

6. 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.

(567 IAC 23.2[3]“g”)

7. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium, or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(567 IAC 23.2[3]“h”)

8. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

(567 IAC 23.2[3]“i”)

9. 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.

(567 IAC 23.2[3]“j”)

10. 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.

(567 IAC 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.

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 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.

*(567 IAC 100.2)
(567 IAC 102.13[2] and 400 IAC 27.14[2])*

105.09 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 are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that 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.
 - C. **Contractors.** All contractors shall furnish containers on any new construction site for all construction waste.
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 and 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 that are not in compliance with the provisions of this section will not be collected.

105.10 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 that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Benton County 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 Bulky Rubbish

106.05 Right of Entry
106.06 Collection Fees
106.07 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.04, for single-family residential premises only. The owners or operators of multi-family, commercial, industrial, or institutional premises shall provide for the collection of solid waste produced upon such premises. However, the Council may, upon separate application and consideration therefor, include certain multi-family residential premises in the City collection service under the terms and conditions placed thereon.

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 leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(567 IAC 104.9)

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 BULKY RUBBISH. Bulky rubbish that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures established by the City.

106.05 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste, as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.06 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees for the same, in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449 [Iowa 1970])

1. **Fees.** Each customer shall pay solid waste collection fees for the hauling and disposal of solid waste in the amount of \$28.00 per month for each single residence.
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 99.04 of this Code of Ordinances.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 99.06 of this Code of Ordinances, 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 property or 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 Grant of Franchise

110.02 Indemnification

110.03 Excavations

110.04 Location of Facilities

110.05 Utility Easement

110.06 Standards of Service

110.07 Franchise Fee

110.08 Term

110.09 Amendments

110.01 GRANT OF FRANCHISE. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors, and assigns, the right, privilege, and nonexclusive franchise for the term of 25 years from and after the passage, adoption, approval, and acceptance of the ordinance codified in this chapter,[†] to lay down, maintain, and operate the necessary pipes, mains, and other conductors and appliances in, along, and under the streets, avenues, alleys, and public places in the City, as now or hereafter constituted, for the purpose of distributing, supplying, and selling gas to the City and the residents thereof and to persons and corporations beyond the limits thereof; the franchise also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The term “gas” as used in this franchise shall be construed to mean natural gas only.

110.02 INDEMNIFICATION. The mains and pipe of the Company must be so placed as not to unnecessarily interfere with water pipes, drains, sewers, and fire plugs which have been or may hereafter be placed in any street, alley, and public places in said 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. The 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 laying down, operation, and maintenance of said natural gas distribution system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, avenue, or public place, the Company, its successors, and assigns, shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right-of-way, sidewalks, or other areas in or adjacent to the Company project to a condition superior to its immediately previous existing condition.

110.04 LOCATION OF FACILITIES. The Company shall, at its cost, locate, and relocate its existing facilities or equipment in, on, over, or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement of, in, or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate its existing facilities in the public right-of-way which have been relocated at Company expense at the direction of the City during the previous 10 years, the reasonable costs of such relocation will

[†] **EDITOR’S NOTE:** Ordinance No. 201, adopting a natural gas franchise for the City, was passed and adopted by the Council on May 9, 2016.

be paid by the City. If the City orders or requests the Company to relocate its existing facilities or equipment for any other reason than as specified above, or as the result of the initial request for a commercial, private, or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

110.05 UTILITY EASEMENT. Prior to the City abandoning or vacating any street, avenue, alley, or public ground where the Company has gas facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public place, the City shall at its cost and expense obtain easement for existing Company facilities.

110.06 STANDARDS OF SERVICE. Said Company, its successors, and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, any prevention of service caused by fire, act of God, or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.07 FRANCHISE FEE. There is hereby imposed a franchise fee of zero percent upon the gross revenue generated from sales of natural gas by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. The Company shall not, under any circumstances, be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.08 TERM. The term of the franchise and the rights granted thereunder shall continue for the period of 25 years from and after its written acceptance by the Company. The acceptance shall be filed with the City Clerk within 90 days from passage of the ordinance codified in this chapter.

110.09 AMENDMENTS. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified, or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Placement of Facilities
111.03 Excavations
111.04 Location of Facilities
111.05 Utility Easement

111.06 Pruning or Removal of Trees
111.07 Standards of Service
111.08 Franchise Fee
111.09 Term
111.10 Amendments

111.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors, and assigns, the right and nonexclusive franchise to acquire, construct, reconstruct, 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 distribution of electric current along, under, and upon the streets, avenues, alleys, and public places in 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 25 years;† the franchise also includes 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 EXCAVATIONS. In making any excavations in any street, alley, avenue, or public place, the Company, its successors, and assigns shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical. The Company shall not be required to restore or modify public right-of-way, sidewalks, or other areas in or adjacent to the Company project to a condition superior to its immediately previous existing condition.

111.04 LOCATION OF FACILITIES. The Company shall, at its cost, locate, and relocate its existing facilities or equipment in, on, over, or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City requires the Company to relocate facilities in the public right-of-way that have been relocated at Company expense at the direction of the City during the previous 10 years, the reasonable costs of such relocation will be paid by the City. If the City orders or requests the Company to relocate its existing facilities or equipment for any

† **EDITOR’S NOTE:** Ordinance No. 200, adopting an electric franchise for the City, was passed and adopted on May 9, 2016.

reason other than as specified above, or as the result of the initial request for a commercial, private, or other non-public development, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request.

111.05 UTILITY EASEMENT. Prior to the City abandoning or vacating any street, avenue, alley, or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities. If the City does not grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley, or public place, the City shall at its cost and expense obtain easements for existing Company facilities.

111.06 PRUNING OR REMOVAL OF TREES. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley, or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning and removal of trees shall performed in accordance with Company's then current line clearance vegetation plan as filed and approved by the Iowa Utilities Board, as well as all applicable codes and standards referenced therein.

111.07 STANDARDS OF SERVICE. During the term of the franchise, the Company shall furnish electric energy in accordance with the applicable regulations of the Iowa Utilities Board and the Company's tariffs. The Company will maintain compliance with Iowa Utilities Board regulatory standards for reliability. Service to be rendered by the Company under this franchise 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.

111.08 FRANCHISE FEE. There is hereby imposed a franchise fee of zero percent upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The Company shall begin collecting the franchise fee upon receipt of written approval of the required tax rider tariff from the Iowa Utilities Board. The amount of the franchise fee shall be shown separately on the utility bill to each customer. The Company shall remit franchise fee receipts to the City no more frequently than on or before the last business day of the month following each calendar year quarter. The Company shall not, under any circumstances, be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

111.09 TERM. The term of the franchise and the rights granted thereunder shall continue for the period of 25 years from and after written acceptance by the Company. The acceptance shall be filed with the City Clerk within 90 days from passage of the ordinance codified in this chapter.

111.10 AMENDMENTS. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be supplemented, superseded, modified, or otherwise amended without the written approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact or maintain any ordinance or place any limitations, either operationally or through the assessment of fees other than those approved and accepted by the Company within this chapter which create additional burdens upon the Company, or which delay utility operations.

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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, and 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, and 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 that 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 a liquor control license, a retail wine permit, or a retail 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 holding a liquor license or retail wine or beer permit and the person'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 beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage 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 liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 6:00 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 6:00 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 6:00 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 123.150)

3. Sell alcoholic beverages 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 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, 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. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

(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 that 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 that 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 that 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 electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.
2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of a registered 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. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
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, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “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.
6. “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.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products 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. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor 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 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 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 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 to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance of a permit.

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 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes 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 \$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 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 \$1,500.00 or the retailer's permit shall be suspended for a period of 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 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 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. 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 tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes 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 Alcoholic Beverages Division of the Department of Commerce within 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	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

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 that 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 \$100.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. In addition to the application fee identified in Section 122.04 of this chapter, 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 \$100.00 per year.
2. Peddlers or Transient Merchants.
 - A. For one day.....\$ 25.00
 - B. For one week.....\$ 50.00
 - C. For up to six months.....\$ 75.00
 - D. For one year or major part thereof.....\$100.00

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 8:00 a.m. and 7:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to 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.

The Clerk shall send the written notice to the licensee at the licensee’s local address. The 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.

122.12 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.

122.13 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.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. 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.

122.15 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.

122.16 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 \$5.00 of the original fee shall be retained by the City to cover administrative costs.

122.17 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 local school districts 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.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of

Chapter 504 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 to the Clerk in writing 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 122.14 of this chapter.

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CHAPTER 123

MINIMUM WAGE

123.01 MINIMUM WAGE. The minimum wage required to be paid to employees within the boundaries of the City shall be and remain the same as the minimum wage adopted by the Iowa legislature and approved by the Iowa governor, as set out in Section 91D.1 of the *Code of Iowa* or any other section of the *Code of Iowa*, as amended from time to time.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling On Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	

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. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. 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 permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 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 administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. 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:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. 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 permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, 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 for such work to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least 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*.
11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.
12. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. 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, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. 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

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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.

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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 Property Owner's 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 Permit Required	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. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside

the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

(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 and 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 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply 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-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 feet wide and four inches thick, and each section shall be no more than four feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
 - C. Driveway areas shall be not less than six inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on 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 is 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 inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(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 feet of any sidewalk.

136.14 FIRES OR FUEL 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 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 a written permit 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 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 or to a fair.

(Code of Iowa, Sec. 174.15[2] and 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. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
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 resolution, 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 Walford, 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 change 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.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power

140.03 Permitted Access Points

140.02 Definition

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, and 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 PERMITTED ACCESS POINTS. The following are controlled access facilities: on present route of Iowa Primary Road No. F-194 from the west corporation line to the east corporation line from Station 1006+15.0 to Station 1018+59.9 – Station 0+00.0, and from Station 0+0.00 to Station 3+40.1 regulating access to and from abutting properties along said highway, all in accordance with the plans for such improvement identified as Project No. F-194 on file in the office of the Clerk.

STATION	SIDE OF STREET	WIDTH	USE OF DRIVE OR ENTRANCE
1008+74	Left	20 feet	Street
1009+51	Left	20 feet	Commercial
1011+24	Left	20 feet	Commercial
1012+86	Left	12 feet	Residential
1013+00	Left	20 feet	Street
1013+00	Right	20 feet	Street
1014+90	Left	12 feet	Residential
1016+71	Left	16 feet	Street
1017+58	Left	16 feet	Street
0+47	Left	35 feet	Commercial
2+78	Left	35 feet	Commercial
3+09	Left	20 feet	Street
3+94	Left	24 feet	County Road
3+94	Right	24 feet	County Road

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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 Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that 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 and 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: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) 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 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 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 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 WALFORD, IOWA." Such notice shall remain posted until the required demolition, removal or repairs 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])

[†] **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 to 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.

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])

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CHAPTER 146

SIGN CODE

146.01 General	146.09 Signs in Industrial District
146.02 Definitions	146.10 Religious Signs
146.03 Sign Permits and Inspections	146.11 General Sign Regulations
146.04 Master Sign Plans	146.12 Specific Sign Regulations
146.05 Prohibited Signs	146.13 Temporary Signs
146.06 Exempt Signs	146.14 Change in Use
146.07 Signs in Residential District	146.15 Nonconforming Signs
146.08 Signs in Commercial District	

146.01 GENERAL. A sign shall not be erected, constructed, altered, or maintained, except as provided by this chapter and after a permit has been issued by the Code official.

146.02 DEFINITIONS. For the purpose of this chapter, the following terms are defined:

1. “Approved plastic materials” means those having a self-ignition temperature of 650 degrees F or greater and a smoke-density rating not greater than 450 when tested in accordance with UBC Standard 26-5. Approved plastics shall be classified and shall meet the requirements for either CCI or CC2 plastic.
2. “Awning sign” means a sign attached to or in any way incorporated with the face of an awning or any other similar projection, and which does not extend beyond the projection.
3. “Changeable copy sign” means a permanent sign, such as a reader board, which has components, which are easily changeable by physical and not electronic methods.
4. “Code official” means the officer or other designated authority charged with the administration and enforcement of this chapter.
5. “Combination sign” means a sign incorporating any combination of the features of pole signs.
6. “Corner visual clearance” means that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines 25 feet from the point of intersection of said right-of-way lines.
7. “Curb line” means the line at the face of the curb nearest to the street or roadway. In absence of a curb, the curb line shall be established by the code official. See “legal setback line.”
8. “Development sign” means a permanent sign that displays the name of a development or of multi-lot subdivision.
9. “Directional sign” means a sign designed to guide or direct pedestrian or vehicular traffic, being three square feet or less and containing no advertising message.
10. “Directory sign” means a permanent sign that displays the name of a building, building complex and/or the occupants.
11. “Display surface” means the area made available by the sign structure for the purpose of displaying the advertising message.

12. “Drive-through menu sign” means a sign displaying a menu or similar advertising for the purpose of allowing patrons of a restaurant to order food at a drive-through facility.
13. “Electric sign” means any sign containing electric wiring, but not including signs illuminated by an exterior light source.
14. “Festoon sign” means any sign in which lights, ribbons, tinsel, small flags, pinwheels, and pennants or other similar small, attention drawing devices are attached to a rope, string, wire, pole, or similar support.
15. “Fin sign” means a sign that is supported wholly by a one-story building of an open-air business or by poles placed in the ground or partly by such a pole or poles and partly by a building or structure.
16. “Ground sign” means a sign, which is supported by one or more up-rights or braces, is firmly and permanently anchored in or on the ground, and which is not attached to any building.
17. “Identification sign” means a sign displaying the name, address, crest, insignia or trademark, occupation, or profession of an occupant of a building or the name of any building on the premises.
18. “Incidental sign” means a sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as “no parking,” “entrance,” “loading only,” “telephone,” and other similar directives. No sign with a commercial message legible from a position off the lot on which the sign is located is considered incidental.
19. “Information sign” means a sign displayed strictly for the direction, safety, or convenience of the public and which sets forth no advertisement. Information signs would include signs which identify parking areas and drives, restrooms, addresses, telephones, exits and entrances, no trespassing area, danger areas, and similar information.
20. “Legal setback line” means a line established by ordinance beyond which a building may not be built. A legal setback line may be a property line.
21. “Marquee” means a permanent roofed structure attached to and supported by the building and projecting over public property.
22. “Noncombustible” as applied to building construction material, which, in the form in which it is used, means either one of the following:
 - A. Material of which no part will ignite and burn when subjected to fire. Any material conforming to UBC Standard 2-1 is considered noncombustible within the meaning of this section.
 - B. Material having a structural base of noncombustible material as defined in paragraph A, with a surfacing material not over 1/8 inch thick which has a flame-spread rating of 50 or less.

Noncombustible does not apply to surface finish materials. Materials required to be noncombustible for reduced clearances to flues, heating appliances or other sources of high temperature shall refer to material conforming to paragraph A. No material shall be classed as noncombustible, which is subject to increase in combustibility or flame-spread rating beyond the limits herein established, through the effects of age, moisture

or other atmospheric condition. Flame-spread rating as used herein refers to rating obtained according to test conducted as specified in UBC standard 8-1.

23. “Nonstructural trim” means the molding, battens, caps, nailing strips, cutouts or letters and walkways that are attached to the sign structure.

24. “Off-premises sign” means a sign, which directs attention to a use conducted off the lot on which the sign is located.

25. “On-premises sign” means a sign, which has the primary purpose of identifying or directing attention to the lot on which the sign is located.

26. “Painted sign” means a sign painted directly on an exterior surface of a building, window or wall.

27. “Parapet sign” means a fascia sign erected on a parapet or parapet wall.

28. “Pole sign” means a sign wholly supported by a sign structure in the ground.

29. “Political sign” means a temporary sign, announcing candidates seeking public office, a political issue, or a sign containing other election information.

30. “Portable display surface” means a display surface temporarily fixed to a standardized advertising structure, which is regularly moved from structure to structure at periodic intervals.

31. “Portable sign” means a sign that is not firmly and permanently anchored or secured to either a building or the ground.

32. “Projecting sign” means a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

33. “Projection” means the distance by which a sign extends over public property or beyond the building line.

34. “Real estate sign” means a temporary sign, which advertises the sale, rental, or lease of the premises, or part of the premises on which the sign is located, including open house signs.

35. “Roof sign” means a sign erected upon or above a roof or parapet of a building or structure.

36. “Sign” means any medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purpose other than paint on the surface of a building.

37. “Sign structure” means any structure that supports or is capable of supporting a sign as defined in this chapter. A sign structure may be a single pole and may be or may not be an integral part of the building.

38. “Structure” means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

39. “Swinging sign” means a sign, which, because of its design, construction, suspension or attachment, is free to swing or move noticeably because of the wind.

40. “Temporary sign” means any banner, pendant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time only.

41. "Wall sign" means any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign on a plane parallel to the plane of the wall.

146.03 SIGN PERMITS AND INSPECTIONS.

1. Permit Required. It is unlawful for any person to erect, alter, or relocate within the City any sign requiring a permit without first obtaining a sign permit from the Code official. All illuminated signs shall be in conformance with other applicable ordinances and be approved and labeled by a nationally recognized testing lab. No signs shall be erected on a property without the authorization of the property owners or authorized agent. Sign permits shall be issued only for signs, which are in accord with the approved sign plan on file with the Code official.

2. Application for Permit. An application for a permit shall be made upon forms provided by the Code official and shall at a minimum contain or have attached thereto the following information:

A. Applicant Information. Name, address, and telephone number of the applicant.

B. Plans and Specifications. Two copies of detailed drawings of the plans and specifications and method of construction and attachment to the building or in the ground. Such blueprint or ink drawing shall show location of sign or signs and shall certify the distance from each other, from signs on adjacent property, from points of ingress and egress, and from adjacent property lot lines.

C. Calculations. Copy of stress sheets and calculations showing the structure is designed for dead load and 30 psf wind pressure in any direction in the amount required by this and all other laws and ordinances of the City.

D. Erector. Name of the person or association erecting the structure.

E. Valuation. Valuation of the sign.

F. Other. Such other information as the code official requires to show full compliance with this and all other laws and ordinances of the City.

3. Permit Expiration. If the work authorized under a sign permit has not been commenced within six months after the date of issuance, the said permit shall become null and void. The applicant must re-apply for a sign permit prior to installing a sign.

4. Permit Fees. A fee, as determined by resolution of the Council, shall accompany all applications for sign permits or other advertising structures.

5. Revocation of Permits. The Code official is hereby authorized and empowered to revoke any sign permits issued by the City upon failure of the holder thereof to comply with any provisions of this chapter.

6. Penalty for No Permit. In the event the erection or construction of any sign is commenced without first obtaining a permit, there shall, in addition to the required sign permit fee, be an on-site inspection fee of \$50.00. This provision does not preclude any enforcement or penalty provisions pursuant to this Code of Ordinances.

7. Inspections Required. All construction or work for which a permit is required shall be subject to inspection by the Code official.

8. City Codes and Ordinances Supersede Inspections. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other City ordinances. Inspections presuming to give authority to violate or cancel the provisions of this chapter or other City ordinances shall not be valid.

9. Work to Remain Accessible. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for the inspection purposes and to schedule, and be present for, the required inspections. All such construction or work including footings and foundations (structural and location), electrical connections, etc. shall remain accessible and exposed for inspection until approved. Neither the Code official nor the City shall be liable for any expense entailed in the removal or replacement of any material required to allow inspection.

