

CHAPTER 1

CODE OF ORDINANCES

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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Clarksville, Iowa, 1999.

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances 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, unless specifically defined otherwise in another portion of this Code of Ordinances:

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 Clarksville, Iowa.
3. “Clerk” means the city clerk of Clarksville, 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 Clarksville, Iowa, 1999.
6. “Council” means the city council of Clarksville, Iowa.
7. “County” means Butler County, Iowa.
8. “Measure” means an ordinance, amendment, resolution or motion.
9. “Month” means a calendar month.
10. “Oath” means an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words “affirm” and “affirmed” are equivalent to the words “swear” and “sworn.”

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. "Ordinances" means the ordinances of the City of Clarksville, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
14. "Preceding" and "following" mean next before and next after, respectively.
15. "Property" includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
16. "Property owner" means a person owning private property in the City as shown by the County Auditor's plats of the City.
17. "Public place" includes in its meaning, but is not restricted to, any City-owned open place, such as parks and squares.
18. "Public property" means any and all property owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
19. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
20. "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.
21. "State" means the State of Iowa.
22. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
23. "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.
24. "Writing" and "written" include printing, typing, lithographing, or other mode of representing words and letters.
25. "Year" means a calendar year.

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 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 all injury to or death of any person or persons whomsoever, and all 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 the Code of Ordinances the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Council or repugnant to the context of the provisions.

1. Verb Tense and Plurals. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular.
2. May. The word “may” confers a power.
3. Must. The word “must” states a requirement.
4. Shall. The word “shall” imposes a duty.
5. Gender. The masculine gender includes the feminine and neuter genders.
6. Interpretation. All general provisions, terms, phrases, and expressions contained in the Code of Ordinances shall be liberally construed in order that the true intent and meaning of the Council may be fully carried out.
7. Extension of Authority. Whenever an officer or employee is required or authorized to do an act by a provision of the 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.

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

(Ord. 171 – Sep. 00 Supp.)

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

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

1.12 COPIES AVAILABLE. Loose leaf copies of the Code of Ordinances are available, only from the Clerk, for public inspection and for purchase upon the payment of a fee of twenty-five cents per copy.

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

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

2.01 TITLE. This chapter may be cited as the charter of the City of Clarksville, 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. 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 (5) Council Members elected at large for overlapping terms of four (4) years.
(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of two (2) years.
(Code of Iowa, Sec. 376.2)

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

EDITOR'S NOTE

Ordinance No. 68 adopting a charter for the City was passed and approved in 1973 and Ordinance No. 115 changing the term of the Council members was adopted in 1988.

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CHAPTER 3

BOUNDARIES

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

Beginning at the southwest corner of Section Seven, in Township Ninety-two North, Range Fifteen West of the Fifth Prime Meridian, thence north to the northwest corner of the Southwest Quarter (SW $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$), thence east at right angles to the west line of the Southeast Quarter (SE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of said section, which line is in the center of Main Street, thence south at right angles along said centerline to a point thirty-three feet west of the northwest corner of Hoodjer's Addition to the City of Clarksville, thence east along the north line of said Hoodjer's Addition to the northeast corner of Hoodjer's Addition to the City of Clarksville, thence south along the east line of said Hoodjer's Addition to the south line of said Section Seven, thence east at right angles along the section line to the northeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section 18, Township Ninety-two North, Range Fifteen West, thence south at right angles to the southeast corner of the Northwest Quarter (NW $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Nineteen, Township Ninety-two North, Range Fifteen West, thence west at right angles to the southwest corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Twenty-four, in Township Ninety-two, Range Sixteen West, thence north at right angles to the southwest corner of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of Section Thirteen, Township Ninety-two, Range Sixteen West, thence west at right angles along the south line of the north one-half of the Northeast Quarter (NE $\frac{1}{4}$) of said Section Thirteen one hundred twenty-five (125) feet, thence north at right angles parallel with the east line of the Northeast Quarter (NE $\frac{1}{4}$) of the Northeast Quarter (NE $\frac{1}{4}$) of said Section Thirteen to the north line of said Section Thirteen, thence east to the point of beginning.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties

4.04 Civil Citations
4.05 Alternative Relief
4.06 Criminal Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. First Offense - Not to exceed \$750.00

B. Each Repeat Offense - Not to exceed \$1,000.00

Each day that a violation occurs or is permitted to exist constitutes a repeat offense. *(Ord. 194 – Sep. 04 Supp.)*

2. Special Civil Penalties.

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

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

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

4.04 CIVIL CITATIONS. Any officer authorized by the City to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation may be served by personal service as provided in Rule of Civil Procedure 56.1, 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 60 and subject to the conditions of Rule of Civil Procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

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

1. The name and address of the defendant.
2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.
4. The amount of civil penalty to be assessed or the alternative relief sought, or both.
5. The manner, location, and time in which the penalty may be paid.
6. The time and place of court appearance.
7. The penalty for failure to appear in court.

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
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
5.12 Residency Requirement

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the

kind described in subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

(Ord. 192 – Sep. 04 Supp.)

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2500.00) in a fiscal year.

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

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

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

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

(Ord. 192 – Sep. 04 Supp.)

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

5.12 RESIDENCY REQUIREMENT. All appointed officers and employees must reside in the City limits within ninety (90) days of the date of employment.

(Ord. 201 – Sep. 04 Supp.)

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be substantially in the form prescribed by the State Commissioner of Elections, shall include information required by the Code of Iowa, and shall be signed in accordance with the Code of Iowa. *(Ord. 181 – Nov. 02 Supp.)*

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.

2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the Code of Iowa.

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collection-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims

and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.
3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

(IAC, 545-2.5 [384,388], Sec. 2.5[2])

4. Debt Service Fund. Except where specifically prohibited by State law, moneys may be transferred from any other City fund to the Debt Service Fund to meet payments of principal and interest. Such transfers must be authorized by the original budget or a budget amendment.

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

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

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

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

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

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

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

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

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

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.
4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.
5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.
(Code of Iowa, Sec. 384.16[3])
6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.
(Code of Iowa, Sec. 384.16[2])
7. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in

the proposed budget. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Checks shall be prenumbered and signed by the Clerk 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, sub-program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.
2. Annual Report. Not later than December first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

URBAN REVITALIZATION

8.01 DESIGNATION OF REVITALIZATION AREA. In accordance with Chapter 404 of the Code of Iowa, the area formed by contiguous real estate parcels with a legal description as follows:

Lot 2 and the North 51' of Lot 3, Block 3, Poisals Addition, Clarksville,
Iowa

is hereby designated as an Urban Revitalization Area, which shall be known as the Clarksville Multi-Family Urban Revitalization Area. The Urban Revitalization Plan for the City is on file in the office of the Clerk.

(Ch. 8 – Ord. 221 – Dec. 05 Supp.)

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

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

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if there is a City Administrator, insert "...supervise all departments of the City, except for supervisory duties delegated to the City Administrator, give direction. . .

6. Negotiations. Represent the City in all negotiations properly entered into in accordance with law or ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law, ordinance, or Council direction.
7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.
9. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
11. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:
(*Code of Iowa, Sec. 372.4*)

1. Mayor Pro Tem
2. Police Chief
3. City Attorney
4. City Treasurer
5. Library Board of Trustees
6. Maintenance Superintendent

15.04 COMPENSATION. The salary of the Mayor is twenty-five hundred dollars (\$2,500.00) per year. Effective January 1, 2006, the salary of the Mayor shall be three thousand dollars (\$3,000.00) per year. (*Ord. 203 – Sep. 04 Supp.*)
(*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. (*Ord. 176 – Oct. 01 Supp.*)
(*Code of Iowa, Sec. 372.4*)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL. The Mayor Pro Tem is 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 employ, or discharge from employment, officers or employees that the Mayor has the power to appoint, employ or discharge without the approval of the Council.

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

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

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

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

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

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CHAPTER 17

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 (5) Council members elected at large for overlapping terms of four (4) years.
(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.100)

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of twenty-five thousand dollars (\$25,000.00) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

A. An ordinance or amendment signed by the Mayor becomes effective when the ordinance or a summary of the ordinance is

published, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

17.04 COUNCIL MEETINGS. The City Council normal meetings will be held on the first and third Monday of every month at a time set by the Council. The Council may, by resolution, change such regular meetings to other dates or may set special meetings by a majority vote of the Council or upon call by the Mayor. The Council may determine all other rules of procedure.

(Ord. 253 – Sep. 11 Supp.)

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

1. City Clerk

17.06 COMPENSATION. The salary of each Council member is twenty-five dollars (\$25.00) for each meeting of the Council attended. Effective January 1, 2006, the salary of each Council member shall be thirty-five dollars (\$35.00) for each meeting of the Council attended. *(Ord. 203 – Sep. 04 Supp.)*
(Code of Iowa, Sec. 372.13[8])

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CHAPTER 18

CITY CLERK

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

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

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve at the discretion of the Council. 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. The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim.

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four (4) nor more than twenty (20) days before

the date of the election, hearing or other action, unless otherwise provided by law.

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of such

officer's duty; furnish a copy to any citizen when requested upon payment of twenty-five cents per copy; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments which by ordinance and Code of Ordinances are required to be attested by the affixing of the seal.

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

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

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

18.09 ATTENDANCE AT MEETINGS. At the direction of the Council, the Clerk shall attend meetings of committees, boards and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the following duties relating to elections and nominations:

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election. *(Ord. 182 – Nov. 02 Supp.)*

(Code of Iowa, Sec. 376.6)

2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.

(Code of Iowa, Sec. 376.4)

3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.

(Code of Iowa, Sec. 376.4)

4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.

(Code of Iowa, Sec. 376.4)

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than five o'clock (5:00) p.m. on the day following the last day on which nomination petitions can be filed.

(Code of Iowa, Sec. 376.4)

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

18.14 CITY FUNDS. The Clerk shall perform the following duties relating to City funds.

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 Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.

3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

4. Special Assessments. Keep a separate account of all money received from special assessments.

5. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The Mayor shall appoint, subject to Council approval, a City Treasurer to serve at the discretion of the Mayor.

19.02 COMPENSATION. The Treasurer is paid such compensation as specified by resolution of the Council.

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

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

1. Reconciliation. Reconcile the Clerk's books and records and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
2. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment
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. The Mayor shall appoint, subject to Council approval, a City Attorney to serve at the discretion of the Mayor.

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 21

MAINTENANCE SUPERINTENDENT

21.01 Appointment and Compensation
21.02 Direction

21.03 General Duties of the Maintenance Superintendent

21.01 APPOINTMENT AND COMPENSATION. The Mayor shall appoint, subject to Council approval, a Maintenance Superintendent to serve at the discretion of the Mayor. The Maintenance Superintendent shall receive such compensation as established by resolution of the Council.

21.02 DIRECTION. The Maintenance Superintendent shall be under the immediate direction and supervision of the Council. Whenever the services of an engineer are required by ordinance or by the order of the Council, the Maintenance Superintendent shall be under the direction of the engineer.

21.03 GENERAL DUTIES OF THE MAINTENANCE SUPERINTENDENT. The Maintenance Superintendent shall have the following duties:

1. To inspect, supervise and repair as needed all City streets, alleys, highways, sidewalks, water and sewer systems and other City property.
2. To store, maintain, repair and supervise all City vehicles, equipment, tools and other property used in the repair and maintenance of City property.
3. To certify all bills, charges or other expenses of the department to the Council, to assist in the preparation of the annual departmental budgets, to supervise said budgets during the year, and otherwise supervise any labor or work performed in the department.
4. To keep an accurate inventory of all property in the department and to provide the Council a copy of such inventory.
5. To make monthly reports of the condition of the streets, sewer and water systems to the Council, to advise the Council on needed improvements or changes in the systems, and to advise or report to the Council on any other needs of the department or physical improvements needed in the City.
6. To supervise any other employees of the department.
7. To perform such other duties as may be required by the Council.

CHAPTER 21

MAINTENANCE SUPERINTENDENT

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

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

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six (6) resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

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

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. The City Council shall employ a librarian and such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. The City Council may remove the librarian, assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board and approved by the Council.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. Subject to Council approval, have control of the expenditure of all funds allocated for Library purposes by the Council. Moneys available by gift and all other moneys belonging to the Library including fines and rentals collected under the rules of the Board shall be controlled by the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City on behalf of the Library.

(Code of Iowa, Ch. 661)

12. Record of Proceedings. To keep a record of its proceedings.

13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.
2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.
3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.
4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

22.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be in accordance with Section 18.14 of this Code of Ordinances. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary and approved by the Council.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Peace Officers Appointed

30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Contract Law Enforcement

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

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

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

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

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

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

(IAC, 501-3 and 501-8)

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

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

(Ord. 176 – Oct. 01 Supp.)

(Code of Iowa, Sec. 372.4)

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

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

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

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

30.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

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

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Compensation
35.06 Election of Officers
35.07 Fire Chief: Duties

35.08 Obedience to Fire Chief
35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations

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

(Code of Iowa, Sec. 364.16)

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

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

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

35.04 TRAINING. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire

Marshal's Division immediately. For all fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

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

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

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

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

35.12 CALLS OUTSIDE CITY. The department shall answer calls to fires and other emergencies outside the City limits in accordance with the Rural Fire Trustee Agreements.

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

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

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

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

(Code of Iowa, Sec. 100.41)

CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs

36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

1. “Cleanup” means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance.

(Code of Iowa, Sec. 455B.381[1])

2. “Hazardous condition” means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the State or into the atmosphere which creates an immediate or potential danger to the public health or safety or to the environment.

(Code of Iowa, Sec. 455B.381[4])

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

Water Pollution Control Act as amended to January 1, 1977, or any hazardous material designated by the Secretary of Transportation under the Hazardous Materials Transportation Act.

(Code of Iowa, Sec. 455B.381[5])

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

(Code of Iowa, Sec. 455B.381[7])

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

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

1. The reasonable cleanup costs incurred by the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.

2. The reasonable costs incurred by the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 37

AMBULANCE SERVICE

37.01 Establishment
37.02 Membership
37.03 Crew Chief and Officers
37.04 Crew Chief Duties
37.05 Insurance

37.06 Persons Eligible for Service
37.07 Fees and Expenses
37.08 Calls Outside City
37.09 Bylaws

37.01 ESTABLISHMENT. A volunteer ambulance service is established to provide emergency ambulance services and related medical assistance to the residents of the City and the adjacent area.

37.02 MEMBERSHIP. Membership in the ambulance service will consist of up to 36 members and will be open to any City residents or residents of the immediate area with a minimum age of 18 years. Members shall be in good physical health and shall not have been convicted of any felonies or crimes involving moral turpitude. Members shall be high school graduates, possess a GED, or receive a diploma or GED within 12 months after application for membership. Members may be selected by the ambulance service in accordance with their internal bylaws subject to approval by the Council. Members may be removed by the Crew Chief or by the Council for any violation of the rules of the service or for other good cause.

37.03 CREW CHIEF AND OFFICERS. The ambulance Crew Chief and other officers shall be elected by the members of the service and may be removed by them. All elections and removals are subject to the approval of the Council. The Council may appoint or remove a Crew Chief, or appoint a new Crew Chief at any time.

37.04 CREW CHIEF DUTIES. The Crew Chief or a delegated officer shall perform all of the following duties:

1. Supervise the care, maintenance and use of all property of the service and maintain accurate records of all such property. Such records will be furnished to the Council.
2. Maintain an accurate record of all calls by the service, the persons on duty, the work performed, and the persons furnished service, and maintain all other records as required by law.
3. Supervise all members, their training, their performance on calls, and adherence to all laws, ordinances, rules and internal bylaws.

4. Maintain accurate records for each member, including training certifications and attendance, and make copies of such records available to the Council. The Crew Chief will insure that all members:
 - A. Have a valid operators license,
 - B. Do not go on call while under the influence of any drug or alcohol,
 - C. Do not violate any laws, and
 - D. Perform their duties in a professional and competent manner.
5. Provide for rules, not inconsistent with this chapter, and with the approval of the Council, for the operation of the service.
6. Prepare and administer an annual budget and certify all expenditures to the Council.
7. Make an annual report to the Council of all activities of the service, its budget, any future needs of the service and provide other requested information. The Crew Chief will further forward a copy of the minutes of any meetings by the service to the Council.
8. To maintain quality communications with State, regional and County emergency services, to represent the City in a positive manner with such organizations, to periodically review rules and regulations affecting the delivery of emergency services and to keep the Council advised of such information.
9. To perform all such other duties necessary to the operation of the ambulance service.

37.05 INSURANCE. The Council will provide all approved members of the service with appropriate worker's compensation insurance and other liability insurance for members in performance of their official duties.

37.06 PERSONS ELIGIBLE FOR SERVICE. All City residents or residents of the immediate area are eligible for assistance by the ambulance service in emergency situations. The City may, by resolution or approval of bylaws of the service, provide services to other persons.