10. Maintenance and Safety Inspections. The Code official may cause to be inspected from time to time as deemed necessary, any sign regulated by this chapter for the purpose of ascertaining whether the same is secure, and whether it is in need of removal or repair and complies with this chapter.

146.04 MASTER SIGN PLANS.

1. General. Signs for all development complexes shall comply with a master sign plan for the development, approved by the Council pursuant to this section. Said plan shall include all proposed sign locations, materials, structures and installation details to the extent known at the time of master sign plan submittal. Additional submittals or amendments to the master sign plan may be necessary as new development complexes become occupied or as businesses within a complex change. A master sign plan containing the below listed items shall be submitted to the Council for approval prior to sign permits being issued.

A. Legal property owner's name, description of property and the name of person requesting approval, along with such person's interest in the property, if such person is not also an owner of the property.

B. Calculation of the maximum sign area for individual signs, the height of signs and the number of signs allowed on the lots under this section.

C. An accurate indication on the plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, except that incidental signs need not be shown.

D. Standards for consistency among signs on the lot with the following specific items identified:

- (1) Color scheme
- (2) Lettering or graphic style
- (3) Lighting
- (4) Location of each sign on the buildings
- (5) Material
- (6) Sign dimensions and proportions

2. Master Sign Plan Requirements. Signs within a development complex shall be subject to the following requirements.
 - A. Each enterprise, institution or business in a development complex shall be permitted one wall sign per wall frontage subject to maximum size requirements set forth in this chapter.
 - B. Each development complex shall be permitted one ground sign per public street frontage. The maximum permitted sign area for each development complex sign shall be as provided within the applicable zoning district, plus a bonus of 10 additional square feet per business, enterprise, institution, or franchise within the development complex, provided that such bonus shall not exceed 50 percent of the base allowable sign area.
3. Existing Signs Not Conforming to Master Sign Plan. If any new or amended master sign plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance all signs not conforming to the proposed requirements of this chapter in effect on the date of submission, and shall at a minimum follow the requirements of Section 146.15, Nonconforming Signs.
4. Binding Effect. After approval of a master sign plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provision of this chapter. In case of any conflict between the provisions of such a plan and any other provision of this chapter, the provisions of this chapter shall control.
5. Master Sign Plan Approval. The master sign plan shall be submitted for approval by the Council prior to issuance of a sign permit according to the following procedure:
 - A. Application Deadline. To be considered at the regular monthly meeting of the Council, the master sign plan application shall be submitted 20 days prior to the meeting.
 - B. Departmental Review. The code official and any other departments specified by the Council shall receive a copy of the sign plan for review and shall return the sign plan to the applicant along with written findings and recommendations no less than five days prior to the next regularly scheduled meeting of the Planning and Zoning Commission.
 - C. Action by the Commission. The Planning and Zoning Commission, at their next regularly scheduled meeting, shall review the sign plan and information presented for compliance with the Sign Code and make a recommendation to the Council on the proposal.

146.05 PROHIBITED SIGNS. The following devices and locations are specifically prohibited:

1. On Public Rights-of-Way. No sign or sign structure other than an official traffic, street, or related sign approved for placement by the controlling public agency shall be placed on any street or highway right-of-way. No sign shall be attached to any utility pole, light standard, street tree, or any other public facility located within the public right-of-way.
2. Without Consent of Owner. No sign or sign structure shall be placed on private or public property without the consent of the owner or authorized agent thereof.

3. Imitation or Resemblance to Traffic Control and Safety Signs. No sign or sign structure shall be erected at any location where it may, by reason of its size, shape, design, location, content, coloring, or manner of illumination, constitute a traffic hazard or a detriment to traffic safety by obstructing the vision of drivers, by obscuring or otherwise physically interfering with any official traffic control device, or which may be confused with an official traffic control device. No rotating beacon, beam or flashing illumination resembling an emergency light shall be used in connection with any sign display or be visible from an adjacent street. No lights resembling an emergency light and no such words as "Stop," "Look," "Danger," or any other lights, words, phrases, symbols, or characters which in any manner may interfere with, mislead or confuse vehicle operators, shall be used in a location, which is visible to vehicular traffic. No sign shall be located in such a manner as to impede the corner visual clearance.
4. Exits Shall Remain Unobstructed. No sign shall be erected so as to prevent free ingress to, or egress from, any door, window, fire escape, or any other exit as required in this chapter or any other applicable ordinance.
5. Unsafe Attachments. No sign shall be attached to a standpipe, gutter drain, unbraced parapet wall, or fire escape.
6. Mounting and Flashing Signs. No sign larger than 32 square feet and 6 feet in height shall contain or have attached in any way, flashing, blinking, or alternating lights of any kind.
7. Portable Signs. Portable signs except as allowed for temporary signs.
8. Vehicle Signage. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property. The prohibition of this subsection does not prohibit the identification of a firm or its principal products on a vehicle operating during the normal course of business or being taken home.
9. Revolving Signs. No portion or part of a sign shall revolve, or have attached in any way, flashing, blinking or alternating lights of any kind, nor shall the entire sign revolve.
10. Roof Signs. No roof signs are allowed.
11. Swinging Signs. No swinging signs over 24 square feet are allowed.
12. Fence Signs. Painting or affixing a sign to a fence is prohibited. An advertising sign message or copy shall not be painted or affixed directly on a fence.
13. Projecting Signs.
14. Billboard Signs.
15. Off-Premises Signs.
16. Other Prohibited Signs. No banners, festoons, pennants, twirling signs, balloons or other similar devices are allowed as permanent signs, and may be permitted for temporary purposes as specified in Section 146.13.

146.06 EXEMPT SIGNS. The following signs are exempt from the provisions of this chapter.

1. Miscellaneous Signs. Miscellaneous traffic or other signs of a public agency, such as railroad crossing signs and signs that warn of danger, hazards, or unsafe conditions.

2. Official Flags and Emblems. Display of any official flag or emblem of a nation, state, or city.
3. City Entrance. City identification and entrance signs installed by the City.
4. Window Signs. Any sign which is located within a building and does not contain flashing, blinking, or alternating lights.
5. Memorials. Grave markers, statues, or remembrances of persons or events that are noncommercial in nature.
6. Art Work. Works of fine art which are not displayed in conjunction with a commercial enterprise for the principal purpose of commercial advertisement.
7. Temporary Decorations. Temporary decorations or displays celebrating the occasion of traditionally accepted patriotic or religious holidays.
8. Small Vehicle Signs. Signs applied directly or attached directly to the body of a car, bus, trailer, or other vehicle are exempt from the regulations of this chapter if such vehicle has a valid registration, is utilized in the normal course of a business or in the operator's usual routine activities, and such vehicle is not used primarily for the display of such sign or signs. If a sign-bearing vehicle does not meet all these exemption criteria it shall be considered a non-wall sign and be governed as such by these regulations. However, any such vehicular signs which are no larger than one square foot in area are exempt from the regulations contained within this chapter even though the vehicle which bears them does not meet the exemption criteria previously listed in this subsection.
9. Nameplates. Nameplates that are posted in conjunction with doorbells or mailboxes, and do not exceed 24 square inches in surface area.
10. Legally Required Signs. Legally required signs and notices required to be displayed, maintained, or posted by law or by any court or governmental order, rule, or regulation.
11. Information Signs. Information signs, not exceeding three square feet in surface area, displayed strictly for the direction, safety, or convenience of the public, including signs which identify restrooms, telephones, danger areas, parking area entrances or exits, freight entrances, or the like.
12. Address Signs. Address signs, not exceeding one square foot in surface area, containing only the address of the premises upon which it is located and limited to no more than one sign for every forty feet of lot street frontage.
13. Window Informational Signs. Window informational signs displaying information about the operation of the business, such as days and hours of operation, telephone number, and credit cards accepted. Such signs shall not exceed a maximum area of two square feet.

146.07 SIGNS IN RESIDENTIAL DISTRICTS. Residential developments of four or more dwelling units shall be permitted one development sign for each public street frontage not within the project (or each entrance in the case of a subdivision project). Such signs may be placed in any location on private property provided the sign complies with the same height limitations specified for fences. Maximum sign area for each sign shall be two square feet, plus one square foot for each dwelling unit or lot, but not to exceed 100 square feet in area per sign face.

146.08 SIGNS IN COMMERCIAL DISTRICTS.

1. Development Complexes. All development complexes shall require a master sign plan pursuant to the requirements of this chapter, prior to the installation of any signage.
2. Business Signs. Each enterprise, institution, or business shall be permitted wall signs, one canopy sign per street frontage and one ground sign per public street frontage, subject to the following maximum size requirements. (Note: Multiple businesses in same building shall apportion façade length, building wall and street frontage such that any maximum size requirement is not exceeded for a particular property.)
 - A. Maximum Wall Sign Area. Total area of wall signage shall not exceed one square foot for each lineal foot of the building wall to which the signage is attached, not to exceed 40 square feet.
 - B. Maximum Ground Sign Area. One ground sign is permitted per public street access. The surface area for each sign shall not exceed 100 square feet and the height shall not exceed 20 feet.
 - C. Canopy Sign Area and Dimensions.
 - (1) The maximum allowable sign area shall be one square foot for each lineal foot of width of the canopy, awning, or similar structure to which the sign is attached, as measured perpendicular to the building wall.
 - (2) The maximum allowable horizontal length of a canopy sign shall be equal to the width of the canopy, awning, or similar structure to which the sign is attached, as measured perpendicular to the building wall.
 - (3) The minimum vertical clearance between the lower edge of a canopy or awning and the ground shall be eight feet.

146.09 SIGNS IN INDUSTRIAL DISTRICTS.

1. Development Complexes. All development complexes shall require a master sign plan pursuant to the requirements of this chapter, prior to the installation of any signage.
2. Building Identification Signs. One building identification sign for each building shall be permitted provided that no such sign shall exceed 25 square feet.
3. Business Signs. Each enterprise, institution, or business shall be permitted wall signs, one canopy sign per street frontage and one ground sign per public street frontage, subject to the following maximum size requirements. (Note: Multiple businesses in the same building shall apportion façade length, building wall and street frontage such that any maximum size requirement is not exceeded for a particular property.)
 - A. Maximum Wall Sign Area. The total area of wall signage shall not exceed three square feet for each lineal foot of building wall the sign is attached, not to exceed 300 square feet.
 - B. Maximum Ground Sign Area. The total ground sign area shall not exceed one square foot for each lineal foot of street frontage, not to exceed 100 square feet.

C. Canopy Sign Area and Dimensions.

- (1) The maximum allowable sign area shall be one square foot for each lineal foot of width of the canopy, awning, or similar structure to which the sign is attached, as measured perpendicular to the building wall.
- (2) The maximum allowable horizontal length of a canopy sign shall be equal to the width of the canopy, awning, or similar structure to which the sign is attached, as measured perpendicular to the building wall.
- (3) The minimum vertical clearance between the lower edge of a canopy or awning and the ground shall be eight feet.

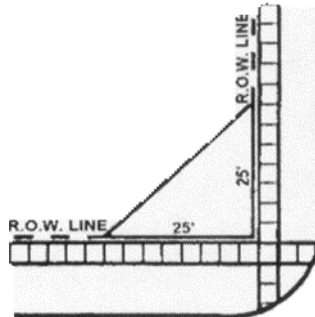
146.10 RELIGIOUS SIGNS. Each religious principal use shall be permitted wall signs and one ground signs per public street frontage, subject to the following conditions:

1. **Maximum Wall Sign Area.** Total area of wall signage shall not exceed one square foot for each lineal foot of the building wall to which the signage is attached, but in any event not to exceed 40 square feet.
2. **Maximum Ground Sign.** One ground sign is permitted per public street access. The surface area for each sign shall not exceed 100 square feet and the height shall not exceed 20 feet.

146.11 GENERAL SIGN REGULATIONS.

1. **Sign Illumination.** All sign illumination shall be from the interior or from floodlight projection shielded to preclude glare visible from public right-of-way and neighboring properties.
2. **Measurement of Sign Area.** The square footage of a sign made up of letters, words or symbols within a frame shall be determined from the outside edge of the frame itself. The square footage of a sign composed of only letters, words or symbols shall be determined from imaginary straight lines drawn around the entire copy or grouping of such letters, words or symbols. Double-faced signs shall be calculated as the area of one side only. Three-dimensional or multi-faced signs shall be calculated as the maximum area visible from any single direction at any point in time.
3. **Condition and Maintenance.** All signs shall be of rust-inhibitive material or treatment, and shall be maintained in good condition in the opinion of the Code official. All signs, together with supports, braces and anchors shall be kept in good repair and safe state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times.
4. **Electronic Message Signs.** Electronic message signs that display time and temperature, or provide changing messages are permitted.
5. **Compliance.** The construction, installation, erection, anchorage and maintenance of all signs shall be subject to the applicable provisions of this section and other applicable codes.
6. **Corner Visual Clearance.** Signs located within 25 feet of a corner street lot line intersection shall be so erected and maintained that an unobscured, visual sight area is provided for vehicle operators. Such unobscured area, at a minimum, shall extend from a distance of three feet above finished street grade to 10 feet above said grade. No more

than two pole or post supports of no more than 10 inches in diameter shall be permitted within such unobscured area. Additional limitations upon location, size, and height of any such signs may be required by the City if additional requirements are necessary to meet standard traffic engineering practices.



7. Interference With Utilities. Signs and their supporting structures shall not interfere with any equipment or lines for utilities including water, sewage, gas, electricity, or communications.
8. Obstruction to Doors, Windows, or Fire Escapes. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign of any kind shall be attached to a standpipe or fire extinguisher system. No sign shall obstruct or interfere with any opening required for ventilation.
9. Other Applicable Ordinances. Signs shall meet the requirements of all other applicable ordinances.
10. Wind Pressure and Dead Load Requirements. All signs and sign structures shall be designed and constructed to withstand load pressures as established by the Council.
11. Sign Mounting. All signs shall be mounted in one of the following manners:
 - A. Flat against a building or wall.
 - B. Back to back in pairs, so that the backs of such signs will be screened from public view.
 - C. In clusters in an arrangement which will screen the backs of the signs from public view.
 - D. Otherwise mounted so that the backs of all signs or sign structures showing to public view are painted and maintained a neutral color that blends with the surrounding environment.

146.12 SPECIFIC SIGN REGULATIONS. The conditions of this section are applicable to all signs.

1. Setback. No sign shall be closer than two feet from the established property line.
2. Minimum Clearances Over Access Ways. Unless a greater or lesser minimum height is specifically listed for a particular sign, any part of a sign which projects into or over any access way shall have a minimum height of not less than the following:
 - A. Vehicular Way: 14 feet.

- B. Pedestrian Way: 8 feet.
3. Minimum Distance Between Signs. All ground signs in the districts in which they are allowed shall have a minimum distance of 150 feet between them or a distance equal to 50 percent of the lot frontage of the lot on which they are affixed, whichever is greater.
4. Directional Signs.
- A. No more than two directional signs per street entrance are permitted for any enterprise, business, or institution.
- B. Such signs shall be for the sole purpose of ensuring safe and convenient ingress and egress to the use for which they apply.
- C. No such sign shall exceed two square feet in area in the residential zones, and shall not exceed four square feet in area in all other zones.
5. Community Event Message Signs.
- A. A nonprofit organization shall be eligible to apply for a conditional use permit to allow a sign area bonus for a community event message sign. The purpose of this area bonus shall be to allow the display of changing messages and information on such matters as the date, time, location, and sponsor of special events of community interest. Such signs shall meet the following standards and conditions:
- (1) Each nonprofit organization shall be eligible for a bonus for no more than one wall sign or one ground sign.
 - (2) The maximum bonus available shall be 50 percent of the base permitted sign area if located in a residential zone, or 100 percent if located in any other zone.
 - (3) Permanent advertising of a commercial nature shall be allowed only in commercial zones and shall not exceed 25 percent of the total area of the community event message sign.
 - (4) The sign shall be made reasonably available to other community-based nonprofit organizations for the display of information about special events or other announcements of a noncommercial nature.
 - (5) The sign shall not be of a size, or located in such a manner, that will substantially hinder the visibility of other legal signs on adjacent properties.
- B. In reviewing an application for a community event message sign, the Planning and Zoning Commission and Council shall consider the following objectives, and may impose conditions to ensure that these objectives are met:
- (1) By virtue of the sign's design, size, location, and other factors, including appropriate landscaping, the sign shall be harmonious and compatible with its surrounding, and consistent with community aesthetic sensibilities.
 - (2) The sign shall not be erected, or any electronic or electric changing copy controlled, in a manner that will be a substantial distraction to motorists, thus causing a traffic hazard.

6. Bench Signs. Bench signs are permitted and limited to two benches per lot.

146.13 TEMPORARY SIGNS.

1. Political Signs.
 - A. Political signs are permitted in all zones.
 - B. Such signs shall not exceed eight square feet in area and shall not exceed 42 inches in height.
 - C. Political signs are permitted only for a period of 90 days prior to the election and shall be removed within 10 days after the election.
 - D. Political signs shall not be placed within any public property or right-of-way.
 - E. Political signs established in violation of this section may be immediately removed by the code official.
2. Real Estate Signs.
 - A. Real estate signs shall be permitted in all zones, provided that all such signs shall be located on the property to which they apply, except as provided for in paragraph D of this subsection.
 - B. Such signs shall conform with the following maximum size requirements: four square feet in area for the first 10,000 square feet in lot area, plus four square feet for each additional 10,000 square feet of lot area, not to exceed 32 square feet.
 - C. Real estate signs shall be removed upon closing of the sale.
 - D. In addition, real estate signs advertising the sale of lots within a subdivision shall be permitted no more than one sign per entrance into the subdivision, and each sign shall be no greater than 32 square feet in area, no greater than eight feet in height, and shall be removed within 30 days after the sale of said real estate.
3. Special Sale Signs.
 - A. Sale and grand opening signs are permitted in all zones provided that such signs are displayed no more than 15 consecutive days for every three months. Such signs shall be removed immediately upon termination of the sale or event that they advertise.
 - B. All such signs must be attached to the façade, wall, or window of the building occupying or conducting the sale or event which they advertise.
 - C. No business shall have more than two such signs for each façade or wall of the building to which they are attached.
 - D. The total sign size shall not exceed 50 percent of the size of the permitted wall sign or 25 square feet in area, whichever is greater.
4. Promotional Signs. Promotional signs advertising a special community event such as a fair, farmer's market, or parade may be permitted to be located over the public right-of-way. The size, location, and method of erection of such signs shall be subject to approval by the Code official pursuant to good engineering practices and shall be

consistent with the paramount purpose of public right-of-way to provide safe and convenient traffic circulation.

146.14 CHANGE IN USE. Whenever the use of land or structure changes, any signs that do not relate to the new use or to any product or service associated with the new use, shall be removed or appropriately altered consistent with the provisions of this chapter. Furthermore, it shall be the responsibility of the property owner of the land and/or improvements to remove any sign or signs on premises where the associated use has been discontinued for a period of more than 90 days.