37.07 FEES AND EXPENSES. The Council shall, by resolution, establish a schedule of charges for individuals receiving the services of the ambulance service. Persons receiving services are defined as:

- A. Those persons actually receiving services, such as first aid or transport by members of the ambulance service; or

B. A person or persons responsible for the care, custody or control or having legal responsibility for such person or persons actually receiving services or transport.

37.08 CALLS OUTSIDE CITY. The service may provide, in accordance with its bylaws, assistance to individuals outside the City limits. If such assistance is provided, it will be considered a call within the jurisdiction of the City.

37.09 BYLAWS. The service shall adopt appropriate bylaws that govern the internal operation of the service, the delivery of services, the regulations of its members, and other matters. Such bylaws shall conform with all national, State and local laws or other regulations governing the operation of an ambulance service. The bylaws or any amendments, are not final until approved by the Council.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse
40.06 Loitering

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.

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

7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

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

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 LOITERING. It is unlawful for any person to stand, loaf, loiter or congregate about or upon any stairway, doorway, window or in front of any business, dwelling, theater, lecture room, church or on sidewalks or the corners of streets or elsewhere in the City and by so doing obstruct or interfere with persons entering, passing out of or occupying any such building or premises, or

by language, conduct or conversation, to annoy, insult or disturb persons passing along the streets, sidewalks or alleys or occupying, residing or doing business in any of the said places or premises, or passing into or out of the same.

CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.

No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

41.05 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)

41.06 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])

41.07 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 ten (10) acres or more and is used as agricultural land.

41.08 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, BB guns, paint-ball 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.

41.09 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles 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])

41.10 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.

41.11 FIREWORKS PERMIT. The City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

1. Personal Injury: \$250,000.00 per person.
2. Property Damage:..... \$ 50,000.00.
3. Total Exposure: \$1,000,000.00.
(Code of Iowa, Sec. 727.2)

41.12 PSEUDOEPHEDRINE RESTRICTIONS.

(Code of Iowa, Sec. 126.23A)

1. A retailer shall not sell and a person shall not purchase in a single transaction more than two packages containing pseudoephedrine as the product's sole active ingredient.
2. Except as otherwise provided, a retailer who offers for sale a product containing pseudoephedrine as the product's sole active ingredient shall display and offer such product for sale behind a counter where the public is not permitted or within twenty feet of a counter which allows the attendant to view the products in an unobstructed manner. A retailer may display or offer for sale without restriction a product containing pseudoephedrine as the sole active ingredient if the product is displayed using any type of antitheft device system, including but not limited to an electronic antitheft device system that utilizes a product tag and detection alarm which prevents the theft of the product.
3. A retailer shall post a notice at the location where a product containing pseudoephedrine as its sole active ingredient is displayed or offered for sale stating the following:

Iowa law prohibits the sale or purchase of more than two packages containing pseudoephedrine as the sole active ingredient.
4. The provisions of this section do not apply to:
 - A. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is in liquid form.
 - B. Any package of a product containing pseudoephedrine as the product's sole active ingredient which is primarily intended for administration to children under twelve years of age according

to the label, regardless of whether the product is in liquid or solid form.

C. Any package of a product containing pseudoephedrine as the product's sole active ingredient that the Board of Pharmacy Examiners, with the concurrence of the Department of Public Safety, upon application of a manufacturer, exempts from this section because the product is formulated to effectively prevent conversion of the active ingredient into methamphetamine or its salts or precursors.

5. An employee of a retailer who sells or a person who purchases pseudoephedrine in violation of subsection 1 of this section commits a simple misdemeanor, punishable in an amount equal to a scheduled violation under Section 805.8C (4a) of the Code of Iowa. If a citation is issued for a violation of subsection 1, the citation shall be issued to both the employee and the purchaser. For each violation of subsections 1, 2 or 3 of this section by a retailer, the retailer shall be assessed an amount equal to a scheduled fine under Section 805.8C (4b) of the Code of Iowa, which is a civil penalty.

(Ord. 208 – Sep. 04 Supp.)

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

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has

accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

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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 Container on Streets and Highways

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINER ON STREETS AND HIGHWAYS. *(See Section 62.08 of this Code of Ordinances.)*

CHAPTER 46

MINORS

46.01 Cigarettes and Tobacco

46.02 Contributing to Delinquency

46.03 Curfew

46.01 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes.

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

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

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

46.03 CURFEW. The Council has determined that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City and specifically to reinforce the primary authority and responsibility of adults responsible for minors; to protect the public from the illegal acts of minors committed after the curfew hour; and to protect minors from improper influences and criminal activity that prevail in public places after the curfew hour.

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

A. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

B. "Knowingly" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

C. "Minor" means any unemancipated person under the age of eighteen (18) years.

D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a peace officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.

G. “Unemancipated” means unmarried and/or still under the custody or control of a responsible adult.

2. Curfew Established. A curfew applicable to minors is established and shall be enforced as follows:

A. No minor fifteen (15) years of age and under shall remain in or upon any public place in the City between the hours of ten o’clock (10:00) p.m. and six o’clock (6:00) a.m. of the following day.

B. No minor age sixteen (16) to seventeen (17) shall remain in or upon any public place in the City between the hours of eleven o’clock (11:00) p.m. and five o’clock (5:00) a.m. of the following day.

(Ord. 233 – Sep. 08 Supp.)

3. Exceptions. The following are exceptions to the curfew hours:
 - A. The minor is accompanied by a responsible adult.
 - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end or before the beginning of work;
 - (2) Minor's place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
 - D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time period prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a peace officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

D. Minor Without Adult Supervision. If a peace officer determines that a minor does not have adult supervision because the peace officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the peace officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the peace officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a

warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a simple misdemeanor.

C. Minor's First Violation. In the case of a first violation by a minor, the peace officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties.

D. Minor's Second Violation. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a simple misdemeanor.

E. Sentence and Fine for Misdemeanants. A person convicted of a simple misdemeanor under Section 46.03 shall be required to pay a fine of one hundred dollars plus court cost and may be required to perform community service as ordered by the court.

(Ord. 241 – Sep. 09 Supp.)

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Fees
47.03 Fires
47.04 Littering
47.05 Hours

47.06 Camping
47.07 Animals
47.08 Alcoholic Beverages
47.09 Trails and Walkways

47.01 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.

(Code of Iowa, Sec. 364.12)

47.02 FEES. The City may charge user fees, set by resolution of the Council, for use of park facilities.

47.03 FIRES. No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

47.04 LITTERING. No person shall place, deposit, or throw any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.

47.05 HOURS. No person shall use or be present in any park between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. unless advance permission is granted by the Clerk.

47.06 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

47.07 ANIMALS. It is unlawful for any owner of an animal to allow such animal to run loose in any City park. All dogs and cats and other animals shall at all times be on a leash or in a cage while in any City park.

47.08 ALCOHOLIC BEVERAGES. It is illegal to own, use or possess any kegs of beer in any City park.

47.09 TRAILS AND WALKWAYS. All motorized vehicles of any kind shall use only designated areas for such vehicles. No person shall ride any vehicle in any part of any park unless such area is specifically designated for that use. However, motorized wheel chairs or other conveyances specifically designed for the purpose of transporting persons with disabilities may be used on the walkways of the park, if actually being used to transport persons with disabilities.

CHAPTER 48

NOISE CONTROL

48.01 Scope of Regulations
48.02 Definitions
48.03 Noise Disturbance Prohibited

48.04 Included Sounds
48.05 Excluded Sounds

48.01 SCOPE OF REGULATIONS. This chapter applies to the control of all noise originating within the limits of the City, except in the following cases: (a) a State or Federal agency has adopted a different standard or rule than that prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or (b) the Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the residents of the City.

48.02 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
2. “Emergency work” means any work performed for the purpose of alleviating or resolving an emergency.
3. “Motorcycle” means any two- or three-wheeled motor vehicle.
4. “Motor vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. (Note: “Motor vehicle” includes most motorcycles.)
5. “Noise” means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
6. “Noise disturbance” means those sounds defined as “noise disturbances” in Section 48.04 of this chapter which have not otherwise been excepted and excluded from said Section 48.04 under any of Sections 48.01(b), 48.05 or 48.06 of this chapter.

7. "Powered model vehicle" means any self-propelled airborne, waterborne or land-borne model plane, vessel or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car or rocket.
8. "Public right-of-way" means the traveled portion of any street or alley or similar place which is owned or controlled by the City or other governmental entity.
9. "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property division.
10. "Recreational vehicle" means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways is deemed a "motor vehicle" (or "motorcycle" if two or three-wheeled) and not a "recreational vehicle." (Examples of recreational vehicles are a snowmobile, a minibike, a stock car or motorboat.
11. "Residential property" means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.
12. "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
13. "Sound equipment" means any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, "sound equipment" does not include (a) sirens and other equipment used to alert persons to the existence of an emergency, (b) equipment used by law enforcement and other public safety officials in the performance of their official duties, (c) church carillons, bells or chimes, (d) mobile radio or telephone signaling devices and (e) motor vehicle radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than three hundred (300) feet from such motor vehicle.

48.03 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make or continue or cause or allow to be made or continued any noise disturbance within the City.

48.04 INCLUDED SOUNDS. Except for sounds excluded under Section 48.01(b), 48.05 or 48.06 of this chapter, the term “noise disturbance” means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety or health of a human being or disturbs a reasonable human being of normal sensitivities or causes or tends to cause an adverse physiological or physical effect on human beings or devalues or injures property.
2. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying or testing of a motor vehicle or recreational vehicle which is received between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. at the real property boundary of residential property.
3. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. at the real property boundary of residential property.
4. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private property or on City-owned property other than a public right-of-way by an off-road motorcycle or recreational vehicle and received between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. at the real property boundary of residential property; provided, however, the sound made by an off-road motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a noise disturbance unless made so by some provisions of this section other than this subsection.
5. Construction Noise. The sound made by tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. at the real property boundary of residential property.
6. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, if plainly audible from any public right-of-way within the City.

7. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system has been modified by the installation of a muffler cut-out or bypass or the sound made by such vehicle whose exhaust system emits an excessive or unusual sound as compared to the sound emitted by its original exhaust system, whether caused by modification, substitution, age, injury or deterioration of its original exhaust system. For the purposes of this section the sound made by a vehicle's original exhaust system may be determined by the observation of the sound made by the original exhaust system of another similar vehicle.
8. Revving of Engine. A car/vehicle with a good exhaust system that is causing a disturbance by revving its engine while on private or public property.
9. Animal or Bird Noises. The frequent or habitual sound made by a domesticated animal or bird, other than livestock owned or possessed for agricultural purposes, which is received between the hours of nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. at the real property boundary of residential property.

48.05 EXCLUDED SOUNDS. Any other provision of Section 48.04 or other section of this chapter to the contrary notwithstanding, the term "noise disturbance," as used in this chapter, does not mean or include the following sounds:

1. Lawn and Garden Equipment. The sound emitted by motor-powered muffler-equipped lawn and garden equipment operated between the hours of seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m.
2. Chain Saws. The sound emitted by motor-powered tree-trimming equipment operated between the hours of seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m.
3. Snow Removal Equipment. The sound emitted by motor-powered, muffler-equipped snow removal equipment and City-owned or hired snow removal equipment.
4. Emergencies. The sound emitted in the performance of emergency work or to alert persons to the existence of an emergency.
5. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purpose or for the essential testing of such device.

6. Church Bells. The sound emitted by church carillons, bells or chimes.
7. Radios. The sound emitted by a motor vehicle radio, tape deck or player or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants while such vehicle is on the public right-of-way, provided that the sound emitted therefrom is not audible for more than three hundred (300) feet.
8. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.
9. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.
10. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.
11. Construction Noise. The sound emitted by construction work (erection, demolition, excavation, drilling, etc.) between the hours of seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m., which is being performed pursuant to a proper and current building permit.
12. Mosquito Spraying Equipment. The sound made by the City-owned or hired mosquito spraying equipment.
13. School Activities. The sounds made by students, employees and/or the general public while in attendance of any school sponsored event.
14. Fireworks Displays. The sound made during any fireworks display that has been issued a fireworks permit.
15. Parades. The sounds made by participants and observers of any parade that has been approved by the Mayor or City Council.
16. City Operations. The sound made or caused to be made by City owned or hired equipment or facilities for the conduct of City operations.

(Ch. 48 - Ord. 195 – Sep. 04 Supp.)

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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 Notice to Abate: Contents
50.07 Method of Service

50.08 Request for Hearing
50.09 Abatement in Emergency
50.10 Abatement by City
50.11 Collection of Costs
50.12 Installment Payment of Cost of Abatement
50.13 Failure to Abate
50.14 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

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

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

(Code of Iowa, Sec. 657.2[1])

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.

(Code of Iowa, Sec. 657.2[2])

3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

(Code of Iowa, Sec. 657.2[3])

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.

(Code of Iowa, Sec. 657.2[4])

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.

(Code of Iowa, Sec. 657.2[5])

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.09)**

(Code of Iowa, Sec. 657.2[7])

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)**

(Code of Iowa, Sec. 657.2[10])

8. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.

(Code of Iowa, Sec. 657.2[11])

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.

(Code of Iowa, 657.2[12])

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

(Code of Iowa, Sec. 657.2[13])

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

(Code of Iowa, Sec. 657.2[9])

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.

(Code of Iowa, Sec. 657.2[6])

13. Broken or Missing Windows or Doors. Any building or structure containing a broken or missing external window or door or any other opening exposing the interior to the elements and/or permitting access to the interior by birds and animals. This subsection does not apply to carports and other structures designed for use without total enclosure.

14. Containers Catching Precipitation. The outdoor storage of any container or other object capable of catching and retaining precipitation. This subsection does not apply to bird baths and other customary lawn ornaments and landscaping items.

15. Outdoor Storage and Parking of Other Items and Vehicles. The outdoor storage or parking for a continuous period in excess of forty-eight (48) hours of the following items:

- A. Building or construction materials.
- B. Abandoned or inoperable vehicles.
- C. Vehicles without current registration.
- D. Auto parts.
- E. Vehicle tires (with or without rims).
- F. Packing boxes.
- G. Pallets.
- H. Furniture not designed for outdoor use.
- I. Household furnishings or equipment not designed for outdoor use, including carpeting, appliances and other typical household items.
- J. Any other item, other than customary lawn ornaments and landscaping items, not normally required in the otherwise lawful day-to-day use of the premises where located.
- K. Inoperable gardening equipment and lawn care tools, equipment and mowers.
- L. Farm equipment.
- M. Race Cars. Vehicles that have been altered to allow their use in any type of motor sports activities, including but not limited to, drag racing, dirt track racing and figure eight racing.
- N. Outdoor Storage and Parking of Motor Vehicles. Inasmuch as it is found that the storage and parking of motor vehicles can detract from the beneficial use and enjoyment of neighboring properties, certain special regulations are established as follows. No person shall keep, store, display, or park any motor vehicle out-of-doors on property zoned for residential use under their ownership, possession, use, or control for more than forty-eight hours except for the following:
 - (1) Vehicles kept in a garage or other enclosed structure.

(2) Vehicles kept, stored, or parked in a developed residential lot that contains a driveway constructed of concrete, asphalt, or gravel. A developed residential lot is defined as real estate zoned residential with a dwelling or a garage or enclosed structure contained on the real estate.

(Ord. 229 – Oct. 07 Supp.)

(3) A motor home or similar recreational vehicle which is currently licensed for operation on the public highways.

(4) Vehicles lawfully parked on City streets.

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

(Ord. 224 – Nov. 06 Supp.)

16. Attractive Nuisances. Any attractive nuisance dangerous to children in the form of abandoned or inoperable vehicles, abandoned, broken or neglected equipment or machinery, hazardous pools, ponds or excavations, and building material debris.

17. Unsightly and Deteriorated Conditions. Real property maintained in such condition as to be so defective, unsightly or in such condition of deterioration or disrepair that the same causes substantial depreciation of the property values of surrounding properties.

(Ord. 186 – Nov. 02 Supp.)

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

1. Junk and Junk Vehicles (**See Chapter 51**)
2. Dangerous Buildings (**See Chapter 145**)
3. Storage and Disposal of Solid Waste (**See Chapter 105**)
4. Trees (**See Chapter 151**)
5. Restricted Residence District (**See Chapter 155**)

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 the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

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

50.06 NOTICE TO ABATE: CONTENTS. The notice to abate shall contain:

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. 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 such person.

50.07 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])

50.08 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.

50.09 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

50.10 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])

50.11 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 (1) 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])

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds one hundred dollars (\$100.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

50.13 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.

50.14 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. A failure to abate a nuisance as defined in this chapter or a failure to perform an action required herein, following notice as provided in this chapter, shall constitute a municipal infraction and the requirements of this chapter may be enforced under the procedures applicable to municipal infractions in lieu of the abatement procedures set forth in this chapter. *(Ord. 186 – Nov. 02 Supp.)*

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.

CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

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

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

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

1. Structure. A garage or other enclosed structure; or
2. Salvage Yard. An auto salvage yard or junk yard duly licensed by the City.
3. Auto Repair Facility. At a commercial auto repair facility for a period less than sixty (60) days. *(Ord. 228 – Oct. 07 Supp.)*

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

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

CHAPTER 51

JUNK AND JUNK VEHICLES

CHAPTER 53

WEEDS AND GRASS

53.01 Purpose

53.02 Definitions

53.03 Cutting Specifications and Standards of Practice

53.04 Uniform Height Specifications

53.05 Noxious Weeds

53.06 Notice to Abate

53.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. “Curb,” “curb line” or “curbing” means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
2. “Cut,” or “mow” means to mechanically maintain the growth of grass, weeds or brush at a uniform height.
3. “Owner” means a person owning private property in the City and any person occupying private property in the City.
4. “Parking” means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

53.03 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner’s property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner’s property, to a uniform height as defined in Section 53.04.
2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner’s property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner’s property. It is unlawful for any person to throw or deposit

on any street or alley any grass, weeds and brush as outlined in Chapter 135 of this Code of Ordinances.

53.04 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas — not to exceed six inches (6").
2. Undeveloped Residential Areas — not to exceed eight inches (8").
3. Business and Industrial Areas — not to exceed six inches (6").
4. Agriculture Areas — not to exceed fifteen inches (15").

Grass, weeds and brush which are allowed to grow in excess of the above specified limitations are deemed to be violations of this chapter.

53.05 NOXIOUS WEEDS.

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.
2. Noxious weeds include any weed growth or plant designated as noxious by the State Department of Natural Resources rules and regulations or by the Code of Iowa.

53.06 NOTICE TO ABATE. Upon discovery of any violations of this chapter, the City may within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

(Ch. 53 - Ord. 206 – Sep. 04 Supp.)

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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

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

1. "Animal" means a nonhuman vertebrate.
(*Code of Iowa, Sec. 717B.1*)
2. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.
(*Code of Iowa, Sec. 717.1*)
4. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

(*Code of Iowa, Sec. 717.2*)

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

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

55.05 KEEPING OF LIVESTOCK AND ANIMALS PROHIBITED. It is unlawful for a person to keep, raise, stable, harbor or maintain any livestock, poultry or other animals within the City limits unless specifically allowed under this section. This prohibition shall include, but not be limited to, any cows, pigs, horses, ponies, chickens, ducks, sheep, goats, ostriches, emus, other wild animals, reptiles, snakes, and any other animals of every nature. This prohibition does not apply to any fish or small caged birds kept exclusively within a personal living quarters or to the following:

1. Dogs and Cats. A household may keep domesticated dogs and cats as pets but not more than five (5) in the aggregate in any one household. However, keeping puppies or kittens from such pets for a temporary period until they are grown is not prohibited.
2. Existing Livestock Facilities. Livestock facilities existing as of the date of adoption of the 1999 Code of Ordinances limited to only hogs, cattle, sheep and chickens, may continue to operate in the same manner. However, such facilities may not increase the number of livestock being raised and kept and must comply with all other applicable laws and regulations unless granted prior Council permission.
3. Acreages. An acreage having a continuous parcel of at least two (2) acres or more may keep up to two horses or two ponies on the acreage provided there is an enclosed shelter for such animals. A larger number of horses and ponies may be kept only with prior Council permission.
4. Temporary Grazing. Land owners that have in the past temporarily grazed livestock on land within the City limits may also continue such practice.

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 or persons by frequent and habitual howling, yelping, barking, or otherwise; or, by running after or chasing persons, bicycles, automobiles or other vehicles.

1. An animal is deemed an annoyance or a disturbance when that animal barks, bays, howls, cries or emits any other noise, continuously and/or incessantly for a period of ten (10) minutes, or barks, bays, howls, cries or emits any other noise, intermittently for a period of one-half (½) hour or more, and the sound is audible across a residential boundary or is loud enough to be heard by an adjoining property owner.
2. A second offense within a calendar year shall be deemed a nuisance, and proceedings for removal of the animal may be initiated under the same conditions and procedures as a vicious animal.

(Ord. 237 – Sep. 08 Supp.)

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

55.11 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after ten (10) days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section 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.

(Ord. 178 – Oct. 01 Supp.)

(Code of Iowa, Sec. 351.39)

55.12 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.

55.13 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven days from the date that the notice is mailed, or if the owner cannot be located within seven (7) days, the animal shall be disposed of in accordance with law or destroyed by euthanasia. *(Ord. 184 – Nov. 02 Supp.)*

(Code of Iowa, Sec. 351.37, 351.41)

55.14 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Definitions. As used in this section, the following terms are defined:

A. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.

B. "Business" means any enterprise relating to any of the following:

- (1) The sale or offer for sale of goods or services.
- (2) A recruitment for employment or membership in an organization.
- (3) A solicitation to make an investment.
- (4) An amusement or entertainment activity.

C. "Fair" means any of the following:

- (1) 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.

- (2) An exhibition of agricultural or manufactured products.
 - (3) An event for operation of amusement rides or devices or concession booths.
- D. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.
- E. "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.
- 2. 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 event.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
- 3. 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.

(Ord. 209 – Sep. 04 Supp.)

55.15 IMPOUNDING COSTS. Impounding costs are a fifty dollar City impoundment fee plus boarding costs as established by the impoundment facilities.

(Ord. 242 – Sep. 09 Supp.)

55.16 TRAPS AND TRAPPING. No person shall trap or attempt to trap any animal on City public property except authorized personnel in the performance of their duties. Further, no person shall trap or allow the trapping

of animals within the City corporate limits except on property zoned agricultural, and notice of intent to trap any of said areas must be annually filed in writing in advance with the Clerk by the owner and/or the trapper with the traps and trapping being in strict compliance with the appropriate statutes of the State and Rules and Regulations of the State Department of Natural Resources. Excepted from the provisions of this section are instant kill traps for the purpose of small rodent pest control on private property.

(Ord. 242 – Sep. 09 Supp.)

CHAPTER 56

dangerous and vicious animals

56.01 Definitions

56.02 Keeping of Dangerous Animals Prohibited

56.03 Seizure, Impoundment and Disposition of Dangerous Animals

56.04 Keeping of Vicious Animals Prohibited

56.05 Seizure, Impoundment and Disposition of Vicious Animals

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

1. “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 Mayor or Police Chief; and (c) the following animals, which are deemed to be dangerous animals per se:

- A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
- B. Wolves, coyotes and foxes;
- C. Badgers, wolverines, weasels, skunk and mink;
- D. Raccoons;
- E. Bears;
- F. Monkeys and chimpanzees;
- G. Pit Bull Terriers (purebred and mixed breed);
- H. Staffordshire Bull Terriers (purebred and mixed breed);
- I. Alligators and crocodiles;
- J. Scorpions;
- K. Snakes that are venomous, or constrictors;
- L. Lizards that are venomous.
- M. Rottweilers (purebred and mixed breed).

(Ord. 251 – Sep. 11 Supp.)

2. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, which has bitten or clawed a person or other animal while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten or clawed a person or other animal on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders

of a person or other animal; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence.

56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the City with the following exceptions:

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society or museum where they are kept as live specimens for the public to view or for the purpose of instruction, research or study.
2. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the Iowa Department of Natural Resources.
5. 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.

56.03 SEIZURE, IMPOUNDMENT AND DISPOSITION OF DANGEROUS ANIMALS. Dangerous animals may be seized, impounded and disposed of pursuant to the following.

1. In the event that a dangerous 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 or Police Chief, 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 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 on premises in the City, a peace officer 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 animal in the City, the peace officer 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 animals, or destroy the animal, within three (3) days of the receipt of such order. Such order shall be contained in a notice to remove the dangerous animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal shall not be required where such dangerous animal has previously caused serious physical harm or death to any person, in which case the peace officer 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 animal issued by the peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Police Chief.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause, as determined by the Council. After such hearing, the Council may affirm or reverse the order of the peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous 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 Police Chief is not appealed and is not complied with within three (3) days, or the order of the Council after appeal is not complied with within three (3) days, of its issuance, the Police Chief is authorized to seize and impound such dangerous animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of

the Police Chief or Council was issued has not petitioned the Butler County District Court for a review of said order, a peace officer shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group allowed to possess dangerous animals or destroy such animal in a humane manner. Failure to comply with an order of the Police Chief issued pursuant hereto and not appealed, or of the Council after appeal shall constitute a simple misdemeanor.

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

1. Animals under the control of a law enforcement or military agency.
2. (Repealed by Ordinance No. 217 – Dec. 05 Supp.)

56.05 SEIZURE, IMPOUNDMENT AND DISPOSITION OF VICIOUS ANIMALS. Vicious animals may be seized, impounded and disposed of pursuant to the following.

1. A peace officer, in his or her discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, may initiate proceedings to declare such animal a vicious animal. A hearing on the matter shall be conducted by the Mayor. The person owning, keeping, sheltering or harboring the animal in question shall be given not less than seventy-two (72) hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the animal is determined to be vicious, the owner will be required to allow it to be destroyed. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.
2. If, after hearing, the Mayor determines that an animal is vicious, the Mayor shall order the person owning, sheltering or harboring or keeping the animal to cause it to be destroyed in a humane manner. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the Mayor is authorized to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the Mayor was issued has not

appealed such order to the Council, the Mayor shall cause the animal to be destroyed in a humane manner.

3. The order to destroy a 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 (3) days after receipt of the order to destroy the 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 personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause as determined by the Council. 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 (3) 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 vicious animal cause it to be destroyed in a humane manner. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the order to destroy. If the original order of the Mayor is not appealed and is not complied with within three (3) days, or the order of the Council after appeal is not complied with within three (3) days, of its issuance, a peace officer is authorized to seize and impound such vicious animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the Mayor and/or the Council was issued has not petitioned the Butler County District Court for a review of said order, the Mayor shall cause the animal to be destroyed in a humane manner.

6. Failure to comply with an order of the Mayor issued pursuant hereto and not appealed, or of the Council after appeal, is a simple misdemeanor.

7. Any animal found at large which displays vicious tendencies may be processed as a vicious animal pursuant to the foregoing, unless the animal is so vicious that it cannot be safely be apprehended, in which case a peace officer may immediately destroy it.

8. Any animal which is alleged to be vicious and which is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner

CHAPTER 56

DANGEROUS AND VICIOUS ANIMALS

pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the animal is determined to be vicious. If the animal is not determined to be vicious, such impoundment or quarantine shall be paid by the City.

(Ch. 56 Ord. 209 – Sep. 04 Supp.)

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

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

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Clarksville 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 fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273 & 321.274)

60.06 PEACE OFFICER'S AUTHORITY. A peace officer is authorized to stop a vehicle to require exhibition of the driver's license of the driver, to serve a summons or memorandum of traffic violation, to inspect the condition of the vehicle, to inspect the vehicle with reference to size, weight, cargo, log book, bills of lading or other manifest of employment, tires and safety equipment, or to inspect the registration certificate, the compensation certificate, travel order,

or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

61.05 COMPLIANCE. No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer.

(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 Funeral Processions

62.07 Tampering with Vehicle

62.08 Open Containers in Motor Vehicles

62.09 Obstructing View at Intersections

62.10 Reckless Driving

62.11 Careless Driving

62.12 Iowa Highway 188 Recreational Crossing

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 321.32 — Registration card, carried and exhibited.
2. Section 321.37 — Display of plates.
3. Section 321.38 — Plates, method of attaching, imitations prohibited.
4. Section 321.79 — Intent to injure.
5. Section 321.98 — Operation without registration.
6. Section 321.174 — Operators licensed.
7. Section 321.174A — Operation of motor vehicles with expired license.
8. Section 321.180 — Instruction permits.
9. Section 321.180B — Graduated driver's licenses for persons aged fourteen through seventeen.
10. Section 321.193 — Restricted licenses.
11. Section 321.194 — Special minor's licenses.
12. Section 321.216 — Unlawful use of license and nonoperator's identification card.
13. Section 321.216B — Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.
14. Section 321.219 — Permitting unauthorized minor to drive.

15. Section 321.220 — Permitting unauthorized person to drive.
16. Section 321.221 — Employing unlicensed chauffeur.
17. Section 321.222 — Renting motor vehicle to another.
18. Section 321.223 — License inspected.
19. Section 321.224 — Record kept.
20. Section 321.232 — Radar jamming devices; penalty.
21. Section 321.234A — All-terrain vehicles.
22. Section 321.247 — Golf cart operation on City streets.
23. Section 321.259 — Unauthorized signs, signals or markings.
24. Section 321.262 — Damage to vehicle.
25. Section 321.263 — Information and aid.
26. Section 321.264 — Striking unattended vehicle.
27. Section 321.265 — Striking fixtures upon a highway.
28. Section 321.275 — Operation of motorcycles and motorized bicycles.
29. Section 321.278 — Drag racing prohibited.
30. Section 321.288 — Control of vehicle; reduced speed.
31. Section 321.295 — Limitation on bridge or elevated structures.
32. Section 321.297 — Driving on right-hand side of roadways; exceptions.
33. Section 321.298 — Meeting and turning to right.
34. Section 321.299 — Overtaking a vehicle.
35. Section 321.302 — Overtaking on the right.
36. Section 321.303 — Limitations on overtaking on the left.
37. Section 321.304 — Prohibited passing.
38. Section 321.307 — Following too closely.
39. Section 321.308 — Motor trucks and towed vehicles; distance requirements.
40. Section 321.309 — Towing; convoys; drawbars.
41. Section 321.310 — Towing four-wheel trailers.
42. Section 321.312 — Turning on curve or crest of grade.

- 43. Section 321.313 — Starting parked vehicle.
- 44. Section 321.314 — When signal required.
- 45. Section 321.315 — Signal continuous.
- 46. Section 321.316 — Stopping.
- 47. Section 321.317 — Signals by hand and arm or signal device.
- 48. Section 321.319 — Entering intersections from different highways.
- 49. Section 321.320 — Left turns; yielding.
- 50. Section 321.321 — Entering through highways.
- 51. Section 321.322 — Vehicles entering stop or yield intersection.
- 52. Section 321.323 — Moving vehicle backward on highway.
- 53. Section 321.324 — Operation on approach of emergency vehicles.
- 54. Section 321.329 — Duty of driver — pedestrians crossing or working on highways.
- 55. Section 321.330 — Use of crosswalks.
- 56. Section 321.332 — White canes restricted to blind persons.
- 57. Section 321.333 — Duty of drivers.
- 58. Section 321.340 — Driving through safety zone.
- 59. Section 321.341 — Obedience to signal of train.
- 60. Section 321.342 — Stop at certain railroad crossings; posting warning.
- 61. Section 321.343 — Certain vehicles must stop.
- 62. Section 321.344 — Heavy equipment at crossing.
- 63. Section 321.354 — Stopping on traveled way.
- 64. Section 321.359 — Moving other vehicle.
- 65. Section 321.362 — Unattended motor vehicle.
- 66. Section 321.363 — Obstruction to driver's view.
- 67. Section 321.364 — Preventing contamination of food by hazardous material.
- 68. Section 321.365 — Coasting prohibited.
- 69. Section 321.367 — Following fire apparatus.

- 70. Section 321.368 — Crossing fire hose.
- 71. Section 321.369 — Putting debris on highway.
- 72. Section 321.370 — Removing injurious material.
- 73. Section 321.371 — Clearing up wrecks.
- 74. Section 321.372 — School buses.
- 75. Section 321.381 — Movement of unsafe or improperly equipped vehicles.
- 76. Section 321.382 — Upgrade pulls; minimum speed.
- 77. Section 321.383 — Exceptions; slow vehicles identified.
- 78. Section 321.384 — When lighted lamps required.
- 79. Section 321.385 — Head lamps on motor vehicles.
- 80. Section 321.386 — Head lamps on motorcycles and motorized bicycles.
- 81. Section 321.387 — Rear lamps.
- 82. Section 321.388 — Illuminating plates.
- 83. Section 321.389 — Reflector requirement.
- 84. Section 321.390 — Reflector requirements.
- 85. Section 321.392 — Clearance and identification lights.
- 86. Section 321.393 — Color and mounting.
- 87. Section 321.394 — Lamp or flag on projecting load.
- 88. Section 321.395 — Lamps on parked vehicles.
- 89. Section 321.398 — Lamps on other vehicles and equipment.
- 90. Section 321.402 — Spot lamps.
- 91. Section 321.403 — Auxiliary driving lamps.
- 92. Section 321.404 — Signal lamps and signal devices.
- 93. Section 321.404A — Light-restricting devices prohibited.
- 94. Section 321.405 — Self-illumination.
- 95. Section 321.406 — Cowl lamps.
- 96. Section 321.408 — Back-up lamps.
- 97. Section 321.409 — Mandatory lighting equipment.