146.15 NONCONFORMING SIGNS. Whenever a business, person, enterprise, or institution for which existing signage does not conform to the requirements of this section, seeks to structurally alter or enlarge an existing sign, or erect or install a new sign, the provisions of this section shall apply as follows:

1. The alteration, enlargement, installation, or erection of signage shall not increase the degree of nonconformity.
2. If the value of the structural alterations to a nonconforming sign equals or exceeds 25 percent of the value of the sign, as determined by the Code official, the sign shall be made to conform with all provisions of this chapter.
3. Enlargement, installation, or erection of conforming signage shall be accompanied by a reduction in the degree of nonconformity for other signage existing on the premises. This reduction in nonconformity can be accomplished by a reduction in size of existing signs (if nonconforming as to square feet), removal (if nonconforming as to number of signs), relocation (if nonconforming as to location), or a combination of reduction, removal, or relocation of nonconforming signage shall equal, as nearly as is practical, 75 percent of the value of the new or enlarged conforming signage, or the cost necessary to bring all signage on the premises into conformance with this chapter, whichever is the lesser requirement.
4. The provisions of Subsections 2 and 3 of this section do not apply to temporary or illegal signs. Temporary signs that do not comply with the requirements of this chapter and other illegal signs shall be removed within 90 days after notification of the sign's nonconformity.

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CHAPTER 147

WIND ENERGY CONVERSION SYSTEMS

147.01 Purpose

147.02 Definitions

147.03 Accessory Use

147.04 Public Notification

147.05 Site Plan Disapproval

147.06 Bulk Regulations

147.07 Minimum System Design Standards

147.08 Application Process

147.09 Abandonment

147.10 New Technologies

147.11 Liability and Damages

147.12 Engineer Certification

147.13 Utility Notification

147.14 Inspections

147.01 PURPOSE. The purpose of this section is to allow the safe, effective, efficient use of small wind energy systems; identify locations of the City which be least adversely impacted by the visual, aesthetic, and safety implications of their siting; enhance the ability of the providers of wind energy services to provide such services to the community quickly, efficiently, and effectively.

147.02 DEFINITIONS.

1. “Blade” means an element of a wind turbine which acts as part of an airfoil assembly, thereby extracting through motion, kinetic energy directly from the wind.
2. “Height, total system” means the height above grade of the wind energy system, including the tower generating unit, and the highest vertical extension of any blades or rotors. Height shall be measured from the adjacent grade of the tower to the tip of the turbine (blade) at its highest point.
3. “Meteorological equipment” means equipment used primarily to measure wind speed and directions, including other data relevant to locating an operational wind energy conversion system.
4. “Qualified professional” means an individual certified by the manufacturer of a wind energy conversion system as qualified to install and/or maintain that manufacturer’s wind energy conversion system.
5. “Rotor diameter” means the diameter of the circle described by the moving rotor blades.
6. “Shadow flicker” means alternating changes in light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects such as the window of a dwelling.
7. “Tower” means a vertical structure that supports the electrical generator, rotor blades, or meteorological equipment.
8. “Wind Energy Conversion System” means a system consisting of at least one of the following: wind turbine, a tower, and associated control or conversion electronics, which is intended to reduce on-site consumption of utility power, is incidental and subordinate to a permitted use on the same parcel and has a nameplate rated capacity of up to 100 kilowatts. Wind Energy Conversion Systems shall not be permitted within any R-1, R-2, R-3, B-1, F-1 or Agriculture zoned districts. No roof mounted Wind Energy Conversion System shall be allowed in any zoning classification.

9. "Wind turbine" means any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy.

147.03 ACCESSORY USE. A wind energy conversion system shall only be allowed as an accessory use to a permitted principal use and shall require the approval of the City Council upon recommendation by the Planning and Zoning Commission prior to construction, installation, alteration, or location of such structure. The Planning and Zoning Commission and City Council may review a site plan at any time if an approved system does not comply with the rules set forth in this section and the conditions imposed by the City Council upon recommendation by the Planning and Zoning Commission. The City Council upon recommendation of the Planning and Zoning Commission may set additional terms or timeframe for compliance for the wind energy conversion system. The owner/operator of the wind energy system shall obtain all other permits required by federal, State, and local agencies prior to the construction of the system.

147.04 PUBLIC NOTIFICATION. Notice of Intent shall be published at least once, not less than 10 or more than 20 days prior to site plan first consideration. The notice shall contain the date, time, and location of the Planning and Zoning Commission meeting and City Council meeting.

147.05 SITE PLAN DISAPPROVAL. In the event that the Planning and Zoning Commission disapproves of the site plan, such plan may be approved by the City Council by a vote of at least four-fifths of all members of the City Council.

147.06 BULK REGULATIONS.

1. Minimum Lot Size: Two acres minimum lot size required for any tower mounted wind energy conversion system.
2. Minimum Setback Requirements:
 - A. All wind energy conversion systems shall require a setback equal to 110 percent of the total system height from any property line.
 - B. No part of the wind energy conversion system may extend any closer than 15 feet to the property boundaries of the installation site.
3. Maximum Height: Tower mounted wind energy conversion systems shall not be more than 60 feet in height.
4. Number of Systems Allowed: No more than one wind energy system may be placed on any parcel.
5. Location:
 - A. Tower mounted wind energy conversion systems shall be located outside any minimum building setback.
 - B. No part of a wind energy conversion study shall be located within or over drainage, utility or other established easements or on or over property lines.
 - C. A wind energy conversion system shall be in compliance with the guidelines of the Federal Aviation Administration (FAA) regulations.

No wind energy conversion system shall be constructed within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five feet.

147.07 MINIMUM SYSTEM DESIGN STANDARDS. The following standards are required of all wind energy conversion systems and shall be deemed to be conditions of approval for every wind energy conversion system.

1. **Color:** The wind energy conversion system shall be white or light gray in color. Other neutral colors may be allowed at the discretion of the City Council upon recommendation of the Planning and Zoning Commission. The surface of the structure shall be non-reflective.
2. **Lighting:** No lights shall be installed on the tower, unless required by the Federal Aviation Administration (FAA).
3. **Signs:** One sign, limited to four square feet, shall be posted at or near the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the property owner/operator to call in case of emergency. Such sign shall be directly visible from any external fencing and/or landscaping. Brand names or advertising associated with any installation shall not be visible from any public right-of-way.
4. **Clearance of Blade Above Ground:** No portion of the tower mounted wind energy conversion system shall extend within 30 feet of the ground. No blades may extend over parking areas, driveways or sidewalks.
5. **Installation:** Installation must be completed by a qualified professional and according to the manufacturer's recommendations.
6. **Noise:** The wind energy conversion system shall not exceed 75 dBA as measured at the property limits of the property upon which the wind energy conversion system is located.
7. **Use of Electrical Energy Generated:** A wind energy conversion system shall be used exclusively to supply electrical power and energy for on-site consumption, except that when a parcel on which a wind energy conversion system is installed also receives electrical power supplied by a utility company, excess electrical energy generated by the wind energy conversion system and not presently required for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.
8. **Automatic Overspeed Controls:** All wind energy conversion systems shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed within the design limits of the wind energy conversion system.
9. **Electromagnetic Interference:** All blades shall be constructed of a nonmetallic substance. No wind energy conversion system shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception for radio, television, or wireless phone or other personnel communication systems would produce electromagnetic interference with signal transmission or reception. No wind energy conversion system shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.

10. **Interconnection:** The wind energy conversion system, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board.

11. **Wind Access Easements:** The enactment of this section does not constitute the granting of an easement by the City. The owner/operator shall provide covenants, easements, or similar documentation to assure sufficient wind to operate the wind energy conversion system unless adequate accessibility to the wind is provided by the site.

12. **Shadow Flicker:** A shadow flicker model demonstrates that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker expected to fall on a roadway or portion of a residentially zoned parcel may be acceptable if the flicker does not exceed 30 hours per year; and the flicker will fall more than 100 feet from an existing residence; or the traffic volumes are less than 500 vehicles on the roadway. The shadow flicker model shall:

A. Map and describe within a 1,000 foot radius of the proposed wind energy conversion system the topography, existing residences, and the location of their windows, locations of other structures, wind speeds and directions, existing vegetation, and roadways. The model shall represent the most probable scenarios of wind consistency, sunshine consistency, and wind directions and speed.

B. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations; calculate the total number of hours per year of flicker at all locations.

C. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including but not limited to, a change in the siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or landscaping or grading mitigation measures.

13. **Appearance:** The property owner of any wind energy conversion system shall maintain such system in a safe and attractive manner, including replacement of defective parts, painting, cleaning, and other acts that may be required for the maintenance and upkeep of the function and appearance of such a system. The owner shall maintain the ground upon which the system is located in an orderly manner, such that it is free of debris, tall grass, weeds, and any structures remain quality in appearance.

147.08 APPLICATION PROCESS. All applicants who wish to locate a wind energy system must submit to the City a plan including the following information.

1. Complete property dimensions.
2. Location and full dimensions of all building existing on the property where the system is located, including exterior dimensions, height of buildings, and all uses on the property.
3. Location and distances of all buildings within 200 feet of the property and uses on property.
4. Location and dimensions of any other natural or manmade features within 200 feet of the property such as trees, ridges, highways, streets, bridges, and underpasses.

5. Location of all easements upon the property where the system is to be located.
6. Proposed location of tower, including height and setbacks from property lines.
7. Drawings, to scale, of the structure, including the tower, base, footings and guy-wires, if any, and electrical components. The drawings and any necessary calculations shall be certified by a licensed engineer.
8. Certification from a licensed engineer or qualified professional that the rotor and over speed controls have been designed for the proposed use on the proposed site.
9. Evidence that the proposed wind energy conversion system model had an operational history of at least one year.
10. Evidence that the applicant has notified the utility that the customer intends to install an interconnected customer-owned generator, and that the generator meets the minimum requirements established by the utility and the Iowa Utilities Board. Off grid systems shall be exempt from this requirement.
11. Evidence that the wind energy conversion system does not violate any covenants of record.
12. Evidence from a qualified professional that the site is feasible for a wind energy conversion system, or that covenants, easements and other assurances to document sufficient wind to operate the wind energy conversion system have been obtained.
13. Evidence that the proposed wind energy conversion system will comply with applicable federal aviation regulations, including any necessary approvals from the Federal Aviation Administration.
14. Evidence that the applicant can obtain and maintain adequate liability insurance for the facility.
15. A noise study , if applicable.
16. A shadow flicker model, if applicable.
17. Any other evidence or information as required by the Planning and Zoning Commission and City.

147.09 ABANDONMENT. Any wind energy conversion system that is not operated for a period of 180 consecutive days shall be considered abandoned and shall constitute a nuisance. Within the next 180 days, after notice from the City, the owner shall reactivate the tower or it shall be dismantled and removed at the owner's expense. Removal of the system includes the entire structure including foundations, transmission equipment, and fencing from the property. If the abandoned wind energy conversion system is not removed in the specified time, the City may remove it and recover costs from the wind energy conversion system owner or owner of the ground upon which it is located.

147.10 NEW TECHNOLOGIES. Should new technology present itself within the term of any permit or lease that is more effective, efficient, and economical the permit holder may petition the City to allow the upgrade, provided the upgrade does not alter the conditions set forth in this chapter.

147.11 LIABILITY AND DAMAGES. The owner/operator of a wind energy conversion system must demonstrate adequate liability insurance. Upon the granting of a permit, applicant shall assume full responsibility for any and all damages, claims, expenses, liabilities, judgments,

and costs of any kind, including reasonable attorney's fees related to or caused by the erection, location, use, or removal of a facility, whether on public or private property, and shall agree to hold the City harmless, indemnify, and defend it from all such liabilities incurred or judgments against it as a result of the erection, location, use or removal of the facility.

147.12 ENGINEER CERTIFICATION. Applications for wind energy conversion systems shall be accompanied by standard drawings of the wind turbine structure, including the base, tower, and footings. An engineering analysis of the tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted.

147.13 UTILITY NOTIFICATION. A wind energy conversion system shall not be installed until evidence has been presented that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

147.14 INSPECTIONS. At least every 24 months, every tower shall be inspected by a qualified professional who is regularly involved in the maintenance, inspection and/or erection of towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection checklist provided in the Electronics Industries Association (EIA) Standard 222, Structural Standards for Steel Antenna Towers and Antenna Support Structures. A copy of the inspection record shall be provided to the City.

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CHAPTER 148

GEOHERMAL WELL STANDARDS

148.01 Purpose	148.08 Permit Fee
148.02 Definitions	148.09 Permit Suspension and Revocation
148.03 Permit Required	148.10 Open Loop Systems Prohibited
148.04 Application Procedure	148.11 Testing of System
148.05 Site Plan Requirement	148.12 Location of Geothermal Systems
148.06 Appeal Process	148.13 Abandonment of Geothermal Systems
148.07 Well Permits	148.14 Regulation Conflict

148.01 PURPOSE. It is the purpose of this chapter to protect the health, safety and general welfare of the people of the City by ensuring that the ground waters will not be polluted or contaminated. Due to the serious potential of adverse environmental impacts, this chapter will prohibit all open loop geothermal systems. It is also the intent of this chapter to allow for closed loop systems with the requirements contained in this chapter for the construction, reconstruction, repair and destruction of geothermal wells.

148.02 DEFINITIONS.

1. “Annular space” means the space between the casing or well screen and the wall of the borehole or between drilling pipe and casing or between two separate strings of casing.
2. “Aquifer” means a subsurface water-bearing layer of soil, sand, gravel, or rock that will yield usable quantities of water to a well.
3. “Borehole” means a hole drilled or bored into the earth, usually for exploratory or economic purposes; a hole into which casing, screen and other materials may be installed to construct a well.
4. “Casing” means an impervious, durable pipe placed in a borehole to prevent the walls of the borehole from caving, and to seal off surface drainage or undesirable water, gas or other fluids and prevent entrance into a well.
5. “Drinking water” means water that is intended for human consumption and other domestic uses, and is considered to be free of harmful chemicals and disease-causing microorganisms.
6. “Geothermal borehole” means a hole drilled or bored into the earth into which piping is inserted for use in a geothermal system.
7. “Geothermal system” means a system that uses the Earth’s thermal properties in conjunction with electricity to provide greater efficiency in the heating and cooling of buildings. “Geothermal system” also means a mechanism for heat exchange which consists of the following basic elements: underground loops of piping; heat transfer fluid; a heat pump; and an air distribution system. An opening is made in the earth. A series of pipes are installed into the opening and connected to a heat exchange system in the building. The pipes form a “closed loop” and are filled with a heat transfer fluid. The fluid is circulated through the piping from the opening into the heat exchanger and back. The system functions in the same manner as the open loop system except there is no pumping of ground water.

- A. Open Loop Geothermal System. Ground water is pumped from a water well into a heat exchanger located in a surface building. The water drawn from the earth is then pumped back into the aquifer through a different well or in some cases the same well, otherwise known as re-injection. Alternatively, the ground water could be discharged to a surface water body also known as pump and dump. In the heating mode, cooler water is returned to the earth, while in the cooling mode warmer water is returned to the surface water body.
- B. Closed Vertical Loop or Horizontal Geothermal System. A borehole extends beneath the surface. Pipes are installed with U-bends at the bottom of the borehole. The pipes are connected to the heat exchanger and heat transfer fluid is circulated through the pipes.
8. “Ground water” means water beneath the earth’s surface, that occurs between saturated soil and rock that supplies wells and springs.
9. “Grout” means a low permeability material that is emplaced in the space between the wall of the borehole and the casing of a well and, or, emplaced on the wall of the borehole. The emplacement of grout is to prevent the migration of water or fluid contaminants into and through the borehole. Grout shall consist of neat cement, high solids bentonite slurry, or hydrated bentonite chips.
10. “Heat exchanger” means a device usually made of coils of pipe that transfers heat from one medium to another; for example, from water to air or water to water.
11. “Heat transfer fluid” means any liquid used specifically for the purpose of transferring thermal energy from the heat source to another location.
12. “Low permeability material” means a geological unit of unconsolidated material (usually clay or till) or bedrock (usually shale) that is all or partially saturated, and having permeability low enough (10⁻⁷ cm/sec) to give water in the aquifer artesian head.
13. “Major geothermal system” means a horizontal or vertical closed loop system that is located more than 20 feet below the ground surface.
14. “Minor geothermal system” means a horizontal closed loop system that is placed no more than 20 feet below the ground surface.
15. “Permeability” means the propensity of a material to allow fluid to move through its pores or interstices. Permeability is an important soil parameter when flow of water through soil or rock is a matter of concern.
16. “Separation/isolation distance” means the distance of a source of contamination from a surface drinking water source, a ground water source supply well, or any type of borehole.
17. “Surface water” means water located on the surface of the earth in water bodies such as lakes, rivers, streams, ponds, and reservoirs.
18. “Tremie” means a tubing string (typically about two to three inches in diameter) that is temporarily installed into the borehole during well construction. The tremie pipe is used for installing annular material such as filter pack sand and grout.
19. “Water supply well” means a well used by public water systems, or non-public use, for extracting ground water for human consumption.

20. “Well” means any excavation that is drilled, cored, driven, dug, bored, augured, jetted, washed or is otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the aquifer. “Well” does not include an open ditch, drain tiles, an excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried, lateral geothermal heat exchange systems nor temporary dewatering wells such as those used during the construction of subsurface facilities only for the duration of the construction.

148.03 PERMIT REQUIRED. No person shall dig, bore, drill, replace, modify, repair, or destroy a geothermal well or any other excavation that may intersect ground water without first applying for and receiving a permit from the City. A permit is required for all closed loop horizontal and closed loop vertical systems.

148.04 APPLICATION PROCEDURE. Applications for permits shall be made to the City on approved forms and shall contain all such information as required on the form. The application shall be applied for by the property owner, their representative, or the well driller and accompanied by the required filing fee. Minor closed loop systems can be authorized by the Building Official in consultation with the City Engineer. For approval of a Major Geothermal System the property owner shall provide an environmental impact analysis prepared by an engineer certified to practice within the State of Iowa. Major Geothermal permits will need to have documents submitted for recommendations by the City Engineer and Building Official who shall then make a recommendation for major geothermal permit approval by the City Council.

148.05 SITE PLAN REQUIREMENT. A site plan showing the generally proposed location, number of wells, location of loops including description and MSDS sheets of the heat transfer fluid must be submitted for final approval. The plan must include the calculated anticipated volume of grout that will be required. The plan shall identify the heat transfer fluid including MSDS sheets. Heat transfer fluid that is toxic or Glycol will not be accepted. Geothermal pipe loops shall be of approved material for geothermal installation and have a 50 year warranty against defect and workmanship. They shall be installed with a tracer wire.

148.06 APPEAL PROCESS. For minor applications denied by the Building Official the applicant may appeal to the City Council. Appeal for major geothermal systems denied by the City Council may be appealed to the Iowa district court.

148.07 WELL PERMITS. All proposed well drillers must obtain a permit from the Linn County Health Department and conform to Chapter 149 of the *Iowa Administrative Code* Section 567-49.29(455B).

148.08 PERMIT FEE. The permit fee shall be \$25.00 and must be submitted with the application.

148.09 PERMIT SUSPENSION AND REVOCATION. The City may suspend or revoke any permit issued pursuant to this chapter whenever it finds that the permittee has violated any of the provisions of this chapter or has misrepresented any material fact in their application or any supporting documents for such permit.

148.10 OPEN LOOP SYSTEMS PROHIBITED. Due to the serious potential adverse environmental impact with open loop systems, open loop systems are prohibited.