- 98. Section 321.415 — Required usage of lighting devices.
- 99. Section 321.417 — Single-beam road-lighting equipment.
- 100. Section 321.418 — Alternate road-lighting equipment.
- 101. Section 321.419 — Number of driving lamps required or permitted.
- 102. Section 321.420 — Number of lamps lighted.
- 103. Section 321.421 — Special restrictions on lamps.
- 104. Section 321.422 — Red light in front.
- 105. Section 321.423 — Flashing lights.
- 106. Section 321.430 — Brake, hitch and control requirements.
- 107. Section 321.431 — Performance ability.
- 108. Section 321.432 — Horns and warning devices.
- 109. Section 321.433 — Sirens, whistles, and bells prohibited.
- 110. Section 321.434 — Bicycle sirens or whistles.
- 111. Section 321.436 — Mufflers, prevention of noise.
- 112. Section 321.437 — Mirrors.
- 113. Section 321.438 — Windshields and windows.
- 114. Section 321.439 — Windshield wipers.
- 115. Section 321.440 — Restrictions as to tire equipment.
- 116. Section 321.441 — Metal tires prohibited.
- 117. Section 321.442 — Projections on wheels.
- 118. Section 321.444 — Safety glass.
- 119. Section 321.445 — Safety belts and safety harnesses — use required.
- 120. Section 321.446 — Child restraint devices.
- 121. Section 321.449 — Motor carrier safety regulations.
- 122. Section 321.450 — Hazardous materials transportation.
- 123. Section 321.454 — Width of vehicles.
- 124. Section 321.455 — Projecting loads on passenger vehicles.
- 125. Section 321.456 — Height of vehicles; permits.
- 126. Section 321.457 — Maximum length.

- 127. Section 321.458 — Loading beyond front.
- 128. Section 321.460 — Spilling loads on highways.
- 129. Section 321.461 — Trailers and towed vehicles.
- 130. Section 321.462 — Drawbars and safety chains.
- 131. Section 321.463 — Maximum gross weight.
- 132. Section 321.465 — Weighing vehicles and removal of excess.
- 133. Section 321.466 — Increased loading capacity - reregistration.
- 134. Section 321.235A — Electric personal assistive mobility devices.
- 135. Section 321.323A — Approaching certain stationary vehicles.

(Ord. 185 – Nov. 02 Supp.)

- 136. Section 321.99 — Fraudulent use of registration.

(Ord. 215 – Dec. 05 Supp.)

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

(Code of Iowa, Sec. 321.255)

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

62.04 CLINGING TO VEHICLE. No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. 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 FUNERAL PROCESSIONS. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

(Code of Iowa, Sec. 321.324A)

62.07 TAMPERING WITH VEHICLE. It is unlawful for any person, either individually or in association with one or more other persons, to willfully injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

62.08 OPEN CONTAINERS IN MOTOR VEHICLES.

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284)

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284A)

As used in this section "passenger area" means the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. An open or unsealed receptacle containing an alcoholic beverage may be transported in the trunk of the motor vehicle. An unsealed receptacle containing an alcoholic beverage may be transported behind the last upright seat of the motor vehicle if the motor vehicle does not have a trunk.

(Ord. 167 – Sep. 00 Supp.)

62.09 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.

62.10 RECKLESS DRIVING. No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.

(Code of Iowa, Sec. 321.277)

62.11 CARELESS DRIVING. No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
2. Simulating a temporary race.
3. Causing any wheel or wheels to unnecessarily lose contact with the ground.
4. Causing the vehicle to unnecessarily turn abruptly or sway.

62.12 IOWA HIGHWAY 188 RECREATIONAL CROSSING. A recreational crossing is established one City block (approximately 380 feet) south of the main line of the Iowa Northern Railroad on Iowa Highway 188 at the south entrance to the City. Recreational uses include, but are not limited to, uses by pedestrians, bicycles and snowmobiles. Motorized vehicles, except for snowmobiles, are not allowed.

(Ord. 191 – Aug. 03 Supp.)

CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

63.06 Emergency Vehicles

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

(Code of Iowa, Sec. 321.285)

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

1. Business District — Twenty (20) miles per hour.
(Code of Iowa, Sec. 321.285 [1])
2. Residence or School District — Twenty-five (25) miles per hour.
(Code of Iowa, Sec. 321.285 [2])
3. Suburban District — Forty-five (45) miles per hour.
(Code of Iowa, Sec. 321.285 [4])

63.03 PARKS, CEMETERIES AND PARKING LOTS. A speed in excess of ten (10) miles per hour in any public park, cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

63.04 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa State 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 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Mather Street from a point 150 feet north of the center of its intersection with Poisal Street northerly to a point 150 feet south of its intersection with Ilgenfritz Street;
 - B. Church Street from a point 150 feet north of the center of its intersection with Poisal Street to the center of the intersection with Prospect Street;
 - C. Fremont Street from a point 150 feet north of the center of its intersection with Poisal Street northerly to the center of the intersection with Prospect Street;
 - D. Slimmer Street from a point 150 feet east of the center of its intersection with Main Street easterly to the corporate limits;
 - E. Wamsley Street from a point 150 feet east of its intersection with Main Street easterly to the center of its intersection with Mather Street;
 - F. Prospect Street from a point 150 feet east of the center of its intersection with Main Street easterly to the termination of Prospect Street.
2. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Main Street, from a point 100 feet north of Jefferson Street to a point 25 feet south of Wamsley Street.
3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. Main Street, from a point 25 feet south of Wamsley Street to a point 100 feet north of Eichar Street;
 - B. Main Street, from a point 100 feet north of Jefferson Street to a point 150 feet north of Oakland Street;
 - C. Superior Street, from the west corporate limits to Baughman Street.

4. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Superior Street, from the east corporate limits to a point 264 feet east of London Street.

5. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Main Street, from a point 100 feet north of Eichar Street to the north corporate limits;

B. Main Street, from a point 150 feet north of Oakland Street to the south corporate limits.

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

(Code of Iowa, Sec. 321.294)

63.06 EMERGENCY VEHICLES. The speed limitations set forth in this chapter do not apply to authorized emergency vehicles or the rider of a police bicycle when responding to an emergency call or when in the pursuit of an actual or suspected perpetrator of a felony or in response to an incident dangerous to the public and the drivers thereof use an audible signaling device or a visual signaling device. This provision does not relieve the driver of an authorized emergency vehicle or the rider of a police bicycle from the duty to drive or ride with due regard for the safety of others.

(Code of Iowa, Sec. 321.231)

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CHAPTER 64

TURNING REGULATIONS

64.01 Authority to Mark
64.02 U-turns

64.03 No Left Turn for Parking

64.01 AUTHORITY TO MARK. The Police Chief may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified by the State law 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.

(Code of Iowa, Sec. 321.311)

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district, at the following designated intersections and at intersections where there are automatic traffic signals. For the purpose of this section, a U-turn means a U-shaped turn made by a vehicle so as to head in the opposite direction from its original course.

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

1. At the intersection of Main Street and Greene Street;
2. At the intersection of Main Street and Wamsley Street.
3. At the intersection of Main Street and Superior Street.
4. At the intersection of Main Street and Poisal Street.
5. At the intersection of Main Street and Prospect Street.

64.03 NO LEFT TURN FOR PARKING. No person while driving a motor vehicle on Main Street between the intersection of Main Street and Wamsley Street and the intersection of Main Street and Weare Street shall make a left turn across the centerline of Main Street for the purpose of immediately parking in a diagonal parking spot on the opposite side of Main Street.

(Ord. 180 – Nov. 02 Supp.)

Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty dollars (\$20.00). In the case that such fine is not paid within the time indicated on the

CHAPTER 64

TURNING REGULATIONS

notice, then it shall be grounds for filing of a complaint in District Court with the appropriate surcharge and court costs being applied. (*Ord. 257 – Oct. 13 Supp.*)

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop

65.02 Stop Required

65.03 Four-Way Stop Intersections

65.04 Yield Required

65.05 School Stops

65.06 Stop Before Crossing Sidewalk

65.07 Stop When Traffic Is Obstructed

65.08 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Main Street from Eichar Street to Oakland Street;
2. Superior Street from Baughman Street to London Street.

65.02 STOP REQUIRED. Every driver of a vehicle shall stop in accordance with the following:

(Code of Iowa, Sec. 321.345)

1. ***(Repealed by Ord. No. 232 – Oct. 07 Supp.);***
2. Washington Street. Vehicles traveling on Washington Street shall stop at Prospect Street;
3. Elizabeth Street. Vehicles traveling on Elizabeth Street shall stop at Greene Street;
4. ***(Repealed by Ord. No. 226 – Nov. 06 Supp.);***
5. Wamsley Street. Vehicles traveling east on Wamsley Street shall stop at Mather Street;
6. Greene Street. Vehicles traveling on Greene Street shall stop at Adams Street;
7. Weare Street. Vehicles traveling on Weare Street shall stop at Washington Street;
8. Wilman Street. Vehicles traveling on Wilman Street shall stop at Adams Street;
9. Jefferson Street. Vehicles traveling on Jefferson Street shall stop at Church Street;
10. Fremont Street. Vehicles traveling north on Fremont Street shall stop at Prospect Street;

11. Ely Street. Vehicles traveling north on Ely Street shall stop at Slimmer Street;
12. Railroad Crossings. All vehicles shall stop on both sides of the Chicago and Northwestern Railroad crossings on Mather Street and Church Street;
13. Church Street. Vehicles traveling north on Church Street shall stop at Prospect Street;
14. Adams Street. Vehicles traveling on Adams Street shall stop at Prospect Street.
15. Wamsley Street. Vehicles traveling east on Wamsley Street shall stop at Hilton Street.
16. Mather Street. Vehicles traveling on Mather Street shall stop at Locust Street.
17. Fremont Street. Vehicles traveling on Fremont Street shall stop at Poisal Street.
(*Ord. 220 – Dec. 05 Supp.*)
18. Baughman Street. Vehicles traveling on Baughman Street shall stop at Slimmer Street.
(*Ord. 212 – Dec. 05 Supp.*)
19. Traer Street. Vehicles traveling on Traer Street shall stop at Slimmer Street.
(*Ord. 212 – Dec. 05 Supp.*)
20. Mather Street. Vehicles traveling on Mather Street shall stop at Weare Street.
(*Ord. 226 – Nov. 06 Supp.*)
21. Church Street. Vehicles traveling on Church Street shall stop at Weare Street.
(*Ord. 230 – Oct. 07 Supp.*)
22. Jefferson Street. Vehicles traveling on Jefferson Street shall stop at Mather Street.
(*Ord. 226 – Nov. 06 Supp.*)

65.03 FOUR-WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:
(*Code of Iowa, Sec. 321.345*)

1. Intersection of Hilton Street and Prospect Street.
2. Intersection of Adams Street and Weare Street.
3. Intersection of Adams Street and Jefferson Street.
4. Intersection of Mather Street and Prospect Street.
5. Intersection of Main Street and Superior Street.
6. Intersection of Mather Street and Sycamore Street.

7. Intersection of Mather Street and Oakland Street.
8. Intersection of Church Street and Sycamore Street.
9. Intersection of Church Street and Oakland Street.
(#6-9 added by Ord. 220 – Dec. 05 Supp.)
10. Intersection of Slimmer Street and Mather Street.
(Ord. 226 – Nov. 06 Supp.)
11. Intersection of Prospect Street and Elizabeth Street.
(Ord. 232 – Oct. 07 Supp.)

65.04 YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the following:

(Code of Iowa, Sec. 321.345)

— NONE —

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

(Code of Iowa, Sec. 321.249)

1. Intersection of Main Street and Prospect Street;
2. Intersection of Superior Street and Mather Street;
3. Intersection of Prospect Street and Church Street.
(Ord. 170 – Sep. 00 Supp.)

65.06 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)

65.07 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.

65.08 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 Limit Exceptions

66.05 Load Limits on Bridges

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

1. Mather Street. A five-ton limit on Mather Street from Monroe Street north to Superior Street;
2. Adams Street. A five-ton limit on Adams Street from Jefferson Street north to Superior Street.

66.04 LOAD LIMIT EXCEPTIONS. The load limits contained in Section 66.03 do not apply to the following vehicles:

1. School buses on scheduled routes.
2. Refuse trucks operating on scheduled collection routes.
3. City, County or State maintenance trucks on official business.
4. Wreckers on service calls.

5. Emergency vehicles, such as ambulances, fire trucks or the like.

66.05 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Police Chief may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use Sidewalks

67.01 WALKING IN STREET. Pedestrians shall at all times when walking on or along a street, walk on the left side of the street.
(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.
(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

— NONE —

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb - One-way Street
69.03 Angle Parking
69.04 Angle Parking - Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking

69.08 No Parking Zones
69.09 All Night Parking Prohibited
69.10 Truck and Trailer Parking Limited
69.11 Parking Limited to Ten Minutes
69.12 Snow Emergency
69.13 Parking Between Lot Line and Curb Line
69.14 Parking Limited to One Hour Parking

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Main Street, on both sides, from Weare Street to Wamsley Street.

69.04 ANGLE PARKING - MANNER. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when parked within a diagonal parking district, shall extend into the roadway more than a distance of sixteen (16) feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than forty-eight (48) hours or for any of the following principal purposes:

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

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

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

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

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

(Code of Iowa, Sec. 321.358 [8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.

(Code of Iowa, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(Code of Iowa, Sec. 321.358 [10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358 [11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

(Code of Iowa, Sec. 321.358 [13])

14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

15. Alleys. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less; provided said vehicle is parked to deliver goods or services.

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

16. Ramps. In front of a curb cut or ramp which is located on public or private property in a manner which blocks access to the curb cut or ramp.

(Code of Iowa, Sec. 321.358[15])

17. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

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

1. Nonresidential Off-street Facilities. Nonresidential off-street parking facilities shall set aside persons with disabilities parking spaces in accordance with the following:

A. Municipal off-street public parking facilities or an entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as persons with disabilities parking spaces, rounded to the nearest whole number of persons with disabilities parking spaces. However, such parking facilities having ten (10) or more parking spaces shall set aside at least one persons with disabilities parking space.

(Code of Iowa, Sec. 321L.5[3a])

B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing persons with disabilities parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for persons with disabilities parking spaces in a facility exceeds sixty percent (60%) during normal business hours, the entity shall provide additional persons with disabilities parking spaces as needed.

(Code of Iowa, Sec. 321L.5[3b])

C. An entity providing off-street nonresidential parking as a lessor shall provide a persons with disabilities parking space to an individual requesting to lease a parking space, if that individual possesses a persons with disabilities parking permit issued in accordance with Section 321L.2 of the Code of Iowa.

(Code of Iowa, Sec. 321L.5[3c])

D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide persons with disabilities parking spaces as stipulated below:

TOTAL PARKING SPACES IN LOT	REQUIRED MINIMUM NUMBER OF PERSONS WITH DISABILITIES PARKING SPACES
10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	†
1001 and over	‡
† Two percent (2%) of total	
‡ Twenty (20) spaces plus one for each 100 over 1000	

(Code of Iowa, Sec. 321L.5[3d])

2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences and which provide ten (10) or more tenant parking spaces, excluding extended health care facilities, shall designate at least one persons with disabilities parking space as needed for each individual dwelling unit in which a person with a disability resides. Residential buildings and facilities which provide public visitor parking of ten (10) or more spaces shall designate persons with disabilities parking spaces in the visitors' parking area in accordance with the table contained in subsection (1)(D) of this section.

(IAC, 661-18.7[321L])

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2%) of the total parking spaces within each business district shall be designated as persons with disabilities parking spaces.

(Code of Iowa, Sec. 321L.5[4a])

4. Other Spaces. Any other person may set aside persons with disabilities parking spaces on the person's property provided each parking space is clearly and prominently designated as a persons with disabilities parking space. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

(Code of Iowa, Sec. 321L.5[3e])

5. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

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

A. Use by an operator of a motor vehicle not displaying a persons with disabilities parking permit;

B. Use by an operator of a motor vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the Code of Iowa;

C. Use by a motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

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

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

1. Prospect Street, on the north side, from Main Street to the east end of Prospect Street as per posted signs;

2. Diamond Street, on the east side, from Ilgenfritz Street to Slimmer Street;

3. Superior Street, on both sides, from east of the alley between Main Street and Mather Street to London Street;

4. Superior Street, on both sides, from west of Elizabeth Street to Baughman Street, except during church services or functions;

5. Slimmer Street, on the south side, from Hilton Street to Ely Street.

(Ord. 260 – Oct. 13 Supp.)

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than thirty (30) minutes:

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

1. Between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. of any day.
 - A. Main Street, on both sides, from Prospect Street to Superior Street.
2. Between the hours of twelve o'clock (12:00) a.m. and six o'clock (6:00) a.m. of any day.
 - A. Main Street, on both sides, from Superior Street to Greene Street.

(Ord. 259 – Oct. 13 Supp.)

69.10 TRUCK AND TRAILER PARKING LIMITED. This section shall regulate all truck parking within the City limits.

1. Definition of Trucks and Trailers. Trucks and trailers covered by this section are all trucks over one (1) ton size, all truck tractor trailers, semi trailers, fifth wheel trailers, any livestock trailers, and any other vehicles primarily designed to haul or load freight. Class A, B or C motor homes, camping trailers, camping fifth wheel trailers and like vehicles are excluded.
2. General Prohibition. No person shall park any truck or trailer, as defined in subsection 1, on any City street, alley or public property within the City limits, nor park or store said trucks or trailers on any private property, except as specifically permitted by this section. Any violation of this section shall be a simple misdemeanor. Each day of a violation shall be a separate violation.
3. Permitted Parking. The following parking is permitted:
 - A. Parking on City Streets or Alleys. A truck or trailer may be temporarily parked on any City street or alley for the purpose of loading or unloading and further that such period shall not exceed six (6) hours in any one forty-eight (48) hour period. All engines, auxiliary engines or air compressors shall be shut off in residential areas for such parking period. Dollying down for trailers is not permitted.

B. Parking in Commercial Areas. Parking of such trucks or trailers is permitted on any real estate zoned commercial, provided such vehicles do not extend into any public areas. The engines or compressors may be kept running when so parked but only if the noise from such engines or compressors cannot be easily heard in any adjoining residential areas.

C. Parking in Residential Areas. A semi tractor, without a trailer, may be parked on private property provided it is completely shut off when so parked. Idling shall not be permitted unless being worked on. Parking by any other trucks or trailers is not permitted in any residential area.

4. Designated Parking Areas. The Council may designate, by resolution, any special parking areas within the City limits for truck parking and adopt special regulations for any such area.

5. Temporary Waiver. The Police Chief is authorized to grant a temporary waiver of the foregoing parking prohibitions in emergencies, civic celebrations or other like special circumstances. Any waiver shall not exceed a period of fourteen (14) days.

(Ord. 175 – Oct. 01 Supp.)

69.11 PARKING LIMITED TO TEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than ten (10) minutes upon the following designated streets:

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

1. Main Street, on the west side, between Greene Street and Weare Street, where signs are posted.

69.12 SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during a snow emergency, unless the snow has been removed or plowed on said street, alley or off-street parking area and the snow has stopped falling. A snow emergency is defined as any time period from November 1 to March 31 when snow accumulation, in any twenty-four (24) hour period is over one (1) inch. The ban on parking shall continue for forty-eight (48) hours after cessation of the snowfall, except that it will terminate earlier on any street or alley that has been plowed. The Clerk shall, in November of each year and afterwards if so directed to do so by the Council, publish a notice to remind all residents of this parking restriction.

(Code of Iowa, 321.236[1])

69.13 PARKING BETWEEN LOT LINE AND CURB LINE. No person shall park any travel trailer, motor home, trailer, or boat on that area of the

public way not covered by sidewalk and lying between the lot line and the curb line or the traveled portion of the street. Automobiles and pickups parked in such area shall be parked in a parallel manner only.

69.14 PARKING LIMITED TO ONE HOUR PARKING. It is unlawful to park any vehicle for a continuous period of more than one (1) hour from 7:00 a.m. to 4:00 p.m. (during regular school hours) upon the following designated streets:

1. Mather Street, west side of the north one-half (1/2) of the block and all the east side of the block between Prospect Street and Wamsley Avenue.
2. Mather Street, both sides of block between Wamsley Avenue and Slimmer Avenue.

(Ord. 258 – Oct. 13 Supp.)

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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 and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

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

(Code of Iowa, Sec. 805.6, 805.8)

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of fifteen dollars (\$15.00) for all violations except snow route parking violations and improper use of a persons with disabilities parking permit. If such fine is not paid with thirty (30) days, it shall be increased to twenty dollars (\$20.00). The simple notice of a fine for snow route parking violations is twenty-five dollars (\$25.00) and the simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in District Court.

(Ord. 244 – Sep. 09 Supp.)

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 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 Forty-eight Hour Period. When any vehicle is left parked for a continuous period of forty-eight (48) hours or more. If the owner is found, the owner shall be given an opportunity to remove the vehicle.

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles
75.06 Negligence
75.07 Accident Reports
75.08 Stop at Intersections

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, or a two-wheeled, off-road motorcycle, that is limited in engine displacement to less than eight hundred (800) cubic centimeters and in total dry weight to less than seven hundred fifty (750) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.

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

2. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread, or any combination of runners, skis or tread, and is designed for travel on snow or ice.

(Code of Iowa, Sec. 321G.1 [18])

75.03 GENERAL REGULATIONS. No person shall operate an ATV 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, numbering, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

75.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. No person shall operate a snowmobile upon any street within the City except as follows:

A. A person may drive a snowmobile from its normal place of storage or the person's residence, in a direct route to and from the City limits, on the designated routes. The snowmobile shall, at all times, be operated in a single-file manner, in the proper lane of traffic as close to the curb as possible under existing circumstances, and at a rate of speed not to exceed ten miles per hour. Such operation is only permitted between the hours of seven o'clock (7:00) a.m. and eleven o'clock (11:00) p.m. The designated routes are as follows:

(1) Mather St. from E. Prospect St. to E. Maple St., west on E. Maple St. to snowmobile trail in Heery Woods.

(2) W. Poisal St. from N. Mather St. to N. London St., south on N. London St. to E. Superior St. (C-33), east on E. Superior St. to east City limits.

(3) Prospect St. from N. Mather St. to N. Hilton St., north on N. Hilton St. to W. Slimmer, west on W. Slimmer St. to west City limits.

(4) N. Traer St. from W. Slimmer St. to W. Jefferson St., enter snowmobile trail to W. Jefferson St. (trail runs adjacent to railroad tracks), travel southeast past City lagoons and continue south out of City limits.

(Ord. 234 – Sep. 08 Supp.)

B. Sanctioned snowmobile clubs or similar organizations may be exempted from the provisions of this section, if authorized by the Police Chief, for rallies, regular meetings or other similar meetings in order to allow travel to and from such places.

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

(Code of Iowa, Sec. 321G.9[4c])

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
- (2) The snowmobile is brought to a complete stop before crossing the street;
- (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

(Code of Iowa, Sec. 321G.9[2])

1. 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])

2. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4 g])

3. 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.

4. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1 & 2A])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

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

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking."

75.06 NEGLIGENCE. The owner and operator of an ATV or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile. The owner of an ATV or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV or snowmobile at the time the injury or damage occurred.

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

75.08 STOP AT INTERSECTIONS. All operators of snowmobiles are required to stop at every street intersection within the City limits, whether or not it is posted with a stop sign.

(Ch. 75 - Ord. 197 & 207- Sep. 04 Supp.)

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Carrying Articles
76.02 Traffic Code Applies	76.09 Riding on Sidewalks
76.03 Double Riding Restricted	76.10 Towing
76.04 Two Abreast Limit	76.11 Improper Riding
76.05 Bicycle Paths	76.12 Parking
76.06 Speed	76.13 Equipment Requirements
76.07 Emerging from Alley or Driveway	76.14 Special Penalty

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(Code of Iowa, Sec. 321.236 [10])

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

(Code of Iowa, Sec. 321.236 [10])

76.05 BICYCLE PATHS. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(Code of Iowa, Sec. 321.236 [10])

76.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code of Iowa, Sec. 321.236 [10])

76.07 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Code of Iowa, Sec. 321.236 [10])

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

(Code of Iowa, Sec. 321.236 [10])

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

(Code of Iowa, Sec. 321.236 [10])

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

(Code of Iowa, Sec. 321.236 [10])

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

(Code of Iowa, Sec. 321.236 [10])

76.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City.

76.11 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the

bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

(Code of Iowa, Sec. 321.236 [10])

76.13 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

(Code of Iowa, Sec. 321.236 [10])

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1])

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the

vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89[3a])

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

(Code of Iowa, Sec. 321.89[3b])

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay three dollars (\$3.00) if claimed within five (5) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

(Code of Iowa, Sec. 321.89[3a])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

(Ch. 80 – Ord. 223 – Dec. 05 Supp.)

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals
81.03 Obstructing Streets

81.04 Crossing Maintenance
81.05 Speed

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

1. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.
(Code of Iowa, Sec. 321.1 [29])
2. “Operator” means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.
(Code of Iowa, Sec. 327G.13)

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:
(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

Operators violating any provision of this section are guilty of a misdemeanor. An employee is not guilty of such violation if the action is necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Such guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])
(Code of Iowa, Sec. 364.11)

81.05 SPEED. It is unlawful to operate any railroad train through any street crossing within the platted areas of the City at a speed greater than forty (40) miles per hour.

(Girl vs. United States R. Admin., 194 Iowa 1382, 189 N.W. 834, [1923])

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.10 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.11 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.12 Failure to Maintain
90.04 Abandoned Connections	90.13 Curb Stop
90.05 Permission Required	90.14 Interior Valve
90.06 Compliance with Plumbing Code	90.15 Inspection and Approval
90.07 Plumber Required	90.16 Completion by the City
90.08 Excavations	90.17 Shutting off Water Supply
90.09 Tapping Mains	90.18 Operation of Curb Stop and Hydrants

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the Maintenance Superintendent of the City or any duly authorized assistant, agent or representative.
4. "Water main" means water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMISSION REQUIRED. Before any person makes a connection with the public water system, permission must be obtained from the City. The person seeking permission shall provide a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter, permission shall be granted, and work must be completed within sixty (60) days, except that when such time period is inequitable or unfair due to conditions beyond the control of the person, an extension of time within which to complete the work may be granted.

90.06 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of Division 4, Plumbing Rules and Regulations, of the State Building Code.

90.07 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

90.08 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with

applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

90.09 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

90.10 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the curb stop to the meter setting shall be type K copper tubing or one hundred forty (140) pound test P.V.C. Pipe must be laid sufficiently waving, and to such depth, at least six feet, as to prevent rupture from settlement or freezing.

90.11 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the curb stop to the building served shall be borne by the property owner. The City shall be responsible for the water service pipe from the main to the curb stop (property line), provided, however, that where both sewer and water pipes are laid in the same trench, the City shall not furnish the excavation to the curb stop, and the same shall be the responsibility of the

property owner. The provisions of this section shall also apply if the City replaces or relocates a water main. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.12 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

90.13 CURB STOP. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent.

90.14 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.15 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.16 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner, and such assessment may be collected with and in the same manner as general property taxes.

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

90.17 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being

contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.18 OPERATION OF CURB STOP AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

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CHAPTER 91

WATER METERS

91.01 Purpose	91.06 Meter Repairs
91.02 Water Use Metered	91.07 Right of Entry
91.03 Fire Sprinkler Systems- Exception	91.08 Remote Readers
91.04 Location of Meters	91.09 Separate Meter
91.05 Meter Setting	

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the property owner.

91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including valves on the intake and discharge sides of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER REPAIRS. Whenever a water meter or remote reader is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter or reader has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.

91.07 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.08 REMOTE READERS. All meter installations shall be equipped with remote readers so that they may be read both at the meter and at a location on the outside of the dwelling or building. All remote readers shall be installed outside of the building at a point readily accessible by the City.

91.09 SEPARATE METER. Each residential household unit, mobile home, individual business, or any other water customer shall have a separate water meter for each such household unit, mobile home, individual business, or customer. Meters shall not serve more than one separate customer except by written permission from the Council. A common owner or customer may not combine a separate and distinct business with a separate residential unit, or combine more than one residential unit under one water meter. However, home occupations are exempt from the provisions of this section. For the purpose of this section, a home occupation means any business conducted within a residential premises which business use is minor or incidental to the primary residential use of the premises and where such business use occupies a very minor or small portion of the premises.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Customer Deposits
92.10 Temporary Vacancy

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the rates established by resolution of the Council.

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates established by resolution of the Council. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Meters Read. Water meters shall be read on or about the first week of January, April, July, and October of each year.
2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on the 10th day of February, May, August, and November.
3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within thirty (30) days after the date of issuance.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of fifteen

percent (15%) of the amount due shall be added to each delinquent bill that is not paid within thirty (30) days after the date of issuance.

(Ord. 252 – Sep. 11 Supp.)

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency, thirty (30) days after the date of issuance. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred or posted on the customer's door and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance of (water) service, forty-five (45) days after the date of issuance.
2. Notice to Landlords. 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 of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified.
4. Fees. A fee of seventy-five dollars (\$75.00) shall be charged to a delinquent customer on the scheduled date for the discontinuance of (water) service, forty-five (45) days after the date of issuance, as shown on delinquency notice, and before service is restored. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.
5. In the event the water meter needs to be pulled in order to discontinue service to a delinquent customer, water service shall not be restored until a fee of one hundred dollars (\$100.00) is paid to the Clerk.
6. A charge of twenty-five dollars (\$25.00) shall be charged when a bad check is returned by the bank.

(Ord. 252 – Sep. 11 Supp.)

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified

by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Ord. 240 – Sep. 09 Supp.)

(Code of Iowa, Sec. 384.84)

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property 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 thirty (30) days prior to certification of the lien to the County Treasurer.

(Ord. 245 – Sep. 10 Supp.)

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer a one hundred fifty dollar (\$150.00) deposit intended to guarantee the payment of bills for service.

(Ord. 239 – Sep. 08 Supp.)

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb stop when the property is expected to be vacant for an extended period of time. There shall be a fifty dollar (\$50.00) fee collected for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no

CHAPTER 92

WATER RATES

minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

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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 Owner's Liability Limited
95.09 Use of Easements
95.10 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow

exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. “Storm drain” or “storm sewer” means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. “Superintendent” means the Maintenance Superintendent of the City or any authorized deputy, agent, or representative.

23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. **Objectionable Wastes.** Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. **Septic Tanks.** Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. **Untreated Discharge.** Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet (30.5 meters) of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these

Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 OWNER'S LIABILITY LIMITED. While performing the necessary work on private property, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the owner or occupant and the owner or occupant shall be held harmless for injury or death to City employees and the City shall indemnify the owner or occupant against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the owner or occupant and growing out of any gauging and sampling operation, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions.

95.09 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.

95.10 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.
(Ord. 168 – Sep. 00 Supp.)
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permission Required
96.02 Connection Charge
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.055 Backwater Valves

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 PERMISSION REQUIRED. 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 permission from the City. The person seeking permission shall provide 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 any plans, specifications, or other information considered pertinent. The construction and connection of the building sewer shall be completed within sixty (60) days, 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.

96.02 CONNECTION CHARGE. A connection charge in the amount of one hundred dollars (\$100.00) shall be 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 plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M.

Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

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 connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. 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 ten (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 twelve (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 (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade of one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Minimum grade of one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity: 2.00 feet per second with the sewer half full.

- D. Deviations: 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 Division 4 of the State Building 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. - SDR 26 - A.S.T.M. D-3034.
10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which 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 (6) 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.

96.055 BACKWATER VALVES. A backwater valve shall be installed on all new sanitary sewer services in residential, commercial and industrial sewer installations. The valve shall be installed immediately inside the footings. The valve is designed to be installed horizontally in the building drainage system and shall be installed with the access opening at the top to permit access to the valve for periodic inspections. *(Ord. 249 – Sep. 10 Supp.)*

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 provided by the Iowa Public Health Bulletin and Division 4 of the State Building 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 “Y” saddle shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent’s direction if such connection is approved.

96.08 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 under ground 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, including all costs to repair any street, curb and gutter, or sidewalk, 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 thirty (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])

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

97.05 Restricted Discharges - Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permission for discharging surface waters to a public sanitary sewer may be granted by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ($\frac{1}{2}$) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods of 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 twenty-four (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 twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 97

USE OF PUBLIC SEWERS

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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[3f])

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of an on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3&4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 20,000 square feet.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Private Water Systems

99.04 Payment of Bills
99.05 Lien for Nonpayment
99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges in the amount set by resolution of the Council.

(Code of Iowa, Sec. 384.84)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.05 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 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 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

CHAPTER 99

SEWER SERVICE CHARGES

waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

CHAPTER 100

STORM WATER DRAINAGE UTILITY

100.01 Purpose
100.02 Fee
100.03 Payment of Bills

100.04 Lien for Nonpayment
100.05 Use of Funds

100.01 PURPOSE. The purpose of this chapter is to establish the Storm Water Drainage Utility and authorize a fee for the use of, and discharge to, the public storm water drainage system.

100.02 FEE. Each residential, commercial, and industrial premises shall pay for storm water drainage system service provided by the City in the amount set by resolution of the Council.