148.11 TESTING OF SYSTEM. Geothermal piping systems shall be tested hydrostatically at one and one half times the maximum system design pressure, but not less than 100 psi (689 kPa). The duration of each test shall be not less than 15 minutes. All geothermal systems must be pressure checked by a licensed geothermal contractor, every three years from the certification system date. Results shall be submitted to the Community Development Department.

148.12 LOCATION OF GEOTHERMAL SYSTEMS. A site plan shall be prepared showing the property boundaries and easements of record and shall detail where the system is located on the property. Location of all loops shall be within the property boundaries of the building lot and not encroach on any recorded easements. Major systems shall not be located within 1,000 feet of a current City well or water source. Minor systems shall not be located within 200 feet of a City well or water source.

148.13 ABANDONMENT OF GEOTHERMAL SYSTEMS. The procedure used for abandonment of geothermal systems must be the same as currently described in Chapter 39 of the *Iowa Administrative Code* for Plugging Abandoned Wells. The heat transfer fluid must be removed by a displacement with grout. The top of the borehole must be uncovered and capped with grout.

148.14 REGULATION CONFLICT. In the event any of the provisions of this chapter conflict with any State or federal regulation, the State or federal regulations will control.

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CHAPTER 149

SOLAR ENERGY SYSTEMS

149.01 Purpose
149.02 Definitions

149.03 General Regulations
149.04 Bulk Regulations

149.01 PURPOSE. The purpose of this section is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety, and welfare of the community. The City finds these regulations are necessary to ensure that Solar Energy Systems are appropriately designed, sited, and installed.

149.02 DEFINITIONS.

1. “Collector panel” means an equipment assembly used for gathering, concentrating, or absorbing solar energy as useful thermal energy or to generate electric energy.
2. “Height, total ground mount system” means the height above grade of the system from the highest point, including the supporting structure, related equipment, and the collector panels. Adjustable angle systems will be measured from the highest point when the system is at its maximum vertical extension.
3. “Height, total building mounted system” means the height above the roof surface measured perpendicular to the roof specific to the installation on a sloped roof or the height above the roof surface specific to the installation on a flat roof.
4. “Large Solar Energy System” (LSES) means a solar energy system that has a nameplate rated capacity of over 15 kilowatts in electrical energy non-single family residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered a LSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as amended from time to time.
5. “Off grid” means an electrical system that is not connected to a utility distribution grid.
6. “Small Solar Energy System” (SSES) means a solar energy system that has a nameplate rated capacity of up to 15 kilowatts in electrical energy for residential uses and districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered a SSES only if it supplies electrical power or thermal energy solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as amended from time to time.
7. “Solar access” means a property owner’s right to have sunlight shine on his or her land.

8. “Solar energy” means radiant energy received from the sun at wavelengths suitable for heat transfer, photosynthetic use or photovoltaic use.
9. “Solar Energy System” (SES) means an aggregation of parts including the base, supporting structure, photovoltaic or solar thermal panels, inverters and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert radiant energy from the sun into mechanical or electrical energy.
10. “Solar energy building system, building integrated” means a solar photovoltaic system that is constructed as an integral part of a principal or accessory building and where the collector component maintains a uniform profile or surface with the building’s vertical walls, window openings, and roofing. Such a system is used in lieu of an architectural or structural component of the building. A building-integrated system may occur within vertical façades, replacing glazing or other façade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems. To be considered a building integrated solar energy system, the appearance of the collector components must be consistent with the surrounding materials.
11. “Solar energy system, building mounted” means an SES that is securely fastened to any portion of a building roof, whether attached directly to the principal or accessory building
12. “Solar energy system, ground mounted” means an SES that is not located on a building and is ground mounted.
13. “Utility scale solar energy system” means a solar energy system that supplies electrical power or thermal energy solely for use by off-site consumers.

149.03 GENERAL REGULATIONS.

1. Allowance for Solar Energy Systems shall be as follows:
 - A. A building integrated system.
 - B. A building mounted system attached to the roof of an accessory or primary structure.
 - C. A ground mounted system as a detached accessory structure to a primary structure.
 - D. Large Solar Energy Systems are not allowed in single-family or two-family residential used or zoned property.
 - E. Utility scale solar energy systems are not allowed.
2. Permit Required. It is unlawful to construct, erect, install, alter, or locate any Solar Energy System within the City, unless approved with:
 - A. Building permit in the following Zoning Districts:
 - R-1 Single-Family
 - R-2 Single- and Two-Family
 - B. Building permit and site plan for all other zoning districts.
 - C. The owner/operator of the SES must also obtain any other permits required by other federal, State and local agencies/departments prior to erecting the system.

3. Installation. Installation must be done according to manufacturer's recommendations. All work must be completed according to the applicable building, fire and electric codes. All electrical components must meet code recognized test standards.
4. Number of Systems per Zoning Lot. No more than one SES may be placed on any zoned lot unless otherwise specifically approved by the City Council.
5. Engineer Certification. Applications for any SES shall be accompanied by standard drawings of the receiving structure if newly constructed, including the supporting frame and footings. For systems to be mounted on existing buildings, an engineering analysis showing sufficient structural capacity of the receiving structure to support the SES per the applicable code regulations, certified by an Iowa licensed professional engineer shall be submitted.
6. Color. The SES shall be a neutral color. All surfaces shall be non-reflective to minimize glare that could affect adjacent or nearby properties. Measures to minimize nuisance glare may be required including modifying the surface material, placement or orientation of the system, and if necessary, adding screening to block glare.
7. Lighting. No lighting other than required safety lights or indicators shall be installed on the SES.
8. Signage. No advertising or signage other than required safety signage and equipment labels shall be permitted on the SES.
9. Maintenance. Facilities shall be well maintained in an operational condition that poses no potential safety hazard. Should the SES fall into disrepair and be in such dilapidated condition that it poses a safety hazard or would be considered generally offensive to the senses of the general public, the SES may be deemed a public nuisance and may be abated in accordance with Chapters 50 and 145 of this Code of Ordinances.
10. Displacement of Parking Prohibited. The location of the SES shall not result in the net loss of required parking as specified in Chapter 165 of this Code of Ordinances.
11. Utility Notification. No SES that generates electricity shall be installed until evidence has been given that the utility company has been informed of and is in agreement with the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
12. Interconnection. The SES, if interconnected to a utility system, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board.
13. Restriction on Use of Energy Generated. An SES shall be used exclusively to supply electrical power or thermal energy for on-site consumption, except that excess electrical power generated by the SSES and not presently needed for on-site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code.
14. Shut Off. A clearly marked and easily accessible shut off for any SES that generates electricity will be required as determined in accordance with Section 199, Chapter 15.10(3) of the Iowa Administrative Code, as amended from time to time.
15. Electromagnetic Interference. All SES shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SES is causing

electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate City authority. A permit granting a SES may be revoked if electromagnetic interference from the SES becomes evident.

16. Solar Access Easements. The enactment of this chapter does not constitute the granting of an easement by the City. The owner/operator may need to acquire covenants, easements, or similar documentation to assure sufficient solar exposure to operate the SES unless adequate accessibility to the sun is provided by the site. Such covenants, easements, or similar documentation is the sole responsibility of the owner/operator. Should the owner/operator pursue a solar access easement, the extent of the solar access should be defined and the easement document executed in compliance with the regulations contained in the Chapter 564A (Access to Solar Energy) of the *Code of Iowa*.

17. Compliance with National Electric Code. Applications for SES shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.

18. Removal. If the SES remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned. The owner/operator shall remove the abandoned system at said owner's expense. Removal of the system includes the entire structure, collector panels and related equipment from the property excluding foundations. Should the owner/operator fail to remove the system, the SES will be considered a public nuisance and will be abated with Chapters 50 and 145 of this Code of Ordinances.

19. Screening. Ground mounted SESs in commercial and industrial districts that are located adjoining a residential zoned district will require screening in accordance with regulations for screening in Chapter 165 of this Code of Ordinances. The need for and type of screening to be used shall be identified as part of the building permit, and site plan permit.

20. Nonconforming Systems. An SES that has been installed on or before the effective date of this chapter and is in active use and does not comply with any or all of the provisions of this chapter shall be considered a legal nonconforming structure and will be regulated by the provisions noted in Chapter 165 of this Code of Ordinances.

Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition any SES or associated building or structure, or part thereof declared to be unsafe by the appropriate authority.

149.04 BULK REGULATIONS.

1. Ground Mounted SES.
 - A. No part of an SES shall be located within or over drainage, utility, or other established easements, or on or over property lines.
 - B. The SES shall be located in accordance to the regulations for detached accessory structures in Chapter 165 of this Code of Ordinances or not less than one foot from the property line for every one foot of the system height measured at its maximum height, whichever is more restrictive.

- C. An SSES cannot be located in front of the rear wall of the primary structure, even if it meets the front yard setback requirements. An LSES cannot be located in the front yard setback.
 - D. An SES shall not be located in any required buffer.
 - E. The setback from underground electric distribution lines shall be at least five feet.
 - F. No SES shall be located which may obstruct vision between a height of 30 inches and 10 feet on any corner lot within a vision triangle of 25 feet formed by intersecting street right-of-way lines.
2. Building Mounted SES.
- A. The solar energy system shall be setback not less than one foot from the exterior perimeter of the roof for every one foot the system extends above the parapet wall or roof surface.
 - B. Should the solar energy system be mounted on an existing structure that does not conform to current setback requirements, the solar energy system shall be installed to meet the current setback requirements applicable to the receiving structure.
 - C. The system shall be designed to minimize its visual presence to surrounding properties and public thoroughfares. Panel arrangement shall take in account the proportion of the roof surface and place the panels in a consistent manner without gaps unless necessary to accommodate vents, skylights or equipment.
 - D. Access pathways for the SES shall be provided in accordance to all applicable building, fire, and safety codes.
 - E. The system shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.
3. Building Integrated SES.
- A. No setback is required.
 - B. Access pathways for the SES shall be provided in accordance to all applicable building, fire, and safety codes.
 - C. The system shall be located in such a manner that fall protection railings are not required or are not visible from the public thoroughfare.
 - D. No SES shall be constructed within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops).
 - E. Height Requirements:
 - (1) Ground Mounted SES. The maximum height of the SES shall not exceed 10 feet in height as measured from existing grade.
 - (2) Building Mounted SES.
 - a. The collector panel surface and mounting system shall not extend higher than 18 inches above the roof surface of a sloped roof.

b. The collector panel surface and mounting system shall not extend higher than seven feet above the roof surface of a flat roof.

(3) Building Integrated SES. The collector panel shall maintain a uniform profile or surface with the building's vertical walls, window openings, and roofing.

F. Size. Size of the SES is calculated by measuring the total surface area of the collector panels for the system.

(1) Ground Mounted SES. In single-family residential used or zoned property the SES is restricted in size to no more than the allowed area for detached accessory structures on the specific property. The SES would be included in the collective total of all detached accessory structures. In all other zoning districts the SES is restricted in size to no more than 50 percent of the area of the primary structure's footprint.

(2) Building Mounted SES. System size will be determined by the available roof area subject to the installation minus the required setbacks or access pathways.

(3) Building Integrated SES. System size will be determined by the available building surface area subject to the installation minus the required access pathways.

In no case shall an SSES exceed the nameplate rated capacity of 15 kilowatts.

G. Application Required. Application for SES shall be made on forms provided by the City. No action may be taken regarding requests for SES until completed applications have been filed and fees paid.

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CHAPTER 165

ZONING CODE

165.01	Definitions	165.13	Side Yards – Exceptions
165.02	Applicability to Unincorporated Areas	165.14	Rear Yards – Exceptions
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165.05	R-1 – Single Family District Regulations	165.17	Parking and Loading Regulations
165.06	R-2 – Single- and Two-Family District Regulations	165.18	Screening
165.07	R-3 – Multiple-Family District Regulations	165.19	Lighting Illumination Requirements
165.08	B-1 – Commercial District Regulations	165.20	Nonconforming Uses
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165.11	Height Exceptions and Modification	165.23	Duties of Board
165.12	Front Yards – Exceptions	165.24	Rules of the Board
		165.25	Appeals to the Board

165.01 DEFINITIONS. For the purpose of this chapter, the following words, terms, and expressions are defined.

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a structure or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal structure or use of land.
2. “Adult entertainment use” means any use or establishment which has as a substantial or significant portion of its business the offering of entertainment or stock in trade of materials, scenes, or other presentations characterized by an emphasis on or the depiction, exposure, or other description of specified sexual activities or specified anatomical areas, as defined herein. The term “adult entertainment uses” includes but is not limited to the following places where films, videotapes, or other electronic depictions, magazines, books, or other printed matter are sold or are shown, or live performances take place which are characterized by an emphasis upon the depiction, exposure or other description of specified sexual activities or specified anatomical areas: arcades, artist-body painting studios, bars, bookstores, cabarets, entertainment facilities, escort agencies or services, gentlemen’s clubs, juice bars, massage studios or parlors other than those duly licensed by the State, mini motion picture theaters, modeling studios, motels or hotels, movie theaters, restaurants, sexual encounter centers, strip-joints, theaters, or video stores.
3. “Agriculture” means the use of land for agricultural purposes, including farming, dairying, pasture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for treating or storing the produce; provided, however, 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. “Alteration” means a change in size, shape, occupancy, or use of structure.
5. “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.
6. “Apartment house” – see “dwelling, multiple.”

7. “Building” means any structure used or intended for supporting or sheltering any use or occupancy.
8. “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. Animal husbandry in an agricultural district by individual farmers does not constitute such a commercial enterprise.
9. “District” means any section for which the zoning regulations governing the use of buildings and premises, the height of building, the size of yards, and the type and intensity of use are uniform.
10. “Dwelling” means any building or portion thereof which is designed for or used for residential purposes.
11. “Dwelling, single-family” means a building designed for or occupied exclusively by one family.
12. “Dwelling, two-family” means a building designed for or occupied exclusively by two families.
13. “Dwelling, multiple” means a building designed for or occupied exclusively by three or more families.
14. “Establish” means: (i) to open, commence or relocate a particular use; (ii) to convert a given use, in whole or in part, to any other particular use; (iii) to add to, alter or expand an existing business in a way that causes said business to occupy over 50 percent more space than before such addition, alteration, or expansion.
15. “Family” means one or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a hotel as herein defined.
16. “Farm” means an area used for the growing of the usual farm products and their storage, as well as the raising thereon of the usual farm animals and poultry.
17. “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. A cul-de-sac is not a dead-end street and the property abutting it is considered frontage.
18. “Garage, private” means an accessory building designed or used for the storage of not more than four automobiles or light trucks 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 five-ton licensed capacity.
19. “Garage, public” means a building or portion thereof other than a private or storage garage, designed and used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.
20. “Garage, storage” means a building or portion thereof designed and used exclusively for term storage by pre-arrangement of motor-driven vehicles, as distinguished from daily, storage furnished transients, and at which motor fuels and oils are not sold, and motor-driven vehicles are not equipped, repaired, hired, or sold.

21. “Home occupation” means an occupation conducted in a dwelling unit, provided that:
- A. Occupation or profession conducted by a member or members of the immediate family residing therein and no more than one non-family.
 - B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 50 percent of the gross floor area of one floor of the dwelling unit shall be used in the conduct of the home occupation.
 - C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation.
 - D. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard.
 - E. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or cause fluctuations in line voltage off the premises.
22. “Hotel” means a building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to an apartment which is herein separately defined.
23. “Junk yard” means any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, stored, abandoned, or handled, including the dismantling or “wrecking” of automobiles or other machinery, house-wrecking yards, used lumber yards and places or yards for storage of salvage, house-wrecking, and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building.
24. “Lot” means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place.
25. “Lot, corner” means a lot abutting upon two or more streets at their intersection.
26. “Lot of record” means a lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Benton County, Linn County, or Iowa County; or a parcel of land, the deed of which was recorded in the office of the County Recorders of Benton County, Linn County, or Iowa County prior to the adoption of the ordinance codified by this chapter.
27. “Mobile home” means a detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor incidental unpacking or assembly operations, location on jacks or other

temporary or permanent foundations, connections to utilities, and the like. A mobile home is designed and constructed so that the wheels may remain attached to the unit. A recreational vehicle or modular home is not to be considered as a mobile home. The wheels utilized for the transportation of a modular home are designed and constructed to be used only in the movement, transportation, or delivery of the modular home, or are returned to the supplier upon erection of the modular home, or may not remain attached to the modular home after its erection on the site.

28. “Motel” means a building or group of buildings used for the temporary residence of motorists or travelers.

29. “Nonconforming use” means the use of land or a building or portion thereof, which use does not conform with the use regulations of the district in which it is situated.

30. “Parking space” means a surfaced area, enclosed in the main building or in an accessory building, or unenclosed, 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.

31. “Sign” means a name, identification, description, illustration, display, or device which is affixed to, painted, or represented upon a structure or land and which directs attention to a product, place, activity, person, institution, or business. For the purpose of definition, a sign may be single face or double face. However, a sign shall not include any display or any court, public, or official notice, nor shall it include the flag, emblem, or insignia of a nation, political unit, school, religious or charitable institution or organization. A sign also includes a permanent sign located within a building in such a manner as to be viewed or intended for view primarily from the exterior of the building.

32. “Specified anatomical areas” means the less than completely and opaquely covered human (i) genitals or pubic region, (ii) buttocks, or (iii) female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

33. “Specified sexual activities” means the: (i) showing of human genitals in a state of sexual stimulation or arousal; (ii) actual or simulated acts of human masturbation, sexual intercourse, oral copulation or sodomy; (iii) fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast.

34. “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.

35. “Story, half” means a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker and family or by a family occupying the floor immediately below it, shall be deemed a full story.

36. “Street” means a public or private thoroughfare which affords the principal means of access to abutting property.

37. “Structure” means anything constructed, erected, or placed with a more or less fixed location on the ground or attached or resting on something having a fixed location on the ground, including, but not limited to, buildings, walls, fences, billboards, and satellite dishes.

38. “Structural alterations” means any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof or in the exterior walls, excepting such repair or replacement as may be required for the safety of the building.

39. “Travel trailer or camping vehicle” means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are travel trailer, camping trailer, truck camper, and motor home. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes and not used as a place of permanent habitation. If any such vehicle is used in the State as a place of human habitation for more than 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 also includes house cars, and camp cars having motive power, devices such as pickup campers, intended by design to be attached onto vehicles, and designed for temporary occupancy as defined herein.

40. “Yard” means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except fences and vegetative screening or 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 the rear yard, the minimum horizontal distance between the lot line and the eave of a main building shall be used.

41. “Yard, front” means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and eaves of the main building or any projections thereof other than the projections of the usual uncovered stops, uncovered balconies or uncovered porch. On corner lots the front yard shall be considered to be the yard adjacent to the street upon which the lot has its least dimension.

42. “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 eaves of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porch.

43. “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 eaves of the main buildings or projections thereof.

165.02 APPLICABILITY TO UNINCORPORATED AREAS. This chapter is applicable to the following unincorporated areas adjacent to the corporate limits of the City, to-wit: Sections Twenty-five (25) and Thirty-six (36), Township Eighty-two (82) North, Range Nine (9) West of the Fifth P.M.

165.03 DISTRICTS AND GENERAL REGULATIONS.

1. Classifications. In order to classify, regulate and restrict the locations of trades, industries and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity of the use of the lot areas, and to regulate and determine the areas of

yards, courts, and other open spaces within and surrounding such buildings, the City is hereby divided into districts, of which there are seven in number, known as:

- A Agricultural
- R-1 Single-Family District
- R-2 Single- and Two-Family District
- R-3 Multiple Dwelling District
- B-1 Commercial District
- M-1 Restricted Industrial District
- F-1 Flood Plain.