100.03 PAYMENT OF BILLS. The storm water drainage utility fee shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. All City services may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

(Code of Iowa, Sec. 384.84)

100.04 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for charges for the operation and maintenance of the storm water drainage system. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

100.05 USE OF FUNDS. All revenues and moneys derived from the collection of the storm water drainage utility fee shall be paid to and held by the City separate and apart from all other funds of the City, and all of said sums and all other funds and moneys incident to the operation of said system, as may be delivered to the City, shall be deposited in a separate fund designated the "Drainage System Improvements Fund," and the Council shall administer said fund in a manner provided by the Code of Iowa and all other laws pertaining thereto.

(Ch. 100 - Ord. 247 – Sep. 10 Supp.)

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices
105.12 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control 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. “Director” means the director of the State Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.101[2b])

3. “Discard” means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

4. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

5. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

6. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

(IAC, 567-20.2[455B])

7. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

8. “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.

9. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

10. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including four (4) separate dwelling units.

11. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

12. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

13. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

14. “Sanitary disposal project” means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final

disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

(Code of Iowa, Sec. 455B.301)

15. “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 subsection one of Section 321.1 of the Code of Iowa.

(Code of Iowa, Sec. 455B.301)

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

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.

(IAC, 567-23.2[3b])

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.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises, during such times and under such conditions as established from time to time by resolution of the Council. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ($\frac{1}{4}$) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Recreational fires no greater than three feet in diameter and contained in an enclosure specifically designed to house a fire.

A. "Recreational fire" means fire for cooking, heating, camping and recreation using clean dry wood or charcoal.

B. "Clean dry wood" is defined as tree limbs, bark or branches that have been allowed to dry to a point where it is easily combustible without creating undue amounts of smoke plus other wood products free of glue, paint, varnish, stain and preservatives.

C. General conditions for recreational fires:

(1) The Fire Chief, County or State may prohibit any or all open burning when atmospheric conditions or local circumstances make such fires hazardous or a nuisance.

(2) Attendance of Open Fires. Open fires shall be constantly attended by an adult person until such fire is extinguished. This person shall have a hose connected to the water supply or other fire-extinguishing equipment readily available for use.

(3) Authority to Investigate. The City shall have authority to enter onto private property to investigate and determine if violations of this subsection exist or to extinguish fires.

(4) Hours. Recreational fires may only be ignited between the hours of 6:00 a.m. and 10:00 p.m. At 10:00 p.m., all fires must be completely extinguished so that no burning embers remain or smoke or gas emit therefrom.

D. Authority to Extinguish. The City through its Public Works Department, Fire Department or Police Department is authorized to prohibit or immediately extinguish any fires

occurring within the City that are deemed by City Officials to violate prohibitions of this subsection or to constitute an emergency or a danger to the safety of persons or property within the City.

(Ord. 219 – Dec. 05 Supp.)

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers 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.

(IAC, 567-23.2[3h])

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

(IAC, 567-23.2[3i])

9. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises, burned on the premises in accordance with Section 105.05(4), or set out for collection in accordance with procedures established by the Council. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be approximately 32 gallons or less in capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable

containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. **Storage of Containers.** Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. **Location of Containers for Collection.** Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.
4. **Nonconforming Containers.** Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. **Unlawful Use of Containers.** Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. **Interfere with Collectors.** Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. **Incinerators.** Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. **Scavenging.** Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector or has obtained permission from the City or the authorized collector to collect such.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Butler County Solid Waste Commission are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment
106.10 Pay As You Throw (PAYT) Plan

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises. All solid waste shall be disposed of only at the sanitary landfill facilities designated as the official “Public Sanitary Disposal Project”.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

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

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

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 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 therefor in accordance with the following:

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

1. Fees. The fee for solid waste collection and disposal service, for each residential premises and for each dwelling unit of a multiple-family dwelling, is set by resolution of the Council.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

106.10 PAY AS YOU THROW (PAYT) PLAN. The City shall have, per Code of Iowa Section 455D.3 and Administrative Rule Section 191.5(8), a Unit-based Pricing Program in agreement with the contractor for the collection of solid waste for the City.

1. Service Charge. A monthly service charge for collection of residential solid waste from each residence shall be billed according to the size of container with charges increasing with each larger size of container. Service levels shall include:
 - A. One weekly pickup of not more than 35 gallons.
 - B. One weekly pickup of not more than 64 gallons.
 - C. One weekly pickup of not more than 96 gallons.
2. Curbside Recycling. The monthly service charge includes bi-weekly curbside recycling collection in approved 64-gallon containers.
3. Lids on all garbage containers (solid waste or recycling) must be closed completely for collection to occur.
4. Additional Containers. Additional containers will be an additional cost. Solid waste shall be stored in approved solid waste containers, and recyclables shall be stored in approved recycling containers.
5. This plan shall be developed by October 6, 2001, the program implemented by April 6, 2002, and presently revised by adding curbside recycling.

(Ord. 214 – Dec. 05 Supp.)

[The next page is 515]

CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Grant of Franchise	110.06 Excavations
110.02 State Code Restrictions and Limitations	110.07 Indemnification
110.03 Additions and Relocations	110.08 Maintain Facilities
110.04 Use of Public Ways	110.09 Quantity and Quality
110.05 Relocation of Installations	110.10 Street Repairs

110.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company, and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Clarksville, Iowa, hereinafter called the "City", a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for an eighteen (18) year period from and after the effective date of the ordinance codified in this chapter.

110.02 STATE CODE RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2003, or as subsequently amended or changed.

110.03 ADDITIONS AND RELOCATIONS. The Company agrees to work with the City to find mutually satisfactory and beneficial locations for future additions to and relocations of the Clarksville natural gas distribution system. The Company will give advance notice, except in emergency situations, to the City of any major construction or repair activities within the corporate limits. Major construction or repair activities shall not include regular and normal maintenance of any utility lines, installation or repairs of any services and like activities but would include major repair work that would block streets or alleys for a significant amount of time and would include work such as digging, trenching, of new gas facilities that significantly affects City property.

110.04 USE OF PUBLIC WAYS. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be

so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

110.05 RELOCATION OF INSTALLATIONS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such 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 has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall consider selecting said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, and said other franchisee's or user's cost of relocation is less than the Company's cost of relocation, the City shall consider selecting the route that requires the other franchisees or users to relocate.

110.06 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

110.07 INDEMNIFICATION. Company shall indemnify and save harmless City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by this franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

110.08 MAINTAIN FACILITIES. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.09 QUANTITY AND QUALITY. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

110.10 STREET REPAIRS. The City agrees to notify Company of any street repairs or maintenance or water and sewer line installation or repairs that will affect or interfere with the normal day-to-day delivery of natural gas to City residents.

EDITOR'S NOTE

Ordinance No. 200 adopting a gas franchise for the City was passed and adopted on July 6, 2004.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Use of Streets
111.03 Trimming Trees

111.04 Construction and Maintenance
111.05 Nonexclusive

111.01 FRANCHISE GRANTED. MidAmerican Energy Company, a corporation (herein “Grantee”), its successors and assigns, are hereby granted and vested with the right, franchise and privilege for a period of twenty-five (25) years from and after the adoption and approval of the ordinance codified by this chapter, as provided by law, to acquire, construct, operate and maintain in the City the necessary facilities for the production, distribution, transmission and sale of electric energy for public and private use and to construct and maintain along, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary fixtures and equipment for such purposes; and for the term of this franchise the Company is further granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company.

111.02 USE OF STREETS. The poles, crossarms, wires, guy wires and other construction above ground of said distribution system shall, so far as possible, be erected in the alleys so as not unnecessarily to interfere with the use of the streets and alleys.

111.03 TRIMMING TREES. Grantee shall have the right to trim or remove trees when reasonably necessary to efficiently operate its plant and render service. Notice shall be provided to affected landowners of planned tree trimming operations, except for tree trimming operations that are performed for safety reasons or tree trimming operations that are necessary to prevent service outages or limit the duration of an existing outage or restore utility service.

111.04 CONSTRUCTION AND MAINTENANCE. MidAmerican Energy Company also agrees as follows:

1. Grantee agrees to work with the City to find mutually satisfactory and beneficial locations for future additions to and relocations of the Clarksville electric distribution system.
2. Grantee will not, without prior approval from the City, construct any new electric generating plant or transmission line within the corporate limits.

3. Grantee will give advance notice, except in emergency situations, to the City of any major construction or repair activities within the corporate limits. Major construction or repair activities shall not include regular and normal maintenance of any utility lines, installation or repairs of any services and like activities but would include major repair work that would block streets or alleys for a significant amount of time and would include work such as digging, trenching, installation of new poles and wires, or other work that significantly affects City property.
4. The City agrees it will also notify Grantee of any street repairs or maintenance or water and sewer line installations or repairs that will affect or interfere with the normal day-to-day delivery of electric power to City residents.
5. Grantee agrees it will repair or restore to its original condition as nearly as practicable any City streets or alleys that it may disrupt, cut into, or disturb during any repair or installation work involving any of Grantee's property within the City limits.
6. Grantee shall fully protect the City from any and all claims of any nature, whatsoever, which may be made against it by reason of the negligent construction, maintenance or operation of said distribution system and transmission lines.

111.05 NONEXCLUSIVE. This franchise shall not be exclusive and shall not restrict in any manner the right of the Council or any other governing body of the City in the exercise of any regulatory power which it may now have, or hereafter be authorized or permitted, by the laws of the State of Iowa.

EDITOR'S NOTE

Ordinance No. 154 adopting an electric franchise for the City was passed and adopted on November 4, 1996.

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Police Power

112.01 FRANCHISE GRANTED. Clarksville Telephone Company, a corporation (the “Company”), its successors and assigns are hereby granted the right to use and occupy the streets, alleys and other public places of the City for a term of twenty-five (25) years from the effective date of the ordinance codified by this chapter, for the purpose of constructing, maintaining and operating a general telephone system within the City.

112.02 POLICE POWER. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

EDITOR’S NOTE

Ordinance No. 90 adopting a telephone franchise for the City was passed and adopted on May 5, 1982.

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CHAPTER 113

B-BMTC CABLE TELEVISION FRANCHISE

113.01 Title	113.20 Signal Quality
113.02 Definitions	113.21 Lockout Device
113.03 Franchise Required	113.22 Subscriber Inquiries
113.04 Grant of Nonexclusive Authority	113.23 Refund Policy
113.05 Franchise Term	113.24 Dispute Resolution
113.06 Rules of Grantee	113.25 Franchise Fee
113.07 Territorial Area Involved	113.26 Insurance
113.08 Written Notice	113.27 City's Right to Revoke
113.09 Drops to Public Buildings	113.28 Procedures for Revocation
113.10 Construction Codes and Permits	113.29 Subscriber Privacy
113.11 Repair of Streets and Property	113.30 Prohibited Acts
113.12 Building Movers	113.31 Franchise Renewal or Amendment
113.13 Tree Trimming	113.32 Disputes Between Grantee and City
113.14 No Waiver	113.33 Audit
113.15 Underground Cable	113.34 Future Technology Changes
113.16 Safety Requirements	113.35 Sale or Transfer of Franchise
113.17 System Upgrade and Channel Capacity	113.36 Maps
113.18 Technical Standards	113.37 Indemnification
113.19 Additional Tests	

113.01 TITLE. This chapter shall be known and cited as the Cable Communications Franchise.

113.02 DEFINITIONS. For the purposes of this chapter, the following terms, phrases and words shall have the meaning given herein.

1. "Basic cable service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational and governmental access programming required by the franchise to be carried on the basic tier. Basic cable service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7) (1998).
2. "Cable communications system" or "system" means a system of antennas, cables, wires, lines, towers, waveguides or other conductors, converters, equipment or facilities located in the City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying or distributing audio, video and other forms of electronic signals in the City. System as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 522(7) (1998).
3. "Cable programming service" means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

- A. Video programming carried on the basic service tier;
- B. Video programming offered on a pay-per-channel or pay-per-program basis; or
- C. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:
 - (1) Consists of commonly identified video programming and;
 - (2) Is not bundled with any regulated tier of service.

Cable programming service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2) (1998) and 47 C.F.R. 76.901(b) (1998).

4. "Cable communications service" means the provision of television reception, communications and/or entertainment services distributed over a cable communications system. This definition shall not include telecommunications services regulated pursuant to Federal and State law as may be amended from time to time.

5. "Cable service" means:

- A. The one-way transmission to subscribers of video programming or other programming service, and
- B. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service; and
- C. Other services or transmissions permitted under applicable law.

6. "Converter" means an electronic device which converts signals to a frequency acceptable to a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all cable communications services which the subscriber is lawfully authorized to receive.

7. "Drop" means the cable that connects the ground block on the subscriber's residence to the nearest feeder cable of the system.

8. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

9. "Grantee" means Butler-Bremer Mutual Telephone Company, its agents and employees, lawful successors, transferees or assignees.

10. "Gross revenues" means any and all revenue of any kind or nature received from basic cable service directly by the grantee directly or indirectly from the operation of its system within the City. The term gross revenues shall not include franchise fees, installation, advertising revenues, late fees, any fees itemized and passed through as a result of franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any subscriber or user by any municipality, state or other governmental unit and collected by Grantee for such governmental unit. However, any excluded revenues shall be separately itemized and provided to the City on an annual basis.

11. "Installation" means the connection of the system from feeder cable to the point of connection, including standard installations and custom installations.

12. "Lockout device" means an optional mechanical or electrical accessory to a subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the cable communication system.

13. "Pay television" means the delivery over the system of pay-per-channel or pay-per-program audio-visual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.

14. "Standard installation" means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.

15. "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by the City.

16. "Subscriber" means any person who lawfully receives cable service. In the case of multiple office buildings or multiple dwelling units, the subscriber means the lessee, tenant or occupant.

113.03 FRANCHISE REQUIRED. It is unlawful for any person to construct, operate or maintain a cable communications system in the City, unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise ordinance. It is also unlawful for any person to provide cable service in the City unless such person shall have first obtained and shall currently hold a valid franchise ordinance. This franchise is granted to Grantee pursuant to the terms and conditions contained herein.

113.04 GRANT OF NONEXCLUSIVE AUTHORITY.

1. The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable communications system as herein defined.
2. This franchise shall be nonexclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this franchise, provided, however, that any additional franchises granted shall contain the same substantive terms and conditions as this franchise, all circumstances considered.

113.05 FRANCHISE TERM. This franchise shall be in effect for a period of twenty-five (25) years from the date of acceptance by Grantee, unless renewed, revoked or terminated sooner as herein provided. Upon acceptance by Grantee, this franchise shall supersede and replace any previous ordinance or agreement granting a franchise to grantee to own, operate and maintain a cable communications system within the City.

113.06 RULES OF GRANTEE. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this chapter. All such rules shall be placed on file with the City Clerk.

113.07 TERRITORIAL AREA INVOLVED. This franchise is granted for the corporate boundaries of the City, as it exists from time to time. In the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present system boundaries unless there is a minimum of forty-eight (48) homes per cable mile. Access to cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

113.08 WRITTEN NOTICE. All notices, reports, or demands required to be given in writing under this chapter shall be deemed to be given when delivered personally to any officer of Grantee or the City Clerk or forty-eight

(48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Clarksville, 115 West Superior, Clarksville, IA 50619
Attn: Larry Betts, Clerk

If to Grantee: Butler-Bremer Mutual Telephone Company, 716 Main Street, Plainfield, IA 50666

With copies to: Habbo G. Fokkena, Fokkena Law Office, 109 North Main Street, Clarksville, IA 50619

Michael G. Kulik, Eqs., Davis, Braun, Koehn, Shors & Roberts, 666 Walnut Street, Ste 2500, Des Moines, IA 50309

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

113.09 DROPS TO PUBLIC BUILDINGS. Grantee shall provide installation of one (1) cable drop, one (1) cable outlet and monthly basic cable service without charge to the following institutions:

1. City Hall
2. Fire Station
3. City Library

Additional drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for cable services are paid. Nothing herein shall be construed as requiring Grantee to extend the system to serve additional institutions as may be designated by the City. Grantee shall have one (1) year from the date of Council designation of additional institutions to complete construction of the drop and outlet.

113.10 CONSTRUCTION CODES AND PERMITS.

1. Grantee shall obtain all necessary permits from the City before commencing any construction upgrade or extension of the system, including the opening or disturbance of any street or private or public property within the City. Grantee agrees to provide reasonable advance notice of any future changes, additions, or major repairs that would disrupt traffic on any City streets.

2. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this chapter and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of this chapter and applicable provisions of local, State and Federal law.

113.11 REPAIR OF STREETS AND PROPERTY. Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

113.12 BUILDING MOVERS. The Grantee shall, on request of any person holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

113.13 TREE TRIMMING. The Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. Grantee agrees to provide reasonable advance notice to the City of all such work and shall publish a notice in the local newspaper. In the event of any emergency or in the course of a normal repair job, such notice need not be given.

113.14 NO WAIVER. Nothing contained in this chapter shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities nor the City's facilities.

113.15 UNDERGROUND CABLE.

1. In all areas of the City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.
2. In any area of the City where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

113.16 SAFETY REQUIREMENTS. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

Grantee covenants it will meet all required federal or state regulations pertaining to the installation, repair, or maintenance of its equipment and facilities, and in its delivery of services.

113.17 SYSTEM UPGRADE AND CHANNEL CAPACITY. Grantee shall provide a system which utilizes 450 MHZ and which is capable of delivering sixty (60) channels. Construction shall begin within forty-eight (48) months and be completed within sixty (60) months of the effective date of the ordinance codified in this chapter.

113.18 TECHNICAL STANDARDS. The technical standards used in the operation of the system shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the FCC's rules and regulations and found in Title 47, Section 76.601 to 76.617, as amended. Grantee shall provide the City, if requested, with a list of the tests required by the FCC, and the results of such tests as performed by the Grantee.

113.19 ADDITIONAL TESTS. The City, at its expense, has the right to retain an independent engineer to perform additional tests, full or partial repeat tests, different tests, or tests of a subscriber's drop. The City will give advance notice to Grantee of such tests and cooperate in arranging for a mutually convenient test time.

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113.21 LOCKOUT DEVICE. Upon the request of a subscriber, Grantee shall provide by sale or lease a lockout device.

113.22 SUBSCRIBER INQUIRIES. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.

113.23 REFUND POLICY. In the event a subscriber establishes or terminates service and receives less than a full month's service, Grantee shall

prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

113.24 DISPUTE RESOLUTION. Grantee shall provide a mechanism or procedure which shall be mailed or given to every subscriber to resolve any disputes between subscribers and Grantee on a local level. Such dispute resolution system shall require, as a final step, a face-to-face meeting in the City between a representative of the Grantee and the subscriber. If the Grantee elects not to participate in such a meeting, Grantee agrees it will not engage in any further collection efforts against the subscriber(s).

113.25 FRANCHISE FEE.

1. Grantee shall pay to the City a franchise fee in an annual amount equal to three percent (3 %) of its annual gross revenues.
2. Payments due the City under this provision shall be payable annually. The payment shall be made within ninety (90) days of the end of Grantee's fiscal year together with a brief report showing the basis for the computation. Such report shall disclose a complete summary of all revenues received by Grantee from said system, including all revenue excluded under Section 113.02 (10) from the calculation of the franchise fee. The items excluded shall be separately itemized and the reason for its exclusion listed.
3. The City shall have the right to inspect, except to the extent that permitting such inspection would cause Grantee to violate the subscriber privacy provisions of 47 U.S.C. §551 (1998) or any similar law and on reasonable notice, the books, records, maps, plans, revenue statements, service complaint logs, performance test results, record of requests for service, and other like materials of Grantee. Grantee may designate such information confidential, and the City agrees to not disclose such confidential material, except only to those necessary or in order to enforce the provisions of this chapter. Grantee agrees to maintain such records at one location and advise the City of that location.

113.26 INSURANCE.

1. Grantee shall file with its acceptance of this franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of the City in its capacity as such. The policies of insurance shall be in the sum of not less than one million dollars (\$1,000,000) for personal injury or death of any one person, and two million dollars (\$2,000,000) for personal injury or death of two or more persons in any one occurrence, one million dollars (\$1,000,000) for property damage to any one person and two million dollars (\$2,000,000) for property damage resulting from any one act or occurrence.
2. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days' advance written notice has been provided to the City.

113.27 CITY'S RIGHT TO REVOKE. In addition to all other rights which the City has pursuant to law or equity, City reserves the right to revoke, terminate or cancel the franchise, and all rights and privileges pertaining thereto, if after the hearing, it is determined that:

1. Grantee has violated any material provision of this chapter.
2. Grantee has practiced fraud or deceit upon the City or a subscriber.
3. Grantee has attempted to evade any of the provisions of this chapter or refuses to cure any violations of such provisions.
4. In the event of insolvency of the Grantee.
5. Grantee materially misrepresents a material fact in the application for or renewal of the franchise.

113.28 PROCEDURES FOR REVOCATION.

1. The City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with this chapter. Together with the notice required herein, the City shall provide

Grantee with written findings of fact which are the basis of the revocation.

2. Grantee shall be provided the right to a public hearing affording due process before the Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in subsection 1 above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision. Grantee agrees to provide the City with a written response to such notice. Such response shall address all issues raised in the City notice.

3. The public hearing shall be before the Council. The City Attorney shall provide any factual information pertaining to the notice and the Grantee may also present such information. The Council will then prepare a written finding and decision.

4. After the public hearing and upon written determination by the Council to revoke the franchise, Grantee may appeal said decision to an appropriate state or federal court or agency, based on the record made before the Council hearing, unless the appealing court authorizes additional testimony.

5. During the appeal period, the franchise shall remain in full force and effect unless the term thereof sooner expires. The court hearing the appeal may impose reasonable conditions on both parties during said period.

6. Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined, the initial notice shall become void.

113.29 SUBSCRIBER PRIVACY. Grantee shall comply with the terms of 47 U.S.C. §551 (1998) relating to the protection of subscriber privacy.

113.30 PROHIBITED ACTS.

1. Unauthorized Connections or Modifications. It is unlawful for any firm, person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system.

2. Removal or Destruction. It is unlawful for any firm, person, group, company, corporation, or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the system for any purpose whatsoever.

3. Penalty. Any firm, person, group, company, corporation or government body or agency found guilty of violating this section may be fined a penalty that shall not exceed the penalty prescribed under applicable Iowa law and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

113.31 FRANCHISE RENEWAL OR AMENDMENT. Any renewal of this franchise shall be done in accordance with applicable federal, state and local laws and regulations. Grantee and City may agree, from time to time, to amend this chapter. Such written amendments may be made at any time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. The City shall act pursuant to state and local law, including but not limited to the ordinance amendment process.

113.32 DISPUTES BETWEEN GRANTEE AND CITY. Any disputes as to the interpretation of any terms or provisions of this chapter, excepting only the City's right to revoke the franchise, shall be submitted to binding arbitration under the provisions of the Iowa Arbitration Act, Iowa Code Chapter 679A. The arbitrator shall not have the power to amend, modify, or alter any terms of this agreement but shall enforce only its terms and provisions. The costs of the arbitrator shall be split equally by the parties.

113.33 AUDIT. The City may, at its expense, audit the books and records of the Grantee solely for the purpose of enforcing the terms of this franchise. The City shall give no less than 30 days advance notice of such audit and shall maintain the confidentiality of the information contained in such books and records, as provided in Section 113.25 (3).

113.34 FUTURE TECHNOLOGY CHANGES. The field of communications is a relatively new and rapidly changing one which may see many regulatory, technical, financial, marketing, and legal changes during the terms of this franchise. Therefore, to provide the maximum degree of flexibility in this franchise and to encourage a continued advancement in the cable system, the following provisions shall apply:

1. The City may request an evaluation of the system once every five (5) years.
2. Topics which may be discussed include, but are not limited to, rates, channel capacity, cable system performance, programming, access, complaints, judicial or FCC rulings or developments, technology changes, and any other topics related to the franchise.

3. Grantee agrees to fully cooperate in the planning and execution of such a meeting and shall provide without cost the reasonably necessary information in advance of such a meeting.
4. If, as a result of the evaluation session, the City or Grantee determines there is substantial grounds for a change in the terms of this franchise or that the franchise requirements shall be updated, changed, revised, or that additional services shall be provided or lesser services provided, then both parties agree to renegotiate these provisions in good faith, subject to the provisions of Section 113.31. As a comparison or test of reasonableness, both parties may compare the provisions of this franchise with other similarly situated franchises of similar size or location.

113.35 SALE OR TRANSFER OF FRANCHISE.

1. This franchise shall not be sold, assigned, or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto either legal or equitable, or any right, interest, or property herein, pass to or vest in any person except an entity controlling, controlled by, or under common control with Grantee without full compliance with the procedures set forth in this section and other applicable provisions of law.
2. The provisions for transfer shall also apply to the sale or transfer of all or a majority of Grantee's assets, merger, consolidation, or sale or transfer of stock in Grantee so as to create a new controlling interest. The term "controlling interest" as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised.
3. Parties to the sale or transfer shall make written request to the City for its approval. The written request shall contain all information reasonably required by the City or by other applicable state or federal law.
4. The City shall reply in writing within thirty (30) days of the request and of receipt of the information and shall indicate approval or disapproval. The City may disapprove the transfer only if it finds, based on substantial evidence, that the proposed transfer may be reasonably likely to have an adverse effect on the subscribers. If disapproved, the disapproval shall include a detailed written finding on which the decision was based.
5. In no event will any transfer take place unless the entity becomes a signatory to this franchise.

6. The foregoing provisions are not intended to restrict Grantee from encumbering its assets in order to secure indebtedness.

113.36 MAPS. Grantee will, at all times, make available any maps or amendments thereto of its system to the City. Such maps will be provided free of charge.

113.37 INDEMNIFICATION. Grantee shall save and hold harmless, indemnify, and defend the City, its officers, agents, and employees from any claims, demands, costs or liabilities of any nature arising out of the construction, maintenance or operation of the cable system, including reasonable attorney fees. However, indemnification shall exclude damages or causes of actions arising out of City's unlawful, negligent, or ultra vires acts. Both parties agree to fully cooperate with one another in the defense of such claims.

EDITOR'S NOTE

Ordinance No. 160 adopting a cable television franchise for the City was passed and adopted on April 19, 1999. The Grantee accepted the franchise on June 7, 1999.

CHAPTER 113

B-BMTC CABLE TELEVISION FRANCHISE

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CHAPTER 114

TRIAx CABLE TELEVISION FRANCHISE

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114.02 Definitions	114.21 Lockout Device
114.03 Franchise Required	114.22 Subscriber Inquiries
114.04 Grant of Nonexclusive Authority	114.23 Refund Policy
114.05 Franchise Term	114.24 Dispute Resolution
114.06 Rules of Grantee	114.25 Franchise Fee
114.07 Territorial Area Involved	114.26 Insurance
114.08 Written Notice	114.27 City's Right to Revoke
114.09 Drops to Public Buildings	114.28 Procedures for Revocation
114.10 Construction Codes and Permits	114.29 Subscriber Privacy
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114.19 Additional Tests	

114.01 TITLE. This chapter shall be known and cited as the Cable Communications Franchise.

114.02 DEFINITIONS. For the purposes of this chapter, the following terms, phrases and words shall have the meaning given herein.

1. "Basic cable service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational and governmental access programming required by the franchise to be carried on the basic tier. Basic cable service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7) (1993).
2. "Cable communications system" or "system" means a system of antennas, cables, wires, lines, towers, waveguides or other conductors, converters, equipment or facilities located in the City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying or distributing audio, video and other forms of electronic signals in the City. System as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 522(7) (1993).
3. "Cable programming service" means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:
 - A. Video programming carried on the basic service tier;

- B. Video programming offered on a pay-per-channel or pay-per-program basis; or
- C. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:
 - (1) Consists of commonly identified video programming and;
 - (2) Is not bundled with any regulated tier of service.

Cable programming service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2) (1993) and 47 C.F.R. 76.901(b) (1993).

4. "Cable communications service" means the provision of television reception, communications and/or entertainment services distributed over a cable communications system. This definition shall not include telecommunications services regulated pursuant to Federal and State law as may be amended from time to time.

5. "Cable service" means:

- A. The one-way transmission to subscribers of video programming or other programming service, and
- B. Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service; and
- C. Other services or transmissions permitted under applicable law.

6. "Converter" means an electronic device which converts signals to a frequency acceptable to a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all cable communications services which the subscriber is lawfully authorized to receive.

7. "Drop" means the cable that connects the ground block on the subscriber's residence to the nearest feeder cable of the system.

8. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

9. "Grantee" means Triax Midwest Associates, L.P., its agents and employees, lawful successors, transferees or assignees.

10. "Gross revenues" means any and all revenue of any kind or nature received from cable service directly by the grantee directly or indirectly

from the operation of its system within the City. The term gross revenues shall not include franchise fees, installation, advertising revenues, late fees, any fees itemized and passed through as a result of franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any subscriber or user by any municipality, state or other governmental unit and collected by Grantee for such governmental unit. However, any excluded revenues shall be separately itemized and provided to the City on an annual basis.

11. "Installation" means the connection of the system from feeder cable to the point of connection, including standard installations and custom installations.

12. "Lockout device" means an optional mechanical or electrical accessory to a subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the cable communication system.

13. "Pay television" means the delivery over the system of pay-per-channel or pay-per-program audio-visual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.

14. "Standard installation" means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.

15. "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by the City.

16. "Subscriber" means any person who lawfully receives cable service. In the case of multiple office buildings or multiple dwelling units, the subscriber means the lessee, tenant or occupant.

114.03 FRANCHISE REQUIRED. It is unlawful for any person to construct, operate or maintain a cable communications system in the City, unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise ordinance. It is also unlawful for any person to provide cable service in the City unless such person shall have first obtained and shall currently hold a valid franchise ordinance. All cable communications franchises granted by the City shall contain the same substantive terms and conditions. This franchise is granted pursuant to the terms and conditions contained herein.

114.04 GRANT OF NONEXCLUSIVE AUTHORITY.

1. The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable communications system as herein defined.

2. This franchise shall be nonexclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this franchise, provided, however, that any additional franchises granted shall contain the same substantive terms and conditions as this franchise, all circumstances considered.

114.05 FRANCHISE TERM. This franchise shall be in effect for a period of fifteen (15) years from the date of acceptance by Grantee, unless renewed, revoked or terminated sooner as herein provided. Upon acceptance by Grantee, this franchise shall supersede and replace any previous ordinance or agreement granting a franchise to grantee to own, operate and maintain a cable communications system within the City.

114.06 RULES OF GRANTEE. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this chapter. All such rules which affect subscribers shall be placed on file with the City Clerk.

114.07 TERRITORIAL AREA INVOLVED. This franchise is granted for the corporate boundaries of the City, as it exists from time to time. In the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present system boundaries unless there is a minimum of forty-eight (48) homes per cable mile. Access to cable service shall not be denied to any group of potential residential cable subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

114.08 WRITTEN NOTICE. All notices, reports, or demands required to be given in writing under this chapter shall be deemed to be given when delivered personally to any officer of Grantee or the City Clerk or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope,

with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City: City of Clarksville, 115 West Superior, Clarksville, IA 50619
Attn: Larry Betts, Clerk

If to Grantee: Triax Midwest Associates, L.P., 212 15th Avenue NE,
Suite 2010, Waseca, MN 56093

With copies to: Larkin, Hoffman, Daly & Lindgren, Ltd., 1500 Norwest
Financial Center, 7900 Xerxes Avenue South,
Bloomington, MN 55431, Attn. Jane E. Bremer, Esq.

Habbo G. Fokkena, Fokkena Law Office, 109 North
Main Street, Clarksville, IA 50619

Such addresses may be changed by either party upon notice to the other party given as provided in this section.

114.09 DROPS TO PUBLIC BUILDINGS. Grantee shall provide installation of one (1) cable drop, one (1) cable outlet and monthly basic cable service without charge to the following institutions:

1. City Hall
2. Fire Station
3. City Library

Additional drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for cable services are paid. Nothing herein shall be construed as requiring Grantee to extend the system to serve additional institutions as may be designated by the City. Grantee shall have one (1) year from the date of Council designation of additional institutions to complete construction of the drop and outlet.

114.10 CONSTRUCTION CODES AND PERMITS.

1. Grantee shall obtain all necessary permits from the City before commencing any construction upgrade or extension of the system, including the opening or disturbance of any street or private or public property within the City. Grantee agrees to provide reasonable advance notice of any future changes, additions, or major repairs that would disrupt traffic on any City streets.

2. The City shall have the right to inspect all construction or installation work performed pursuant to the provisions of this chapter and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of this chapter and applicable provisions of local, State and Federal law.

114.11 REPAIR OF STREETS AND PROPERTY. Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

114.12 BUILDING MOVERS. The Grantee shall, on request of any person holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

114.13 TREE TRIMMING. The Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. Grantee agrees to provide reasonable advance notice to the City of all such work and shall publish a notice in the local newspaper. In the event of any emergency or in the course of a normal repair job, such notice need not be given.

114.14 NO WAIVER. Nothing contained in this chapter shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities nor the City's facilities.

114.15 UNDERGROUND CABLE.

1. In all areas of the City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.
2. In any area of the City where one or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

114.16 SAFETY REQUIREMENTS. The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

Grantee covenants it will meet all required federal or state regulations pertaining to the installation, repair, or maintenance of its equipment and facilities, and in its delivery of services.

114.17 SYSTEM UPGRADE AND CHANNEL CAPACITY. Grantee shall provide a system which utilizes 450 MHZ and which is capable of delivering sixty (60) channels. Construction shall begin within forty-eight (48) months and be completed within sixty (60) months of the effective date of the ordinance codified in this chapter.