2. District Zoning Map. The boundaries of the districts are shown upon the map which is made a part of this chapter, which map is designed as the "District Zoning Map." The District Zoning Map and all the notations, references and other information shown thereon are a part of this chapter and have the same force and effect as if the District Zoning map and all the notations, references, and other information shown thereon were fully set forth or described herein, the original of which District Zoning Map is properly attested and is on file with the Clerk.

3. Annexed Territory. All territory which may hereafter be annexed to the City shall be automatically classified in the A Agricultural District until otherwise changed by ordinance, after public hearing.

4. Zoning of Streets, Alleys, Public Ways. All streets, alleys, public ways, waterways and railroad right-of-ways, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways, waterways, and railroad right-of-ways. Where the centerline of a street, alley, public way, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

5. Amendments or Changes to Boundaries of Districts. 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. The amending 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 Clerk as other ordinances and a certified copy thereof be attached to the official zoning map. Such amendatory ordinance shall, however, not repeal or re-enact said map, but only amend it. The official zoning map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the City.[†]

6. Replacement of Zoning Map. In the event that the official zoning map becomes damaged, destroyed, lost, or difficult to interpret because of use, the Council may by resolution adopt a new official zoning map which shall supersede the prior map. The new official zoning map may correct drafting or other errors or omissions in the prior map, and may graphically show changes to the original map made by amendatory ordinance, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof in a manner not provided for within the ordinance. The new official zoning map shall be identified by date and the signature of the Mayor, attested by the Clerk, under the following words: "This is to certify that

[†] (See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)

this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the zoning ordinance of the City.”

7. Zoning Restrictions. Except as hereinafter provided:
 - A. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.
 - B. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.
 - C. The minimum yards and other open spaces, including lot area per family, required by this chapter or for any building hereafter erected, shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot area be reduced beyond the district requirements of this chapter.
 - D. No building shall be erected, or structurally altered, to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of the district in which such building is located.
 - E. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.

165.04 A – AGRICULTURAL DISTRICT REGULATIONS. A building or premises in the A Agricultural District shall be used only for the following purposes: agriculture, horticulture, general farming, and other agricultural activities, but not including the raising or keeping of livestock and poultry within 500 feet of an R District.

165.05 R-1 – SINGLE-FAMILY DISTRICT REGULATIONS. In the R-1 Single-Family District, a building or premises shall be used only for the following purposes:

1. Single-family dwellings.
2. Municipal buildings and structures necessary for the general health, protection, and welfare of the public, such as fire stations, police stations, water wells, pump stations, and other public utilities.
3. Home occupations.
4. Accessory buildings, including a private garage, and accessory uses customarily incident to the above uses, but not involving the conduct of a business.
5. Parks, playgrounds, and community buildings owned or operated by the City.
6. Churches and temples.
7. Temporary real estate office in conjunction with a new housing development, limited to the selling or renting of new units in such a development and in no case to be operated for more than one year following the completion of such construction.
8. Temporary building for construction purposes for a period not to exceed the completion date of such construction.
9. Funeral chapels for purposes of visitation and funeral services.

165.06 R-2 – SINGLE- AND TWO-FAMILY DISTRICT REGULATIONS. A building or premises in the R-2 Single- and Two-Family District shall be used only for the following purposes:

1. Any use permitted in the R-1 Single-Family District.
2. Two-family dwellings.
3. Day nurseries and child care centers.

165.07 R-3 – MULTIPLE-FAMILY DISTRICT REGULATIONS. A building or premises in the R-3 Multiple-Family District shall be used only for the following purposes:

1. Any use permitted in the R-2 Single- and Two-Family Districts.
2. Multiple dwellings.
3. Institutions of a religious, educational, eleemosynary, or philanthropic nature, but not a penal or mental institution.
4. Hospitals, except animal, criminal, or mental institutions.
5. Fraternities, sororities, private clubs, and lodges, excepting those the chief activity of which is a service customarily carried on as a business.
6. Public schools, elementary and high, or private schools having a curriculum the same as ordinarily given in a public elementary school or public high school.
7. Public libraries and museums.
8. Golf courses and country clubs, except miniature courses or practice driving tees operated for commercial purposes.
9. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, where the lot is occupied by a multiple dwelling, rooming house, hospital, or institutional building.
10. Railroad right-of-way and trackage but not including reclassification yards, terminal or maintenance facilities.
11. Cemeteries.

165.08 B-1 – COMMERCIAL DISTRICT REGULATIONS. A building or premises in the B-1 Commercial District shall be used only for the following purposes:

1. Any use permitted in the R-3 Multi-Family District, except single- and two-family dwellings.
2. Retail stores and shops.
3. Financial institutions.
4. Recreation facilities such as theaters (except drive-in theaters) and bowling alleys.
5. Wholesale establishments and warehouses.
6. The office or studio of a dentist, artist, musician, lawyer, architect, teacher, insurance agent, brokers, real estate agents; beauty parlors, all medical practices except for the treatment of animals or other member of a recognized profession.
7. Motels and hotels.

8. General service and repair establishments.
9. Accessory buildings and uses customarily incidental to any of the above uses.
10. Other businesses which in the opinion of the Council are of the same general character as those listed above as permitted uses and which will not be detrimental to the district in which they are located.

165.09 M-1 – RESTRICTED INDUSTRIAL DISTRICT REGULATIONS. A building or premises in the M-1 Restricted Industrial District shall be used only for the following purposes:

1. Any use permitted in the B-1 Business District except dwellings.
2. Processing and manufacturing establishments and storage facilities, except manufacturing or processing of explosive or flammable materials, that are not objectionable because of smoke, odors, dust, or noise.
3. Grain elevators.
4. Petroleum storage, but only after the location and treatment of the premises have been approved by the Fire Chief.
5. Drive-in theaters.
6. Pet shops and facilities for treatment of animals.
7. Special Exception Uses:
 - A. Adult entertainment uses, subject, however, to the requirements of this chapter for obtaining a special exception permit and to any supplementary district regulations in Section 165.16.
 - B. Reserved.

165.10 HEIGHT AND AREA REQUIREMENTS.

District	Maximum Height of Buildings		Minimum Depth of Front Yard	Minimum Width of Side Yard	Minimum Depth of Rear Yard	Minimum Lot Area Per Family	Minimum Frontage
	Stories	Feet					
R-1 Single Family	2 1/2	35	25 feet	5 feet ^A	25 feet	12,000 sq. ft.	80 feet
R-2 Single- and Two-Family	2 1/2	35	25 feet	5 feet ^A	25 feet	Single: 12,000 sq. ft. Two: 6,000 sq. ft.	80 feet
R-3 Multiple Family	3	45	25 feet	8 feet	25 feet	Multiple ⁴ Two: 6,000 sq. ft.	80 feet
B-1 Commercial	3	45	10 feet	None ²	None ²	None	None
M-1 Restricted Industrial	3	45	10 feet	15 feet ¹	None ¹	None	None
1 Where it adjoins a residential district – 30 feet. 2 Where it adjoins a residential district – 8 feet. Dwellings use same as R-3. 3 If dwellings allowed on second stories of buildings – same as R-3. 4 3,000 square feet per unit; 12,000 square feet minimum per structure. A The total of the side yards required in R-1 and R-2 shall equal 14 feet.							

165.11 HEIGHT EXCEPTIONS AND MODIFICATIONS.

1. The height regulations prescribed herein shall not apply to church spires and water, and fire towers.
2. Public, semi-public, or public service buildings, hospitals, institutions, or schools, where permitted, may be erected to a height not exceeding 60 feet and churches and temples may be erected to a height not exceeding 75 feet when the required side and rear yards are each increased by one foot for each foot of additional building height above the height regulations for the district in which the building is located.
3. The limitation on number of stories shall not apply to buildings used exclusively for storage purposes provided such buildings do not exceed the height in feet permitted in the district in which they are located.
4. No fence shall exceed eight feet in height in any district.

165.12 FRONT YARDS – EXCEPTIONS.

1. When 40 percent or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have a front yard which is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, a front yard depth shall not be required to exceed 50 percent in excess of the front yard otherwise required in the district in which the lot is located.
2. On lots having double frontage the required front yard shall be provided on both streets.

3. In a residential district no structure or planting higher than three and one-half feet above the established street grades shall be maintained within 20 feet of any street intersection. No fences shall be erected in any required front yard.
4. An open, uncovered porch or paved terrace may project into a required front yard for a distance of not more than 10 feet, but this shall not be interpreted to include or permit fixed canopies.
5. Filling stations pumps and pump islands may be located within a required yard provided they are not less than 15 feet from any property line and not less than 50 feet from the boundary of any residential district.
6. Ditch Size Requirements. Ditch size requirements for R-1 Single-Family, R-2 Single- and Two-Family and R-3 Multiple-Family Districts are as follows: four feet (minimum) – six feet back from road; 12 inches in depth.

165.13 SIDE YARDS EXCEPTIONS.

1. On a corner lot the width of the yard along the side street shall not be less than any required front yard on such street, provided, however, that the buildable width of a lot of record shall not be reduced to less than 28 feet.
2. No accessory building shall project beyond a required yard line along any street.
3. Where dwelling units are erected above a commercial establishment no side yard is required except when required for the commercial building on the side of a lot adjoining a residential district.
4. A porte-cochere or canopy may project into a required side yard provided every part of such a porte-cochere or canopy is unenclosed and not less than five feet from any side lot line.

165.14 REAR YARDS – EXCEPTIONS.

1. Where a lot abuts upon an alley, one-half of the alley width may be considered as part of the required rear yard.
2. An accessory building not exceeding 17 feet in height, and all buildings must not exceed a combined size of 576 square feet. No accessory building shall be closer than 10 feet to the main building and/or any structures or closer than five feet to any lot line. Must resemble principal structure (siding/windows etc.). No pole buildings of any kind. Allows one permanent building and one portable building with wood floor not bolted down to concrete.
3. The ordinary projections of sills, belt courses, cornices, and ornamental features may extend to a distance not to exceed 18 inches into a required yard.
4. Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard may be permitted by the Administrative Officer for a distance not to exceed five feet when these are so placed as not to obstruct light and ventilation.
5. No accessory buildings shall be constructed in any R-1, R-2, or R-3 District which exceed 17 feet in height.



165.15 LOT AREA PER FAMILY. Where a lot of record at the time of the effective date of the ordinance codified by this chapter has less area or width than herein required in the district in which it is located, and the owner of such lot does not own any other parcel or tract adjacent thereto, said lot may nonetheless be used for a one-family dwelling or for any nonconforming use permitted in the district in which it is located.

165.16 SUPPLEMENTARY DISTRICT REGULATIONS. Subject to previous sections of this chapter, the following provisions, regulations or exceptions shall apply equally to all districts except as hereinafter provided:

1. **Visibility at Intersections.** On a corner lot in any district, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two feet and 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 25 feet from the intersection of the right-of-way lines, and measured along the right-of-way lines.
2. **More Than One Principal Structure on a Lot.** In any district, more than one 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.
3. **Use of Public Right-of-Way.** No area within two feet of the traveled portions of the public road, street, or alley shall be used or occupied by an 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 purposes that would obstruct the use or maintenance of the public areas described above.
4. **Structures to Have Access.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and required off-street parking.
5. **Mobile Homes or Trailers Prohibited.** No mobile homes or travel trailers or camping trailers shall be occupied as either permanent or temporary places of residence except in an area specifically designated as a mobile home park or in accordance with Chapter 435 of the *Code of Iowa*.
6. **Junk Yards Prohibited.** No junk yards shall be maintained, operated, or constructed in any district.
7. **Adult Entertainment Uses.**
 - A. **General Statement of Intent; Applicability.** Because of their special characteristics, adult entertainment uses as defined in Section 165.01 of this chapter are recognized as having a potentially deleterious impact on surrounding establishments and areas, thereby contributing to the creation of blight and to the decline of neighborhoods. These negative impacts appear to increase significantly if adult entertainment uses are concentrated geographically. Also recognized is the need to protect lawful rights of expression and the use of property and not to unduly restrain general public access. Accordingly, it is the intent of these supplementary regulations to prevent the concentrations of adult entertainment uses in all areas of the City, to more severely limit their locations in areas where minors would be expected to live or congregate, and to otherwise regulate their locations in order to protect

and preserve the welfare of the community. It is the intent also to provide for sufficient locations for such establishments to protect basic legal rights of expression and public access. These regulations have been enacted with full consideration of the legal and constitutional issues heretofore adjudicated. The following supplementary regulations pertain to all adult entertainment uses but do not apply to services properly administered pursuant to a license issued by the State of Iowa for providing medical, psychiatric, or psychological services, physical or occupational therapy, massage therapy, cosmetology, chiropractic care, acupuncture, or other similar services.

B. Nonconforming Adult Entertainment Uses. Notwithstanding Section 165.20 concerning other nonconforming uses, any adult entertainment use which at the time of the adoption of the ordinance codified in this subsection becomes a nonconforming use shall be terminated no later than one year after the date of the adoption of such ordinance; provided, however, that if it has been terminated earlier for any reason or voluntarily discontinued for a period of 30 days or more, the use may not be reestablished. Any nonconforming adult entertainment use shall not be increased, enlarged, extended, altered, or otherwise established except insofar as it is changed to a conforming use. If two or more adult entertainment uses are situated within 500 feet of each other but are otherwise in a permissible location, then the one which was first established and continually operating at a particular location is the conforming use and the other shall be deemed a nonconforming use. An adult entertainment use lawfully operating as a conforming use shall not be deemed a nonconforming use if, subsequent to the grant or renewal of a permit for that adult entertainment use, a library, school, place of worship, public park, public playground or public plaza is located or an area is zoned for residential use within 500 feet of said adult entertainment use. This provision, however, shall not apply when an application for a special exception permit is submitted following the revocation or expiration of a permit. If, in the opinion of the owner of the business involving a nonconforming adult entertainment use, the termination of that use pursuant to this supplementary regulation would create an undue hardship, the owner may appeal to the Board of Adjustment for extension of time for the termination. It shall be the responsibility of the owner to show just cause for a time extension by evidence, submitted by the owner, which demonstrates by the greater weight of evidence that one year was not an adequate length of time to amortize the owner's investment in such establishment. The Board shall determine whether such a time extension shall be granted and how long such extension shall be, based upon the evidence presented. However, no establishment shall be granted more than one extension and no such extension shall be for longer than the minimum time determined necessary by the Board for the owner to amortize the investment which existed at the time of the adoption of the ordinance adding these provisions to this section. Any investments in said nonconforming establishment subsequent to the adoption of this provision shall not be included for such amortization value purposes. Such nonconforming establishment shall not increase, enlarge, expand, extend or alter or otherwise established such land area, building, or structure involved in such establishment except by changing the use to another use which is permitted in that zoning district by the terms of this chapter.

C. Permit Nontransferable. A special exception permit issued for an adult entertainment use shall not be transferred, in whole or in part. If the permittee seeks to transfer ownership, in whole or in part, of the adult entertainment use, then a new and separate application shall be made by the proposed transferee in accordance with this chapter.

D. Expiration of Permit. Each special exception permit issued for an adult entertainment use shall expire one year after the effective date of its issuance and may be renewed only upon application to the Board of Adjustment. Application shall be made no more than 60 and no fewer than 30 days prior to the expiration date, and if application is made during that 30-day period, the permit shall continue in effect without interruption.

E. Suspension of Permit. After the permittee is given notice and an opportunity to be heard by the Board of Adjustment, the special exception permit issued to an adult entertainment use shall be suspended for a period not to exceed 30 days upon a determination by the Board of Adjustment that the permittee or an employee of a permittee has:

- (1) Violated or is not in compliance with any applicable statutes, ordinances, rules, regulations, restrictions; or
- (2) Refused to allow an inspection of the permitted premises as authorized by this chapter.

F. Revocation of Permit. After the permittee is given notice and an opportunity to be heard by the Board of Adjustment, the special exception permit issued to an adult entertainment use shall be revoked upon a determination by the Board of Adjustment that a cause for suspension, as set forth in the preceding paragraph of this subsection, has occurred and the permit has been suspended within the twelve-month period preceding. In addition, the special exception permit issued to an adult entertainment use may be revoked after the permittee is given notice and an opportunity to be heard by the Board of Adjustment if the Board of Adjustment determines that one or more of the following has occurred:

- (1) A permittee gave false or misleading information on the material submitted during the application process.
- (2) A permittee or an employee of the permittee has knowingly allowed possession, use, or sale of controlled substances, as defined in the Iowa Code, on the permitted premises.
- (3) A permittee or an employee of the permittee has knowingly allowed prostitution on the permitted premises.
- (4) A permittee or an employee of the permittee has knowingly allowed any specified sexual activity to occur on the permitted premises.
- (5) A permittee or an employee of the permittee has knowingly allowed a person under 18 years of age to enter the permitted premises.
- (6) A permittee or an employee of the permittee has knowingly allowed the adult entertainment use to occur while the special exception permit was under suspension.

(7) A permittee is delinquent in the payment to the City or State for any taxes or fees of any nature.

(8) The special exception use permit has been transferred in whole or in part to one other than the permittee to whom it was issued by the Board of Adjustment.

G. **Minimum Separation Requirements.** No adult entertainment use may be situated within 500 feet from another such business or from any library, school, place of worship, public park, public playground, public plaza, or area zoned for residential use. For purposes of this restriction, measurement shall be taken on a direct line from the main entrance of such adult entertainment business to the point on the property line of such other business, school, place of worship, public park, public playground, public plaza, or area zoned for residential use which is closest to the main entrance of the adult entertainment use. No adult entertainment use may be situated within 200 feet of the public right-of-way for any arterial street in the City, as designated on the Arterial Street Map for the City.

H. **Signage.** No adult entertainment use shall be permitted more than a single wall sign which shall not exceed 10 square feet in size.

I. **No Minors Allowed.** No person under the age of 18 years of age shall be allowed on the permitted premises and it shall be the duty of the permittee to ensure compliance with this regulation.

J. **Periodic Reviews.** Without limiting any other remedy available to the City at law or in equity, the Board of Adjustment may condition the issuance of a special exception permit for an adult entertainment use upon satisfactory periodic reviews of the use, including a possible inspection of the permitted premises, in order to ensure it is complying with all applicable statutes, ordinances, rules, regulations, and restrictions.

165.17 PARKING AND LOADING REGULATIONS.

1. **Off-Street Parking.** The following parking spaces shall be provided and maintained on private premises for each building or premises in any district which, after the effective date of the ordinance codified in this section, is erected or altered for use for any of the purposes mentioned below, or the use of which is changed after that date so that such building or premises is thereafter used for any of the following purposes:

A. **Dwellings.** Two spaces for each dwelling unit.

B. **Funeral Homes, Medical and Dental Clinics, Taverns, and Restaurants.** One space per 100 square feet of floor area.

C. **Hotels and motels.** One space per rental unit.

D. **Motor Vehicle Sales and Machinery Sales.** One space per each 300 square feet of floor area.

E. **Retail Stores, Banks, Laundromats, and Business, Professional, and Government Offices.** One space per each 200 square feet of floor area.

F. **Furniture and Appliance Stores, Household Equipment or Furniture Repair Shops, and Wholesale Establishments (not including warehouses and**

storage buildings other than accessory). One space for each 600 square feet of floor area.

G. Establishments Engaged in Production, Processing, Cleaning, Servicing, Testing, or Repair of Materials or Manufacturing, and Warehouses and Storage Buildings. One space per employee, plus one space for each vehicle used in connection with the conduct of the enterprise, plus two additional spaces.

2. Parking Spaces. All parking spaces provided pursuant to this chapter may be in open or private garages, or both. A parking space shall be not less than 180 square feet of standing area.

3. Paved Parking. All parking spaces provided pursuant to this chapter shall be paved, oiled, or covered with gravel, shall be suitably drained, shall be maintained in good condition and shall have adequate means of ingress and egress.

4. Parking Adjacent. All parking spaces provided pursuant to this chapter shall be maintained adjacent to the building or premises for which such spaces are provided, except as otherwise stated in this chapter, and upon special permission by the Council, all or part of such parking spaces may be provided and maintained on premises not adjacent to the building if they are owned or controlled by the owner of such building, and if said parking spaces are not adjacent to the building, and if the building is in a business district, such parking spaces must also be in a business district.

5. Off-Street Loading. Any building or structure hereafter erected or converted for any commercial use shall provide one space, with minimum dimensions of 10 by 57 feet, for the loading and unloading of trucks, either within the building or upon the lot for every building containing 5,000 square feet or more of floor area. One additional loading space shall be provided for each additional 5,000 square feet of gross floor area.

165.18 SCREENING. A green belt planting strip consisting of evergreen shrubs and trees shall be used to screen any commercial or industrial use and the open storage of any materials or equipment along the side or rear of any lot adjoining a residential district. Such planting strip shall be of sufficient width and density to provide an effective screening with shrubs or trees not less than five feet in height when planted. In lieu of planting strips, an eight-foot solid vertical fence of masonry or heavy wood construction or other material approved by the Zoning Administrator may be used to screen the uses from any adjoining residential district.

165.19 LIGHTING ILLUMINATION REQUIREMENTS. Exterior lighting shall relate to the scale and location of the development in order to maintain adequate security while preventing a nuisance or hardship to adjacent properties or streets. Except for lighting of loading areas, service areas and for architectural emphasis, floodlighting is prohibited. Lighting shall comply with the following requirements:

1. Light fixtures 300 feet or less from a residential zone shall be mounted no higher than 25 feet.

2. Light fixtures great than 300 feet from a residential zone shall be mounted no higher than 35 feet.

3. All lights greater than 2,000 lumens, both pole-mounted and wall-mounted, shall be equipped with cutoff shields, so that no light shines above the horizontal and no direct light falls beyond property line. Light reflectors and refractors may be substituted for shields on ornamental and pedestrian light fixtures.

- 4. Light fixtures used to illuminate flags, statues and objects mounted on a pole or pedestal shall use a narrow cone of light that does not extend beyond the illuminated object.
- 5. Outdoor recreational facilities permitted by conditional use may be exempt from the specific exterior lighting standards provided the Council approves a lighting plan as part of the conditional use approval process.

165.20 NONCONFORMING USES.

- 1. The lawful use of any building or land existing at the time of the enactment of the ordinance codified by this chapter may be continued although such use does not conform with the provisions of this chapter. The nonconforming use of any building or land existing at the time of the enactment of this chapter may not be changed or replaced by any different use other than in conformity with the provisions of this chapter.
- 2. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformity with the provisions of this chapter.

165.21 ENFORCEMENT.

- 1. Administration and Enforcement. This chapter shall be enforced by the Mayor. No building permit shall be issued by the Mayor except where the provisions herein have been complied with.
- 2. Building Permits. It is unlawful for any person to erect, construct, enlarge, or move any building or structure regulated by this chapter or cause the same to be done without first obtaining a separate permit for each building or structure from the Mayor. Said permit shall be valid for one year and renewable for one additional year.
- 3. Permit Fees. The Mayor shall issue building permits when it has been shown to the satisfaction of the Mayor that such proposed building or extension will be in conformity with this chapter, and upon the payment of the following permit fees:

Commercial additions	\$200.00
Commercial.....	\$500.00
New home	\$200.00
Fences, decks, permanent sheds, etc.	\$ 25.00
Attached enclosed outside structures	\$ 50.00
Signs.....	\$ 50.00

The fee shall be deposited in the General Fund of the City. There shall be no fee for building permits issued for the erection or extension of buildings to be used solely for agricultural purposes in an agricultural district. The Mayor may inspect buildings being erected or extended at any time and when the same have been completed, shall issue a certificate of compliance, if the provisions of this chapter have been complied with.

- 4. Fees for Annexation, Rezoning and Variance Request. Any person requesting to annex private property into the City shall pay a fee of \$100.00. Any person requesting to rezone private property shall pay a fee of \$75.00. Any person requesting a variance shall pay a fee of \$200.00.

165.22 BOARD OF ADJUSTMENT. There is hereby established a Board of Adjustment comprised of five members, residents of the City, appointed by the Mayor with approval of the

Council. A majority of the members of the Board shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate. Members shall be appointed for staggered five-year terms. Vacancies shall be filled by appointment for the unexpired term only.

165.23 DUTIES OF BOARD. The Board shall have the following powers and duties:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an Administrative Official in the enforcement of this chapter.
2. To hear and decide special exceptions to the terms of this chapter.
3. 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 special conditions a literal enforcement of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

165.24 RULES OF THE BOARD. The business of the Board shall be conducted at public meetings, following due notice to the public in accordance with Iowa law. Said meetings shall be conducted at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in the absence of the Chairperson, the acting Chairperson, may administer oaths and compel the attendance of witnesses. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. Decisions of the Board shall be by concurring vote of four members of the Board. The Board shall adopt, and may from time to time amend, rules governing its conduct of meetings, provided such rules shall be in accordance with the provisions of Chapter 414 of the *Code of Iowa*.

165.25 APPEALS TO THE BOARD. Appeals to the Board may be brought by any person aggrieved or by any officer of the City affected by any decision of the Zoning Administrator. Such appeal shall be filed within 60 days of the decision of the Zoning Administrator which is being appealed. Such appeal shall be filed in writing with the Zoning Administrator. The Zoning Administrator shall forthwith transmit the notice of appeal and all papers constituting the record of the action appealed from to the members of the Board of Adjustment.

EDITOR'S NOTE			
The following ordinances have been adopted amending the Official Zoning Map of the City and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
148 (Official Zoning Map)	February 11, 2002		
164	August 9, 2005		
167	June 13, 2005		
175	December 12, 2005		
176	January 9, 2006		
185	September 14, 2009		
190	August 4, 2010		
198	October 13, 2014		
210	June 11, 2018		
212	July 30, 2018		

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 PURPOSE. The purpose of this chapter is to provide minimum standards for the design, development, and improvement of all new subdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the general planning of the community and to promote the public health, safety, and general welfare of the citizens of the City.

166.02 APPLICATION. No plat or subdivision in the City subject to control of the City under Section 354.9 of the *Code of Iowa* shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed in this chapter. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into two or more parts (excepting acquisition plans as defined in Section 166.07) for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or a two-mile radius from the current City corporate limits, or from any other agreement with Benton/Linn Counties, Iowa, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots herein contained or placing the plat on record. The City is granted the authority to review said proposed subdivisions outside the City limits by Section 354.9 of the *Code of Iowa*.

166.03 RECORDING OF PLAT. No subdivision plat or street dedication within the City of Walford, Iowa, or within a two-mile radius of the current City corporate limits or within the area of any other County Agreements shall be filed for record with the County Recorder or recorded by the County Recorder until a final plat of such subdivision, or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the City Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after 30 days, unless such plat has been duly recorded and a copy of the recorded plat filed with the City Clerk within such 30 days.

166.04 FEES ESTABLISHED. The City Council shall from time to time establish by resolution fees for the review of plats. No plat for any subdivision shall be considered filed with the City Clerk unless and until said plat is accompanied by the fee, as established by resolution of the City Council and as required by this chapter.

166.05 PENALTIES. Any person or persons, as owner or agent, who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this chapter until the plat thereof has been approved by the City Council and recorded as required by law shall forfeit and pay \$1,000.00 to the City for each lot or part of lot sold, disposed of, or offered for sale. The violator will also be subject to a simple misdemeanor or municipal infraction for each lot sold in violation of this provision. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this chapter. These remedies include, but are not limited to, the City's ability to institute an action for injunction, mandamus, or other appropriate action or proceeding to prevent any pending disposal or offer of sale, or to prevent any further disposal or offer to sale in violation of this chapter.

166.06 BUILDING PERMIT TO BE DENIED. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by the ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements (except sidewalks adjoining any or all lots) required by this chapter have been accepted by the City or other provision have been made in writing with the City regarding the completion of improvements. A building permit may be issued without the establishment of sidewalks in place. However, before any occupancy of the subdivided property occurs, the permit holder must install all sidewalks as required by this chapter or obtain a waiver of the requirement from the City regarding the same.

166.07 DEFINITIONS. For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the masculine gender shall include the feminine, the term "shall" is always mandatory, and the term "may" is permissive.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.
3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
4. "Auditor's plat" means a subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor.
5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, the boundary of the subdivision, or a combination of thereof.
6. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the City Council or other hiring authority.

7. “Community Development Plan” means the general plan or series of plans, if any, for the development of the community that may be titled master plan, land use plan, comprehensive plan or some other title, which plan has been adopted by the City Council. Such “Community Development Plan” shall include any part of such plan separately adopted and any amendment to such plan or parts thereof.
8. “Conveyance” means an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract.
9. “Cul-de-sac” means a street having one end connecting to another street and the other end terminated by a vehicular turn around.
10. “Design standards” means the City of Walford, Iowa, Technical Standards For Public Improvements as adopted by resolution and as may be from time-to-time amended thereafter by action of the City Council.
11. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.
12. “Easement” means an authorization by a property owner for another entity or utility to use a designated part of the property for a specified purpose.
13. “Flood hazard area” means any area subject to flooding by a one percent probability flood, otherwise referred to as a 100-year flood, as designated by the Iowa National Resources Council or the Federal Insurance Administration.
14. “Flood Plain Management Ordinance” means an ordinance regulating the development of all property located within a flood plain as shown on the FEMA flood plain map for the City of Walford. The Walford Flood Plain Management Ordinance is Ordinance No.186, Chapter 37 of this Code of Ordinances. No provision of this chapter shall vary the terms and conditions of the Flood Plain Management Ordinance.
15. “Floodway” means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100-year flood without cumulatively raising the waterway surface elevation more than one foot.
16. “Forty-acre aliquot part” means one-quarter of one-quarter of a section.
17. “Government lot” means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.
18. “Improvements” mean changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainage ways, and other public works and appurtenances.
19. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.
20. “Lot, corner” means a lot situated at the intersection of two streets.
21. “Lot, double frontage” means any lot that is not a corner lot that abuts two streets.
22. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.

23. “Official plat” means either an auditor’s plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the County Recorder, Auditor, and Assessor.
24. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
25. “Parcel” means a part of a tract of land.
26. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.
27. “Planning and Zoning Commission” or “Commission” means the appointed commission designated by the City Council for the purpose of this chapter, and may also be the zoning commission, in which case such commission shall be known as the Planning and Zoning Commission.
28. “Plat” means a map drawing, or chart on which a subdivider’s plan as prepared in accordance with this chapter for the subdivision of land to be presented, that he or she submits for approval and intends, in final form, to record. Preliminary and Final Plats are required.
29. “Plats Officer” means the individual assigned the duty to administer this chapter by the City Council or other appointing authority.
30. “Plat of survey” means the graphical representation of survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor, in accordance with the current *Code of Iowa*.
31. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.
32. “Street” means public property or right-of-way dedicated to and accepted for the public use, which affords the principal means of access to abutting property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property or may refer to the paving installed within such right-of-way.
33. “Street, arterial” means a street primarily intended to carry traffic from cross-town or through traffic and not intended to provide access to abutting property.
34. “Street, collector” means a street primarily designed to connect smaller areas of the community and to carry traffic from local streets to arterial streets.
35. “Street, local” means a street primarily designed to serve as a means of access to abutting property. They are intended to be low speed (less than or equal to 25 MPH) and short trip routes, with usually less than 500 vehicles per day use.
36. “Subdivider” means the owner of the property being subdivided or such other person or entity empowered to act on the owner’s behalf.
37. “Subdivision” means the division of land into two or more parts for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context, may refer to the process of subdividing or to land subdivided.

38. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the County where the land is located.
39. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114 of the *Code of Iowa*.
40. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.
41. “Utilities” means the systems for the distribution or collection of water, gas, electricity, telephone, cable, wastewater, and stormwater.

166.08 IMPROVEMENTS REQUIRED. The subdivider shall, at his or her expense, install and construct all improvements required by this chapter and the Design Standards of the City of Walford and as generally shown on the preliminary plat within the subdivision proper. All required improvements shall be constructed in accordance with the aforementioned Design Standards established for such improvements and shall be reviewed by the City and the City Engineer.

1. Urban Renewal Area Exception. The City may consider waiving portions of this section if all of the following circumstances exist:
 - A. The subdivision is located within an active urban renewal area eligible for tax increment reimbursement, and;
 - B. The subdivider can demonstrate how the City’s participation in cost sharing for improvements within the subdivision will achieve the goals and objectives of the urban renewal area, and;
 - C. The subdivider is prepared to offer the City an infrastructure improvement, property, or service that is equal or commensurate to the City’s financial contribution and meets the stated goals and objectives of the City’s Urban Renewal Plan.
2. In all cases, the subdivider shall extend municipal utilities and services to the edge of a subdivision.

166.09 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this chapter by the City Engineer. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City. Reimbursement for said costs shall be received prior to Final Plat approval.

166.10 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare. All of the minimum improvements mandated by this section shall be designed and constructed in accordance with the requirements of this chapter, the Walford Design Standards, and the minimum requirements of all applicable State or federal regulatory agencies or departments. The subdivider must provide evidence of any and all construction permits, highway or road easements and access, or other appropriate documentation from State or federal regulatory agencies prior to approval of the final plat. Easements from all utility companies will also be required. The City reserves the right to request changes to a proposed subdivision that may exceed the municipal capacities for streets, sewer, water, or other services. In this

event, the City may request a proportional fee from the subdivider, to be determined by the City and the City Engineer, for any required capacity improvements.

1. Streets in General. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate paving, including curb and gutter on all streets.

A. Under some circumstances the City may require, as a condition for approval of the plat, dedication and improvement of a street having a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of improving the wider street and the street width reasonable to meet the foreseeable needs of the subdivision taken alone. The streets shall, upon final approval and acceptance by the City, become the property of the City. The street shall be constructed in compliance with the City of Walford, Iowa, Design Standards.

2. Sanitary Sewer System in General. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access holes, and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's sanitary sewer. The City's role in reviewing the plans is to determine the sanitary sewer's placement, size, and route. The sanitary sewer system shall be constructed in compliance with the City of Walford, Iowa, Design Standards.

A. Under some circumstances the City may require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City sanitary sewer system as it relates to both the area being platted and other areas. In such event, the City will pay the subdivider the difference in cost of pipe and installation between the larger sewer and the diameter of sewer reasonable to meet the foreseeable needs of the area.

B. The City's inability to efficiently collect or treat waste water may be grounds for rejection of a proposed subdivision. A proportional fee may be requested by the City, from the subdivider, to pay for the necessary upgrades in the sewer system.

C. The sewer system improvements shall, upon inspection, approval and acceptance by the City, become the property of the City.

D. The subdivider must provide evidence of construction permits from the Iowa Department of Natural Resources prior to approval of the final plat.

3. Storm Sewer System. The subdivider of land being platted shall install and construct a storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas. The storm sewer system shall be constructed in compliance with the City of Walford, Iowa, Design Standards.

A. Storm sewer facilities shall be located in the road right-of-way, where feasible, or in the perpetual unobstructed easements of appropriate width.

B. In the storm sewer design phase, the subdivider shall study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. The subdivider's drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Council may withhold approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the City Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

C. The subdivider must document that adequate storm detention is included in the storm sewer design by submission of design calculations with the Preliminary Plan. This may require work outside of the proposed subdivision's boundaries which is the sole responsibility of the subdivider. The City may require this work to be undertaken to protect surrounding properties as a condition for approval of the subdivision.

D. The storm sewers shall, upon inspection, approval, and acceptance by the City, become the property of the City. However, may not own any detention basin or other storage facility and may require written provisions for the maintenance of the facility.

4. Water Main System in General. The subdivider of land being platted shall install and construct a water main system to adequately serve all lots or parcels of land within the platted area, with due regard to the present and reasonably foreseeable needs of the entire area. The City currently does not own or operate a public water system. The subdivider will provide for a written Subdividers Agreement that the system that is approved to be constructed within the platted area will at some future day be conveyed to the City at no cost. The minimum acceptable standard for water main design will as established by the City Engineer. The water main system shall be constructed in compliance with the City of Walford, Iowa, Design Standards with special provisions to meet the Iowa Department of Natural Resources requirements.

A. The subdivider shall install adequate water facilities and flushing hydrants which shall be subject to City specifications and shall be subject for review and approval by the Walford Fire Chief for possible locations to be constructed, and if applicable, dry hydrant locations.

B. All Iowa Department of Natural Resources permits must be secured prior to approval of the final plat.

C. Under some circumstances the City may require, as a condition for approval of the plat, installation of a water main that is larger than necessary to meet the needs of the platted area, but necessary to complete a City water distribution system sometime in the future as it relates to both the area being platted and other areas. In such event the City will pay the subdivider the difference in cost of pipe and installation between the larger water main and the diameter of water main reasonable to meet the foreseeable needs of the area. Refer to the City of Walford, Iowa, Design Standards.

5. Other Improvements. The owner and subdivider of the land being platted shall be responsible for the installation of sidewalks within all street right-of-way areas, the

installation of compliant erosion control measures, all other utilities that serve the City, and the installation of street lighting. All such improvements shall be under the direction of the City Engineer. All improvements as addressed in the City of Walford, Iowa, Design Standards shall be constructed.

166.11 EASEMENTS REQUIRED.

1. Public Utilities. The flexible placement of easements for public utilities shall be allowed, however, such placement shall be subject to the review of the Governing Body and all applicable utility companies prior to approval of the final plat. All utilities to serve each lot shall be placed in a common easement. Said easements shall be at least 10 feet in width. Easements of greater width may be required along lot lines or across lots when necessary for the placement and maintenance of all utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.

2. Easements Along Streams and Watercourses. Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his or her own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement equal to the floodway along said stream or watercourse to ensure the proper maintenance of the watercourse, as approved by the City.

166.12 MAINTENANCE BOND REQUIRED. The owner and subdivider of the land being platted shall be required to provide to the City proper maintenance bonds satisfactory to the City, so as to insure that for a period of two years from the date of acceptance of any improvement, the owner and subdivider shall be responsible to maintain such improvement in good repair. The City may, at its sole discretion, accept alternative sureties to maintenance bonds to insure the workmanship of the improvements accepted by the City.

166.13 STANDARDS PRESCRIBED. The standards set forth in this chapter and those contained in the Design Standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare. These standards should also be considered in accordance with the requirements of applicable State and federal agencies. In the event that the City's minimum standards should conflict with applicable State and federal requirements, the State and federal requirements shall prevail.

166.14 LAND SUITABILITY. No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography, or other conditions likely to be harmful to the public health, safety, or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the City Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the City Council may reaffirm, modify, or withdraw its determination regarding such unsuitability.

166.15 LANDS SUBJECT TO FLOODING. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City unless it is demonstrated that the subdivision complies with all requirements of Chapter 37 of this Code of Ordinances. No lot shall be located so as to include land located within a floodway or flood hazard area unless the lot is of such size and shape that it will contain a buildable area, not within the floodway or flood hazard area, suitable for development as allowed by the zone in which the lot is located.

Those areas subject to flooding shall be determined by the U.S. Federal Emergency Management Agency (FEMA) flood plain map for the City. Land located within a flood hazard area or a floodway may be included within a plat as follows, subject to the approval of the City.

1. Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.
2. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

166.16 PLAT TO CONFORM TO COMMUNITY DEVELOPMENT PLAN. The arrangement, character, extent, width, grade, and location of all streets shall conform to the Design Standards for such streets as approved by the City Council. The general nature and extent of the lots and uses proposed shall conform to the Community Development Plan of the City, provided such plan has been adopted by the City, and may also conform to such other plans as Future Land Use or any other conceptual Plan determined at the time by the City.

166.17 CONSTRUCTION STANDARDS FOR IMPROVEMENTS. In addition to any standards set forth in this chapter the subdivider shall be governed by the provisions of the City of Walford, Iowa, Design Standards. The Design Standards shall have such force and effect as if they were fully set forth herein.

166.18 STREET STANDARDS. The City Design Standards shall govern all standards for the construction of streets, driveways, sidewalks, and other utilities as provided therein unless specifically contradicted by the terms of this chapter.

1. General. The following standards shall apply to all streets to be located within the subdivision:
 - A. Streets shall provide for the continuation of arterial and collector streets from adjoining platted areas, and the extension of such streets into adjoining unplatted areas. Where a plat encompasses the location for an arterial or collector street proposed in the Plan, the plat shall provide for such street.
 - B. Street grades shall align to existing streets, and all grades for streets shall be as approved by the City.
 - C. Arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.
 - D. Street right-of-way widths and pavement widths shall be as specified in the Design Standards for public improvements.
 - E. Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.
 - F. Local streets should be designed to discourage through traffic while safely connecting to collector or arterial streets.
 - G. Street jogs with centerline offsets of less than 125 feet shall be prohibited, except where topography or other physical conditions make such jogs unavoidable.
 - H. Streets shall intersect as nearly at right angles as possible, and no street shall intersect any other street at less than 60 degrees.

- I. At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.
- J. Dead end streets are prohibited, except where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed. A temporary turn around easement on the adjacent lots at the dead end shall be included until such time the street is extended. A minimum right-of-way easement diameter of 100 feet shall be provided.
- K. Streets that connect with other streets, or loop streets, are preferable for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted if there are no other feasible alternatives available.
- L. In general, alleys shall not be permitted in residential areas and shall be required in commercial areas with normal street frontage. Dead end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of 100 feet.
- M. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and adequate utility connections. Easements for the future openings and extensions for such streets or utilities may, at the discretion of the City Council, be made a requirement of the plat.
- N. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the City Council.
- O. Private streets shall be prohibited. The City Council may approve a waiver to this rule where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.
2. Railroads and Limited Access Highways. Railroad right-of-ways and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:
- A. In all districts a buffer strip at least 50 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way. A buffer strip at least 20 feet in depth in addition to the normal depth of the limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."
- B. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 225 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

166.19 BLOCK AND LOT STANDARDS. The following standards shall apply to the layout of blocks and lots in all subdivisions:

1. No residential block shall be longer than 1,300 feet or shorter than 300 feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots with utility easement.
2. In blocks over 700 feet in length, the City Council may require a public way or an easement at least 10 feet in width, at or near the center of the block, for use by pedestrians.
3. The size and shape of lots intended for commercial or industrial use shall be adequate to provide for the use intended and to meet the parking, loading, and other requirements for such uses contained in the zoning chapter.
4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.
5. All lots shall comply with all requirements of the zoning chapter applicable to the zone in which the lot is located.
6. All lots shall abut a public street or an approved private street.
7. Unless unavoidable, lots shall not front or have direct access to arterial streets. Where unavoidable, lots shall be so arranged as to minimize the number of access points.
8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the City Council, a waiver of this provision will provide a better street and lot layout.
9. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on minor streets.

166.20 PARKS AND OPEN SPACE. All subdivisions should be so designed as to meet the neighborhood park and open space needs of their residents. The following standards and procedures will be used to determine the park and open space requirements for all proposed developments or subdivisions greater than one-half acre in size within the City:

1. For all developments and subdivisions, the subdivider shall be responsible for providing adequate park and open space in one or both of the following ways, depending on the decision of the City.
 - A. If it is feasible and compatible with the Plan of the City, as determined by the City Council upon the recommendation of the Planning and Zoning Commission, the subdivider will be required to dedicate and reserve an area for parks and open space, without cost to the City.
 - (1) The amount of land shall be determined by first calculating the entire size of the land area of the proposed development as shown on the preliminary plat or site plan and then to require dedication or reservation of five percent of this amount for parks and open space.
 - (2) This area shall be denoted on the final plat prior to approval of the final plat.

B. Where such dedication is not feasible or compatible with the Plan, as determined by the City Council upon recommendation of the Planning and Zoning Commission, the subdivider shall, in lieu thereof, pay to the City a fee or combination of fee and land, equivalent to the value of the required dedication or reservation to be determined and used in the following manner:

(1) The City Council, upon recommendation of the Planning and Zoning Commission, shall determine the size of the land area which it would have required to set aside for parks and open space (five percent of the total land area).

(2) The cash value of said land shall be determined by taking the total purchase price or cost of all the land in the proposed subdivision and charge the owner the proportionate value of the land area so designated, based upon such purchase price or cost, provided such purchase price or cost is the current fair and reasonable value of the land. If such purchase price or cost does not reflect the current fair value of the land, the fair value of said land shall be determined by an impartial appraisal, and in such manner as may be designated by the City Council, cost for said appraisal to be shared equally between the subdivider and the City.

(3) All funds so levied, assessed, and collected by the City shall be deposited in a special fund to be known as the Special Fund for the Acquisition and Development of Public Service Areas, Open Space and Recreational Facilities, and said funds so levied and collected shall be used for such purposes at such places and in such a manner as shall be approved, ordered and directed by a recreation committee appointed by the City Council. Any interest accumulated upon such funds shall be added to the Special Fund and be used only for acquisition and developments of open space and recreational facilities.

2. At the time of the preliminary plat approval, the City Council, upon recommendation by the Planning and Zoning Commission, shall determine whether to require a dedication of land within the subdivision or the payment of a fee, in lieu thereof, or a combination of both, from the subdivider for parks and open space.

3. Where a dedication is required, it shall be accomplished with a properly executed Warranty Deed dedicating the required land to the City without cost to the City. Where a fee, in lieu of dedication is required, the fee shall be deposited with the City Clerk. Whichever action is required, it shall be accomplished prior to the approval of the final plat.

4. The determination by the City of whether to require dedication of land, or a fee, in lieu thereof, shall be based on the following:

A. Recreational element of the City's Plan.

B. Topographic and geologic conditions and access and location of land in subdivision available for dedication.

C. Size and shape of the subdivision and land available for dedication.

D. The relation of the subdivision to the Plan map, particularly as such Plan map may show proposed public service areas, open space, and recreational areas.

- E. The character and recreational needs of the neighborhood in which the subdivision is located.
- F. The unsuitability in the subdivision for open space and recreational purposes by reason of location, access, greater cost of development, and maintenance.
- G. The possibility that land immediately adjoining the subdivision will serve in whole or in part the public service area, open space, and recreational needs of such subdivision.
- H. Any and all other information relevant to a proper determination.

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

166.21 PARKS AND SCHOOL SITES RESERVED. When a tract being subdivided includes lands proposed to be parks or school sites in the Plan or other official plan of the City, the subdivider shall indicate such areas on the plat.

1. Proposed park sites shall be reserved for three years, giving the City or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park site not be purchased within three years, the subdivider may then amend the final plat.
2. Proposed school sites shall be reserved for three years, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half of the cost for grading and paving, including curbs of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within three years, the subdivider may then amend the final plat.

166.22 NONRESIDENTIAL SUBDIVISIONS. The following provisions shall apply to nonresidential subdivisions:

1. General. If a proposed subdivision includes land that is used for commercial or industrial purpose, the layout of the subdivision with respect to such land may be subject to additional provisions as the City Council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the City Council, and shall conform to the proposed land use and standards established in City Plans and regulations.
2. Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the City that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. In addition to the Design Standards, the following principles and standards shall be observed:

- A. Proposed industrial or commercial parcels shall comply with the zoning chapter.
- B. Street rights-of-way width and pavement thickness shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
- C. Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer, and stormwater drainage and detention.
- D. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.
- E. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

166.23 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a pre-application conference with the City Clerk. The conference should be attended by the Mayor or other officers and such other City or utility representatives as are deemed desirable, and by the owner and his or her engineer or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems related to the proposed subdivision.

166.24 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

166.25 PRESENTATION TO PLANNING AND ZONING COMMISSION. The subdivider may present the sketch plan to the Planning and Zoning Commission for review, prior to incurring significant costs preparing the preliminary or final plat.

166.26 SUBDIVISION CLASSIFIED. Any proposed subdivision shall be classified as a minor subdivision or a major subdivision, and according the provisions of any Agreements with Linn or Benton County if applicable.

1. Minor Subdivision. Any subdivision that contains not more than three lots fronting on an existing developed street or private drive and that does not require State permit approval for construction of any public improvements and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.
2. Major Subdivision. Any subdivision that, in the opinion of the City Council, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

166.27 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider shall submit to the City, plats and other information as required by this

chapter and Design Standards. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision may elect to combine the requirements of the preliminary and final plats into a single document.

166.28 REQUIREMENTS OF THE PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk 20 copies of the preliminary plat, drawn at a scale of one inch equals 100 feet or larger. Sheet size shall not exceed 24 inches by 36 inches. Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point, and date.
2. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the County.
3. The name and address of the owner and the name, address, and profession of the person preparing the Plan.
4. A key map showing the general location of the proposed subdivision in relation to surrounding development.
5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within 200 feet of the subdivision boundary shall be attached.
6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.
7. Existing and proposed zoning of the proposed subdivision and adjoining property and identification of the Plan or Agreement designations where relevant.
8. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater.
9. Identification of any flood plain areas and 100-year flood elevation, and the flood plain alpha-numeric designation within the subdivision.
10. The legal description of the area being platted.
11. The boundary of the area being platted, shown as a dark line with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
12. The layout, numbers and approximate dimensions of proposed lots.
13. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
14. The proposed names for all streets in the area being platted.
15. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, cable utilities, telephone utilities and other facilities, and their connections to existing utilities.
16. Proposed easements, showing locations, widths, purposes, and limitations.

17. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Plan or other adopted plans.
18. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
19. Any other pertinent information, as necessary.
20. The fee as required by this chapter.
21. All initial developments (phase one) and all future planned developments within the area (phase two, phase three, etc.). Failure to completely identify all proposed developments in the subdivision area will be grounds for rejecting the plat.

166.29 PROCEDURES FOR REVIEW OF PRELIMINARY PLATS.

1. The City Clerk, upon receipt of 20 copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat as provided herein.
2. The City Clerk shall provide copies of the plat to the City Engineer, to the City Attorney, and such other persons as necessary to review the plat, and shall schedule the plat for consideration by the Planning and Zoning Commission.
3. The Planning and Zoning Commission shall examine the plat and the reports of the City Engineer and City Attorney, and such other information as it deems necessary or desirable to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Plan and other duly adopted plans of the City. The Planning and Zoning Commission shall, within 45 days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the City Council. If such recommendation is to disapprove or modify the plat, the reasons therefor shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the subdivider.
4. The City Council shall examine the plat, the reports of the City Engineer and City Attorney, the report of the Planning and Zoning Commission, and such other information as it deems necessary or desirable. Upon such examination, the City Council shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City, in order to protect the public health, safety, and welfare. Following such examination, the City Council may approve, approve subject to conditions, or disapprove the plat. If the decision of the City Council is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefor shall be set forth in writing in the official records of the City Council, and such decisions shall be provided to the subdivider. Action on the preliminary plat by the City Council shall be taken within 60 days of the filing of the plat with the City Clerk.

166.30 DURATION OF APPROVAL OF PRELIMINARY PLAT. The approval of a preliminary plat by the City Council shall be valid for a period of one year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity by the City Council.

166.31 AUTHORIZATION TO INSTALL IMPROVEMENTS. The approval of the preliminary plat shall constitute authorization by the City Council for the installation of improvements as required by this chapter, and as shown on the preliminary plat; provided no such improvement shall be constructed or installed until and unless the plans, profiles, cross sections, and specifications for the construction of such improvements as defined in the Design Standards have been submitted to, and approved in writing by, the City Engineer and all necessary permits have been issued from all the appropriate State and federal agencies (e.g., IDNR, IDOT, etc.).

166.32 TRANSFER OF LOTS WITHOUT CONSTRUCTING IMPROVEMENTS. In the event the subdivider, its assigns, or successors in interest, should transfer lots in a subdivision without having constructed or installed the pavement, water mains, sanitary sewer, storm sewers, sidewalks, private utilities, or other public improvements, the City shall have the right to install and construct such improvements and the costs of such improvements shall be lien and charge against all the lots adjacent to or in front of which the improvements are made and lots which may be assessed for improvements under the provisions of Chapter 384 of the *Code of Iowa*. The cost of such improvements need not meet the requirements of notice, benefit, or value as provided by State law for assessing such improvements. In addition, the requirement to construct such improvements is, and shall remain, a lien on all property located within the subdivision until properly released by the City.

166.33 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS. Before the City Council will approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the City Council. Before passage of said resolution of acceptance, the City Engineer shall report that said improvements meet all City standards, specifications, and ordinances or other City requirements, and any agreements between the subdivider and the City.

166.34 PERFORMANCE BOND PERMITTED. In lieu of the requirement that improvements be completed prior to the approval of a final plat, the subdivider may post a performance bond satisfactory to the City, guaranteeing that improvements not completed shall be completed within a period of two years from the date of approval of such final plat, but such approval of the plat shall not constitute final acceptance of any improvements to be constructed. Improvements will be accepted only after their construction has been completed.

166.35 REQUIREMENT OF THE FINAL PLAT. The subdivider shall, within one year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Clerk, 20 copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the City Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. Copies of the final plat shall be distributed to the City Engineer and the City Attorney for their review, and upon completion of same, the City Engineer and City Attorney shall report the findings of their review to the City Council for its consideration regarding acceptance of the final plat by resolution. All resolutions approving final plats shall be recorded by the subdivider, with copies of the recorded documents to be provided to the City Attorney. The final plat shall be drawn at a scale of one inch equals 100 feet or larger. Sheet size shall be no greater than 18 inches by 24 inches or smaller than eight and one-half inches by 11 inches and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat,

and match lines indicating where other sheets adjoin. The final plat shall be clearly marked "Final Plat" and shall show the following:

1. The name of the subdivision.
2. Name and address of the owner and subdivider.
3. Scale, and a graphic bar scale, north arrow, and date on each sheet.
4. All monuments to be of record, as required by Chapter 355 of the *Code of Iowa*.
5. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.
6. All distance, bearing, curve, and other survey data, as required by Chapter 355 of the *Code of Iowa*.
7. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of the subdivision shall be shown. If the subdivision platted is part of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made.
8. Street names and clear designation of public alleys.
9. Block and lot numbers.
10. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
11. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
12. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat."
13. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the City Council.
14. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:15,000 for any individual lot.
15. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.
16. Certification by the local public utility companies that the location of utility easements are properly placed for the installation of utilities.
17. Certification of dedication of streets and other public property and perpetual easements for the installation, operation, and maintenance of utilities.
18. Contain a signature block for the signature of the Mayor certifying the City Council's approval of the plat.

19. Show any provisions provided by the *Code of Iowa*.
20. Show appropriate date of IDNR and City approval of flood plain permits when specific lots within the subdivision are proposed for development within the 100 year floodplain boundary.
21. The final plat should also have the following accompanying instruments:
 - A. An opinion by an attorney at law who has examined the Abstract of Title for the land being platted, stating the names of the proprietors and holders of mortgages, liens, or other encumbrances, along with any bonds securing the encumbrances.
 - B. 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 in an amount double of the amount encumbrance and approved by the Recorder and Clerk of District Court and which runs to the County for the benefit of purchasers of lots within the plat may be recorded in lieu of the consent of mortgagee or lienholder. When a mortgagee or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City Council or dedicated to the public.
 - C. 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 a bond double in the amount of the lien and approved by the Recorder and Clerk of District Court and which runs to the County for the benefit of purchasers of lots within the plat and filed with the Recorder.
 - D. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. The statement by the proprietors shall also include a dedication to the public of all lands within the plat which are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the City Council.
 - E. A petition signed by the owner and his or her spouse petitioning the City Council to pave any streets abutting such subdivision which petition waives notice of time and place of hearing and waives statutory protections and limitations as to the cost and assessment of improvements.
 - F. A certificate from the County Auditor that the name or title of the subdivision plat is approved by the County Auditor.
 - G. The subdivider shall provide CAD format reproductions of the plats to the City Engineer.
 - H. The subdivider shall have completed all payments to the City for City Engineer's inspection costs incurred to the date of submission of the final plat.
 - I. A resolution and certificate for approval by the Council and for signatures of the Mayor and the City Clerk.

166.36 WAIVERS AND EXCEPTIONS. The following shall apply to the granting of waivers or exceptions:

1. Hardships. Where the City Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make waivers or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such waiver or exceptions to these regulations meets the following criteria:
 - A. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - B. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable, generally, to other property.
 - C. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
 - D. A variance may not be granted solely on the basis of the subdivider's desire to earn a greater profit on the property.
2. Conditions. In granting waivers and exceptions, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
3. Procedure for Waiver or Exception. A petition for any such variation or exception shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The petition shall be referred to the Planning and Zoning Commission for its review and recommendation prior to submission of the issue to the City Council.

166.37 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the City Council, provided that such changes and amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law. Such proposed amendments shall first be submitted to the Planning and Zoning Commission for study and recommendation before the hearing date is scheduled. The Planning and Zoning Commission shall forward its recommendation to the Council within 30 days after the City Council requests the recommendation. The City Council shall then give notice of and hold a public hearing on the proposed amendment.

166.38 CHAPTER NOT TO LIMIT OTHER ORDINANCES. Nothing contained herein shall serve to abrogate, limit, repeal, or otherwise modify any other ordinance or regulation except as expressly set forth herein. If any provision of this chapter conflicts with the provisions of any other ordinance, regulation, or statute, the most restrictive shall apply.

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CHAPTER 167

AIRPORT ZONING REGULATIONS

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167.01 PURPOSE. These regulations are adopted by the Council for the purpose of exercising to the fullest extent possible the power granted by Chapter 329 of the *Code of Iowa* pertaining to the restriction of airport hazards in the vicinity of airports and creating airport hazard zones.

167.02 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. “Airport” means the Eastern Iowa Airport as now exists or as may hereafter be added to or changed, located in Cedar Rapids, Iowa, and Linn County, Iowa, and owned by the City of Cedar Rapids and under the management and control of The Eastern Iowa Airport Commission by the provisions of Chapter 330 of the *Code of Iowa*. The airport includes the area of land designed and set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes. The word “airport” as used in these regulations also means and includes the Eastern Iowa Airport as shown in the Cedar Rapids Municipal Airport Master Plan adopted by the Cedar Rapids Airport Commission on November 25, 1996, which is now on file in the office of the Airport Director in the Administration Building at said Airport.
2. “Airport elevation” means the established elevation of the highest point on the usable landing area which is 863.9 feet above mean sea level.
3. “Airport hazard” means any structure or tree or use of land which would exceed the federal obstruction standards as contained in 14 C.F.R. Sections 77.21, 77.23, and 77.25 as revised March 4, 1972, and which obstruct the air space required for the flight of aircraft and landing or take-off at an airport or is otherwise hazardous to such landing or taking off of aircraft.
4. “Airport hazard area” means any area of land or water upon which an airport hazard might be established if not prevented as provided by these regulations and Chapter 329 of the *Code of Iowa*.
5. “Approach surface” means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 167.05 of this chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
6. “Approach, transitional, horizontal, and conical zones” are set forth in Section 167.04 of this chapter.

7. “Board of Adjustment” means the Board consisting of five members appointed as provided in Section 167.09.
8. “Conical surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
9. “Hazard to air navigation” means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
10. “Height” - 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.
11. “Horizontal surface” means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
12. “Instrument runway” means a runway equipped or to be equipped with precision or non-precision electronic navigation aid or landing aid, or other air navigation facilities, suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.
13. “Landing area” means the general area of the Airport used for the landing, take-off, or taxiing of aircraft, as indicated upon the Airport Zoning Map.
14. “Larger than utility runway” means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
15. “Nonconforming use” means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.
16. “Non-instrument runway” means a runway other than an instrument runway.
17. “Non-precision instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.
18. “Obstruction” means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 167.05 of this chapter.
19. “Person” means an individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, or other similar representative thereof.
20. “Precision instrument runway” means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
21. “Primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at

each end of that runway. The width of the primary surface is set forth in Section 167.03 of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

22. “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

23. “Structure” means an object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, and the poles or other structures supporting the same.

24. “Transitional surfaces” means surfaces which extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

25. “Tree” means any object of natural growth.

26. “Utility runway” means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

27. “Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures.

167.03 AIRPORT ZONES. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to The Eastern Iowa Airport. Such zones are shown on the Airport Zoning Map dated December 30, 1997, and prepared by the Howard R. Green Company. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Runway Larger Than Utility Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Runway Larger Than Utility With A Visibility Minimum Greater Than Three-Fourths Mile Non-Precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. Runway Larger Than Utility With A Visibility Minimum As Low As Three-Fourths Mile Non-Precision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

4. Precision Instrument Runway Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
6. Horizontal Zone. The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
7. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

167.04 AIRPORT ZONING MAP. There is hereby adopted and enacted an Airport Zoning District Map dated December 30, 1997, signed by the Mayor, and attested by the Clerk, which map is on file in the office of the City Clerk, and is hereby incorporated into and made a part of these regulations. The boundaries of the various zoning districts are herewith enacted and established as shown on said map subject to the provisions hereinafter set out relating to subsequent boundary changes and amendments. Said map is designed and intended as a method and means of setting forth the boundaries of the various airport zoning districts as the same are now shown on said map. All modifications, references, markings and other information shown thereon are hereby enacted and established as a part of the official district map for The Eastern Iowa Airport and are made a part of these regulations. As relates to Chapter 165, said district map shall not be set out in this Code of Ordinances and shall remain on file in the office of the City Clerk after adoption and publication and shall constitute a part of this chapter the same as if set out herein.

167.05 AIRPORT ZONE HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this chapter to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

1. Runway Larger Than Utility Visual Approach Zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Runway Larger Than Utility With A Visibility Minimum Greater Than Three-Fourths Mile Non-Precision Instrument Approach Zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
3. Runway Larger Than Utility With A Visibility Minimum As Low As Three-Fourths Mile Non-Precision Instrument Approach Zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

4. Precision Instrument Runway Approach Zone. Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
5. Transitional Zones. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 863 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
6. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1,013.9 feet above mean sea level.
7. Conical Zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
8. Excepted Height Limitations. Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

167.06 USE RESTRICTIONS. Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

167.07 NONCONFORMING USES.

1. Regulations Not Retroactive. The regulations prescribed herein shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of any nonconforming use. However, no pre-existing nonconforming structure, tree, or use shall be replaced, rebuilt, altered, allowed to grow higher, or be replanted so as to constitute a greater airport hazard than it was when these regulations were adopted. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these regulations and resolution is completed within one year thereafter.
2. Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and light as shall be necessary to indicate to the operator of aircraft in the vicinity of the airport the

presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of The Eastern Iowa Airport Commission.

167.08 AIRPORT ZONING COMMISSION. An Airport Zoning Commission shall be provided as follows: The Zoning Commission shall consist of three members, two of whom shall be appointed by the City Council, and one additional member to act as Chairperson, who shall be selected by a majority vote of the members appointed by the City. The terms of such members shall be as provided by Section 329.9 of the *Code of Iowa*. Such Airport Zoning Commission shall follow the procedures as provided in Sections 414.4 and 414.6 of the *Code of Iowa*, as required by Section 329.9 of the *Code of Iowa*.

167.09 BOARD OF ADJUSTMENT. A Board of Adjustment is hereby appointed as follows: The Board shall consist of three members, two of whom shall be appointed by the City Council, and one additional member to act as Chairperson, who shall be selected by a majority vote of the members appointed by the City. The terms of such members shall be as provided in Section 329.12 of the *Code of Iowa*. Each such Board shall have the powers and duties, and shall follow the procedures, provided by Sections 414.9 to 414.19 of the *Code of Iowa*.

167.10 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 a manner which would constitute a violation of these regulations may apply to the Board of Adjustment having jurisdiction of the area where such violation would occur for a variance from these regulations. Such variances shall be allowed where a literal application or enforcement of these regulations would result in practical difficulty or unnecessary hardship, and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of these regulations and of Chapter 329 of the *Code of Iowa*; provided, however, any such variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of Chapter 329 of the *Code of Iowa*, including but not limited to the following:

1. The reservation of the right of the City of Cedar Rapids, and the Eastern Iowa Airport Commission, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.
2. To require the person requesting the variance at said person's own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

Any appeal from the decision of the Board of Adjustment shall be in accordance with the provisions of Section 414.15 et seq. of the *Code of Iowa*.

167.11 FINDING CONCERNING PUBLIC INTEREST. The City Council specifically finds that an airport hazard, as herein defined, within its territorial limits would endanger the lives and property of users of the Eastern Iowa Airport and all occupants of land, and other persons in the vicinity, and would also tend to destroy or impair the utility of the airport and the public investment therein; accordingly the City Council does hereby declare:

1. The creation or establishment of an airport hazard, as herein defined, within its territorial limits is a public nuisance and an injury to the community served by the Eastern Iowa Airport.

2. It is necessary in the interest of the public health, safety and general welfare that the creation or establishment of airport hazards, as herein defined, be prevented.
3. This should be accomplished to the extent legally possible by proper exercise of the police power.
4. The City Council expressly declares that it shall not become liable for the expenditure of its public funds unless such expenditure shall be approved in advance by its governing body.

167.12 ADMINISTRATION AND ENFORCEMENT. The administration and enforcement of these zoning regulations shall be performed by the Mayor, or through such other persons or representatives as the Mayor may from time to time by resolution direct, but, as provided by Section 329.13 of the *Code of Iowa*, such duties of enforcement and administration may not be delegated to any person who is a member of any Board of Adjustment.

167.13 EQUITABLE REMEDIES. The City of Cedar Rapids and the Eastern Iowa Airport Commission may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards pertaining to the Eastern Iowa Airport in violation of these regulations for any area, whether within or without the territorial limits of the City of Cedar Rapids, as authorized by Section 329.5 of the *Code of Iowa*.

167.14 CONFLICTING REGULATIONS. In the event of any conflict between these Airport Zoning Regulations and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirements shall govern and prevail.

167.15 PROHIBITED ACTS. It is unlawful for any person to do any of the acts hereinafter stated unless a variance from the provisions of these regulations shall have been previously allowed by the Board of Adjustment.

1. No person shall erect or increase the height of any structure, or permit the growth of any tree, to a height in excess of that provided by Section 167.05 of these regulations for the zone or area where such act occurs.
2. No person shall hereafter place or cause to be placed, above ground, transmission lines or poles or other structures supporting the same within 200 feet of the outer boundary of the airport as said boundary is shown on the Airport Zoning Map.
3. No person shall otherwise use such person's property within a zone established by these regulations in such a manner as to create an airport hazard as defined herein.

167.16 PENALTIES. A violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a violation of this Code of Ordinances. Each day a violation continues to exist shall constitute a separate offense.

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CHAPTER 168

COMMUNICATION TOWERS AND ANTENNAS

168.01 Definitions
168.02 Local Regulation
168.03 Lease Required
168.04 Fee Required
168.05 Limit on Term
168.06 Priorities
168.07 Placement Requirements

168.08 Application Process
168.09 Conditions for Approval
168.10 Noise and Emission Standards
168.11 Placement of Facilities and Related Lease Fees
168.12 Abandonment
168.13 Termination
168.14 New Technologies

168.01 DEFINITIONS. For the purpose of this chapter, the following words, terms and expressions are defined.

1. “Antenna” means a device, dish, or array used to transmit or receive telecommunications signals.
2. “Communications tower” means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, or on a building.
3. “Height” of a communications tower is the distance from the base of the tower to the top of the structure.
4. “Telecommunications” means the electronic, telephonic, or other high-tech transmission, reception, or exchange of data or information between or among points specified by the user of information between or among points specified by the user of information of the user’s choosing, without change in the form or content of the information as sent or received, by a means which requires the approval or licensing by the Federal Communications Commission.

168.02 LOCAL REGULATION. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers or potential providers. The following objectives shall be applied consistently to all telecommunication providers that request a location on City property for their communication towers and antennas.

1. To minimize the overall number of towers located in the City, providers may be required to participate in collocation agreements.
2. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.
3. To minimize placement of wireless equipment in a highly populated areas, residential locations will be considered as a last resort.
4. To assure revenues from site leases of City-owned and controlled land and structures reflects fair compensation for use of City property and administration of this chapter.

168.03 LEASE REQUIRED. No person or other entity shall use any public property without first obtaining a lease from the City.

168.04 FEE REQUIRED. No lease for public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

168.05 LIMIT ON TERM. No lease for the use of public property under this chapter shall be granted for term of more than 25 years.

168.06 PRIORITIES. Priority of the use of City-owned land for communication towers and antenna towers and facilities will be given to the following entities in descending order or priority:

1. All functions of the City.
2. Public safety agencies that are not part of the City, including law enforcement, fire, and ambulance services, and private entities with a public safety agreement with the City.
3. Other governmental agencies for uses, which are not related to public safety.
4. Entities providing licensed commercial communication services, including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that are marketed to the general public for business and/or personal use.

168.07 PLACEMENT REQUIREMENTS. The placement of communication towers and antenna towers or facilities on City-owned property must comply with the following requirements:

1. The tower, antenna, or facility will not interfere with the purpose for which City-owned property is intended.
2. The tower, antenna, or facility will have no adverse impact on surrounding private property.
3. The applicant will produce proof of adequate liability insurance for potential damage that could reasonably be caused to City property and facilities by location of the towers, antennas, or facilities on City property.
4. The applicant will commit to a lease agreement, which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fee shall be established by the City Council and shall reflect potential expenses and risks to the City and other appropriate factors.
5. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of tower, antenna, and facilities removal.
6. The towers, antennas or facilities will not interfere with other uses, which have a higher priority as discussed in the paragraphs above.
7. Upon reasonable notice, the towers, antennas or facilities may be required to be moved at the user's expense.
8. The applicant must reimburse the City for any costs, which it incurs, based on the presence of the applicant's towers, antennas or facilities.
9. The user must obtain all necessary land use approvals.

10. The applicant will cooperate with the City's objective to promote collocations and, thus, limit the number of separate antenna sites requested.

168.08 APPLICATION PROCESS. All applicants who wish to locate a communication towers and antenna towers or facilities on City-owned or private property must submit to the Mayor a completed application accompanied by a fee as set by City Council Resolution and the following documents, if applicable:

1. One copy of typical specification for proposed structures and antennas, including a description of the design characteristics and material to be used.
2. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of the proposed structures, parking, fences, landscape plan, and existing land use on adjacent property. The Site Plan is not required if the antenna is to be mounted on an approved, existing structure.
3. A current map or update of an existing map on file, showing the location of the applicant's antennas or facilities which are existing and proposed towers which are reflected in public records serving any property within the City.
4. A report from a structural engineer showing the tower antenna capacity by type and number and a certification that the tower is designed to withstand winds in accordance with ANS/EIA/TIA222, latest revision.
5. Identification of the owners of all antennas and equipment to be located on the site.
6. Written authorization from the site owner for the application.
7. Evidence that a valid FCC license for the proposed activity has been applied or issued.
8. A line of site analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
9. A written agreement to remove the tower, antenna and/or facilities within 180 days after the cessation of use.
10. Additional information as reasonably requested by the City, to determine that all applicable zoning regulations are met.

168.09 CONDITIONS FOR APPROVAL. Applicant must also show evidence that all of the following conditions which are applicable are met prior to approval of the application.

1. Applicant must show that the proposed communications tower, antenna, accessory structure, or facilities will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum design standards imposed by the design requirements.
2. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirements without unreasonable modifications on any existing structure or tower under the control of the applicant.

3. Applicant, for a permit in a residential district, must show that based on valid technical reasons, that the area cannot be adequately served by a facility placed in a nonresidential district.
4. Prior to consideration of a permit for the location, on private property which must be acquired, applicant must show that available publicly owned sites and available privately owned sites occupied by a compatible use are unsuitable for operation of the facility under applicable communications regulations and the applicant's technical design requirements.
5. Applicant must provide the names, addresses, and telephone numbers of all owners of other towers or useable support structures within a one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant made diligent, but unsuccessful efforts for a minimum of 40 days prior to the submission of the applicant to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed new tower site, or written technical evidence from an engineer that the proposed tower or facilities cannot be installed or collocated on another person's tower or facilities located within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.
6. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.
7. Applicant must show that all applicable health, nuisance, noise, fire, building, and safety code requirements will be met and how they will be met.
8. The applicant must show, by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules and must file with the City Clerk a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to \$1,000,000.00 in the aggregate.
9. Land use regulations, visibility, fencing, screening, landscaping, parking, access, exterior illumination, sign, storage, and all other general zoning district regulations, except setback and height shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower. The following height conditions apply:
 - A. Agricultural District. A communication tower, including antennas, with height not to exceed 200 feet. Towers, including antennas that exceed those height limits but not to exceed 360 feet height may be permitted as a conditional use.
 - B. Residential Districts. A communication tower no more than 60 feet. Towers, including antennas that exceed those height limits but not to exceed 125 feet height may be permitted as a conditional use.
 - C. Commercial Districts. A communication tower no more than 70 feet. Towers, including antennas that exceed those height limits but not to exceed 125 feet height may be permitted as a conditional use.
 - D. Industrial Districts. A communication tower, including antennas, with height not to exceed 200 feet. Towers, including antennas that exceed those height limits but not to exceed 360 feet height may be permitted as a conditional use.

10. No tower 200 feet or more will be permitted within 200 feet from any residential structure.

168.10 NOISE AND EMISSION STANDARDS. No equipment shall be operated at the towers or telecommunications facilities so as to produce noise in excess of applicable standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a back-up generator where the noise standards may be exceeded temporarily.

168.11 PLACEMENT OF FACILITIES AND RELATED LEASE FEES. The placement of communication towers, antennas, and facilities on City-owned site, will be allowed when the following conditions are met:

1. Parks. The presence of certain communication towers, antennas, or facilities represents a potential conflict with the purpose of certain City-owned parks and recreational facilities. The tower shall be prohibited in designated conservation areas. Communication towers and antennas will be considered only after the recommendation of the Parks and Recreation Board and the approval of the City Council.
 - A. Public parks of sufficient scale and character that is adjacent to an existing commercial or industrial use.
 - B. Commercial recreational areas and major ball fields.
 - C. Park maintenance facilities.
2. Fees. Fees for placing communication towers, antennas, and/or facilities on public property shall be set by Council resolution.

168.12 ABANDONMENT. In the event the use of any communications tower has been discontinued for a period of 180 days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Mayor, who shall have the right to request documentation and/or affidavits from the communications tower owner or operator regarding the issue of tower usage. 181 days from the date of abandonment, without reactivating or upon completion of dismantling or removal, any special exception and/or variance approval for the tower shall automatically expire. Upon abandonment the owner or the operator of the tower shall have an additional 90 days within which to either reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower within 90 days or to dismantle and remove the tower.

168.13 TERMINATION. The City Council may terminate any lease if it is determined that any one of the following conditions exists:

1. A potential use of a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.
2. A user's frequency broadcast unreasonably interferes with other uses of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
3. A user violates any of the standards of this chapter or the terms and conditions of the City's lease.
4. Before taking action, the City will provide notice to the intended termination and the reasons for it and provide an opportunity for a hearing before the City Council regarding the proposed action. This procedure need not be followed in an emergency.

168.14 NEW TECHNOLOGIES. During the term of any lease, if technological advancements are made in the telecommunications field which will provide the communications tower owner/operator the opportunity to be more effective, efficient, and economical through the use of a substance or material other than those for which the original lease was made, the holder of the lease may petition the City Council, which with such requirements and limitations as it deems necessary to protect the public health, safety, and welfare, may allow such substances under the terms and conditions of the lease.

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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WALFORD, IOWA, BY ADDING A NEW SECTION LIMITING PARKING TO 30 MINUTES ON A PORTION OF _____ STREET

BE IT ENACTED by the City Council of the City of Walford, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Walford, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

- 1. _____ Street, on the ____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WALFORD, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Walford, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Walford, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

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

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 ____, and approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 ____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF WALFORD, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of Walford, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Walford, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$_____ dollars per _____.

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

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

**ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO WALFORD, IOWA

Be It Enacted by the City Council of the City of Walford, Iowa:

SECTION 1. The (location or legal description of street or alley) to Walford, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 ____, and approved this ____ day of _____, 20 ____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 ____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Walford, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Walford, Iowa, will meet on the ___ day of _____, 20___, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Walford, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Walford, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Walford, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of _____, 20___, on (property owner’s name), through (agent’s name or “none”), agent, to abate the nuisance existing at (legal description and address) within ___ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner’s agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ___ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner’s name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ___ day of _____, 20___.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Walford, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Walford, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Walford, Iowa, will meet on the ___ day of _____, 20___, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Walford, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Walford, Iowa:

WHEREAS, notice has heretofore been served on the ___ day of ___, 20___, on
(Name of Property
Owner)
through ___, Agent,
(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within ___ (___) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this
meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection
within the time set, and after evidence was duly produced and considered at this meeting, and
said owner or agent has failed to file a written request for hearing after being properly served
by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's
agent, _____
(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within ___ days after the
service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve
a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,'

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ___ day of _____, 20__.

Mayor

ATTEST:

City Clerk