114.18 TECHNICAL STANDARDS. The technical standards used in the operation of the system shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the FCC's rules and regulations and found in Title 47, Section 76.601 to 76.617, as amended. Grantee shall provide the City, if requested, with a list of the tests required by the FCC, and the results of such tests as performed by the Grantee.

114.19 ADDITIONAL TESTS. The City has the right, at its own expense, to retain an independent engineer to perform additional tests, full or partial repeat tests, different tests, or tests of a subscriber's drop. The City will give advance notice to Grantee of such tests and cooperate in arranging for a mutually convenient test time. In no event may the City conduct tests in a manner which disrupts service to subscribers.

114.20 SIGNAL QUALITY. Grantee shall insure the system distributes a video signal on all activated channels in a subscriber's home, in black and white or color, depending on whether color is being cable cast, that is reasonably undistorted and free from internally generated ghost images, graininess or snow, vertical, horizontal or diagonal interference lines, and without degradation of color fidelity in accordance with the FCC technical standards. The cable system shall distribute audio that is reasonable undistorted from its reception quality and of consistent loudness level on a television receiver of average quality in accordance with the FCC technical standards.

114.21 LOCKOUT DEVICE. Upon the request of a subscriber, Grantee shall provide by sale or lease a lockout device.

114.22 SUBSCRIBER INQUIRIES. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.

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114.24 DISPUTE RESOLUTION. Grantee shall provide a mechanism or procedure which shall be mailed or given to every subscriber to resolve any disputes between subscribers and Grantee on a local level. Such dispute resolution system shall require, as a final step, a face-to-face meeting in the City between a representative of the Grantee and the subscriber. If the Grantee elects not to participate in such a meeting, Grantee agrees it will not engage in any further collection efforts against the subscriber(s).

114.25 FRANCHISE FEE.

1. Grantee shall pay to the City a franchise fee in an annual amount equal to three percent (3 %) of its annual gross revenues.
2. Payments due the City under this provision shall be payable annually. The payment shall be made within ninety (90) days of the end of Grantee's fiscal year together with a brief report showing the basis for the computation. Such report shall disclose a complete summary of all gross revenues received by Grantee from said system, including all revenue excluded under Section 114.02 (10) from the calculation of the franchise fee. The items excluded shall be separately itemized and the reason for its exclusion listed. If Grantee determines said information to be confidential, the City and Grantee shall establish a mutually agreeable method with which to handle and keep said information.
3. The City shall have the right to inspect, on reasonable notice, the books, records, maps, plans, revenue statements, service complaint logs, performance test results, record of requests for service, and other like materials of Grantee required to determine compliance with this chapter. Grantee may designate such information confidential, and the City agrees to not disclose such confidential material, except only to those necessary or in order to enforce the provisions of this chapter. Grantee agrees to maintain such records at one location and advise the City of that location.

114.26 INSURANCE.

1. Grantee shall file with its acceptance of this franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of the City in its capacity as such. The policies of insurance shall be in the sum of not less than one million dollars (\$1,000,000) for personal injury or death of any one person, and three million dollars (\$3,000,000) for personal injury or death of two or more persons in any one occurrence, one million dollars (\$1,000,000) for property damage to any one person and three million dollars (\$3,000,000) for property damage resulting from any one act or occurrence.
2. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days' advance written notice has been provided to the City.

114.27 CITY'S RIGHT TO REVOKE. In addition to all other rights which the City has pursuant to law or equity, City reserves the right to revoke, terminate or cancel the franchise, and all rights and privileges pertaining thereto, if after the hearing, it is determined that:

1. Grantee has violated any material provision of this chapter.
2. Grantee has practiced fraud or deceit upon the City or a subscriber.
3. Grantee has attempted to evade any of the provisions of this chapter or refuses to cure any violations of such provisions.
4. In the event of insolvency of the Grantee.
5. Grantee materially misrepresents a material fact in the application for or renewal of the franchise.

114.28 PROCEDURES FOR REVOCATION.

1. The City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with this chapter. Together with the notice required herein, the City shall provide

Grantee with written findings of fact which are the basis of the revocation.

2. Grantee shall be provided the right to a public hearing affording due process before the Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in subsection 1 above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision. Grantee agrees to provide the City with a written response to such notice. Such response shall address all issues raised in the City notice.

3. The public hearing shall be before the Council. The City Attorney shall provide any factual information pertaining to the notice and the Grantee may also present such information. The Council will then prepare a written finding and decision.

4. After the public hearing and upon written determination by the Council to revoke the franchise, Grantee may appeal said decision to an appropriate state or federal court or agency, based on the record made before the Council hearing, unless the appealing court authorizes additional testimony.

5. During the appeal period, the franchise shall remain in full force and effect unless the term thereof sooner expires. The appealing court may impose reasonable conditions on both parties during said period.

6. Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined, the initial notice shall become void.

114.29 SUBSCRIBER PRIVACY. Grantee shall comply with the terms of 47 U.S.C. 551 relating to the protection of subscriber privacy.

114.30 PROHIBITED ACTS.

1. Unauthorized Connections or Modifications. It is unlawful for any firm, person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system.

2. Removal or Destruction. It is unlawful for any firm, person, group, company, corporation, or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the system for any purpose whatsoever.

3. Penalty. Any firm, person, group, company, corporation or government body or agency found guilty of violating this section may be fined a penalty that shall not exceed the penalty prescribed under applicable Iowa law and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

114.31 FRANCHISE RENEWAL OR AMENDMENT. Any renewal of this franchise shall be done in accordance with applicable federal, state and local laws and regulations. Grantee and City may agree, from time to time, to amend this chapter. Such written amendments may be made at any time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. The City shall act pursuant to local law, pertaining to the ordinance amendment process.

114.32 DISPUTES BETWEEN GRANTEE AND CITY. Any disputes as to the interpretation of any terms or provisions of this chapter, the resolution of which cannot be mutually agreed upon by Grantee and City, excepting only the City's right to revoke the franchise, shall be submitted to binding arbitration under the provisions of the Iowa Arbitration Act. The arbitrator shall not have the power to amend, modify, or alter any terms of this agreement but shall enforce only its terms and provisions. The costs of the arbitrator shall be split equally by the parties.

114.33 AUDIT. The City may, at its expense, audit the books and records of the Grantee solely for the purpose of enforcing the terms of this franchise. The City shall give no less than thirty (30) days advance notice of such audit.

114.34 FUTURE TECHNOLOGY CHANGES. The field of communications is a relatively new and rapidly changing one which may see many regulatory, technical, financial, marketing, and legal changes during the terms of this franchise. Therefore, to provide the maximum degree of flexibility in this franchise and to encourage a continued advancement in the cable system, the following provisions shall apply:

1. The City may request an evaluation of the system once every two (2) years.
2. Topics which may be discussed include, but are not limited to, rates, channel capacity, cable system performance, programming, access, complaints, judicial or FCC rulings or developments, technology changes, and any other topics related to the franchise.

3. Grantee agrees to fully cooperate in the planning and execution of such a meeting and shall provide without cost the reasonably necessary information in advance of such a meeting.
4. If, as a result of the evaluation session, the City or Grantee determines there is substantial grounds for a change in the terms of this franchise or that the franchise requirements shall be updated, changed, revised, or that additional services shall be provided or lesser services provided, then both parties agree to renegotiate these provisions in good faith. As a comparison or test of reasonableness, both parties may compare the provisions of this franchise with other similar situated franchises of similar size or location and either party may perform subscriber surveys as additional tests of reasonableness.

The City encourages Grantee to seek to add additional benefits to this cable system as future technology develops, such as internet access or other similar developments. Grantee shall be free to develop and offer such future technology advances to its subscribers, subject to compliance with any applicable laws or regulations.

114.35 SALE OR TRANSFER OF FRANCHISE.

1. This franchise shall not be sold, assigned, or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto either legal or equitable, or any right, interest, or property herein, pass to or vest in any person except an entity controlling, controlled by, or under common control with Grantee without full compliance with the procedures set forth in this section and other applicable provisions of law.
2. The provisions for transfer shall also apply to the sale or transfer of all or a majority of Grantee's assets, merger, consolidation, or sale or transfer of stock in Grantee so as to create a new controlling interest. The term "controlling interest" as used herein is not limited to majority stock ownership but includes actual working control in whatever manner exercised.
3. Parties to the sale or transfer shall make written request to the City for its approval. The written request shall contain all information required by this chapter or by other applicable state or federal law.
4. The City shall reply in writing within thirty (30) days of the request and of receipt of the information and shall indicate approval or disapproval. The City may disapprove the transfer only if it finds, based on substantial evidence, that the proposed transferee is not legally, financially and technically qualified. If disapproved, the disapproval

shall include a detailed written finding on which the decision was based. The City's approval may not be unreasonably withheld.

5. In no event will any transfer take place unless the entity becomes a signatory to this franchise.

6. The foregoing provisions are not intended to restrict Grantee from encumbering its assets in order to secure indebtedness.

114.36 MAPS. Grantee will, at all times, make available any maps or amendments thereto of its system to the City. Such maps will be provided free of charge.

114.37 INDEMNIFICATION. Grantee shall save and hold harmless, indemnify, and defend the City, its officers, agents, and employees from any claims, demands, costs or liabilities of any nature arising out of the construction, maintenance or operation of the cable system, including reasonable attorney fees. However, indemnification shall exclude damages or causes of actions arising out of City's unlawful, negligent, or ultra vires acts or the action of any officer, agent or employee not acting within the lawful scope of employment. Both parties agree to fully cooperate with one another in the defense of such claims.

EDITOR'S NOTE

Ordinance No. 162 adopting a cable television franchise for the City was passed and adopted on May 3, 1999. The Grantee accepted the franchise on June 1, 1999.

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CHAPTER 115

CEMETERY

115.01 Administration
115.02 Payment Required to Use Lot
115.03 Use of Lots
115.04 Perpetual Care
115.05 Care of Lots
115.06 Application for Interment

115.07 Memorial Park Addition
115.08 Flowers and Containers
115.09 Foundations and Markers
115.10 Hours
115.11 Burials and Cremations

115.01 ADMINISTRATION. The Clerk, under the supervision of the Council, shall keep records, sell lots to those who desire to purchase them, and collect any assessments which may be made against such lots. There shall be kept in the Clerk's possession a plat of the cemetery and additions thereto showing the division into lots and the ownership thereof. The Clerk shall serve as custodian of all property, both real and personal, which has been given, devised or bequeathed to the City, in trust, for the purposes mentioned in this chapter. The Clerk shall disburse the moneys coming into the Clerk's custody as a part of the trust estate in the manner provided by law for the disbursement of other trust funds.

115.02 PAYMENT REQUIRED TO USE LOT. No person having contracted for the purchase of a lot in the cemetery or additions thereto shall have any right or interest therein, or be entitled to a deed thereto, or be permitted to make further burials therein until the full purchase price has been paid. If the payment is not made within thirty (30) days after the date of contract, the City may declare the contract absolutely void and sell the lot to other persons.

115.03 USE OF LOTS. Lots shall be sold for burial purposes only and shall be subject to all ordinances and regulations of the Council, and all deeds shall recite the foregoing. No person shall buy any lot or lots for speculation, and all sales must be made by the City. The deed to any unused portion of a lot must be returned to the City, and the City shall reimburse the party for the unused portion of a lot on a pro rata basis according to the original purchase price. The price of lots within the Lynwood Cemetery (monument section) shall be as set by resolution of the Council and the Council may set by resolution other charges for or regulations for the use of the cemetery.

115.04 PERPETUAL CARE. A portion of the sale price as specified by the rules and regulations established by the Council shall be set aside and deposited in the perpetual care endowment fund of the cemetery. The Council, by resolution, shall also receive and expend all moneys and property donated or bequeathed for perpetual care. The assets of the perpetual care fund shall be invested as permitted by State law. The City shall use the income from such investments in caring for the property of the donor or lot owner or as provided in the terms of such gift or donation, or as agreed in the instrument for sale and purchase of a cemetery lot. Any remaining interest may be used for costs of access roads and paths, fencing and general maintenance of the cemetery.

(Code of Iowa, Sec. 566.14, 566.15 and 566.16)

115.05 CARE OF LOTS. The Maintenance Superintendent shall properly care for all grounds within Lynwood Cemetery and additions thereto and keep all lots in a clean and attractive condition. The care of all lots not provided for by a deposit in the perpetual care fund shall be provided by the Maintenance Superintendent under the direction of the Council. The Council may make such special assessments for the lots as may be necessary for their proper care and maintenance. Graves shall be opened and closed only under the direction of the Maintenance Superintendent. All interments shall be in a vault of concrete, stone or metal of good quality except for cremations. No rough wooden boxes shall be permitted for use.

115.06 APPLICATION FOR INTERMENT. Applications for interment shall be made to the Mayor or Clerk, showing the lot on which the interment is desired, together with such other information as may be required. The applicant shall pay such fees as the Council by resolution may direct.

115.07 MEMORIAL PARK ADDITION.

1. Applicability. The provisions of this section apply only to the west one-half of Memorial Park Addition.
2. Lot Size. All lots shall lie north and south with frontals on the east and west. All lots shall include either two grave spaces or four grave spaces. Lots with two grave spaces shall be eight feet by twelve feet (8' x 12'). Lots with four grave spaces shall be sixteen feet by twelve feet deep (16' x 12'). All babyland lots shall be two feet by four feet (2' x 4').
3. Drives. All drives shall be twenty feet (20') in width and shall be so constructed as to be passable under all weather conditions.

4. Price of Lots. The price of lots shall be as set by resolution of the Council, and the Council may set, by resolution, other charges for or regulations for the use of the cemetery.

5. Markers. All markers on graves shall be flat and level with the ground. All single markers shall be two feet by one foot (2' x 1') with a cement flashing of five (5) inches; there shall be a one-inch slope from the edge of the stone to the outside of the foundation. Double markers shall be four feet by one foot (4' x 1') and shall otherwise meet the aforesaid requirements for single markers.

115.08 FLOWERS AND CONTAINERS. Flowers and containers in Lynwood Cemetery must be on or drilled in the foundation, except for a period the Friday prior to and the Sunday following Memorial Day.

(Ord. 238 – Sep. 08 Supp.)

115.09 FOUNDATIONS AND MARKERS. All foundations or markers in Lynwood Cemetery shall be constructed under the supervision of the Maintenance Superintendent and in accordance with the following:

1. All foundations must be ten (10) inches to twelve (12) inches in depth.
2. All foundations and markers must be twenty-two (22) inches from the face of each lot. (All lots face a walkway or drive.)
3. Foundation extensions shall be at least five (5) inches.
4. All foundation work must be approved by the City prior to construction.

115.10 HOURS. No person shall enter or be in any portion of the Lynwood Cemetery between the hours of ten-thirty o'clock (10:30) p.m. and six o'clock (6:00) a.m.

115.11 BURIALS AND CREMATIONS. There shall be no more than one burial, one burial and one cremation, or two cremations per grave site. A grave site consists of an area four (4) feet in width.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

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

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (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 eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

(Ord. 210 – Sep. 04 Supp.)

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

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

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

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

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

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

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

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

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

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

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

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

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

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

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

11. ***(Repealed by Ordinance No. 168 – Sep. 00 Supp.)***

120.06 AMUSEMENT DEVICES.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

(Ord. 211 – Sep. 04 Supp.)

CHAPTER 121

CIGARETTE PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.
6. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps,

clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

(Code of Iowa, Sec. 453A.13)

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and Finance and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13)

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

(Code of Iowa, Sec. 453A.13)

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.

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 of the Code of Iowa.

(Code of Iowa, 453A.13)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person

under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Ord. 193 – Sep. 04 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36 (6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may

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, no new permit shall be issued to the retailer or for the place of business for one (1) year after the date of revocation unless good cause to the contrary is shown to the Council.

(Code of Iowa, Sec. 453A.22)

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	122.20 Sales on Public Right of Way

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business, the length of time sought to be covered by the license, and the motor vehicle license plate number. An application fee of ten dollars (\$10.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of fifty dollars (\$50.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day \$ 10.00
 - B. For one week..... \$ 25.00
 - C. For up to six (6) months \$ 50.00
 - 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 eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Students. Students representing the Clarksville School District conducting projects sponsored by organizations recognized by the school.
4. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
5. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
6. Farmers Markets. Local residents and farmers who offer for sale their own locally raised products.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or

nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter. The Clerk may, at the Clerk's discretion, waive the license fees for other similar organizations or groups.

122.20 SALES ON PUBLIC RIGHT OF WAY. No goods or services shall be sold on the public right of way except with prior written permission from the Council.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permission Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permission Granted

123.07 Public Safety
123.08 Time Limit
123.09 Removal by City
123.10 Protect Pavement
123.11 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMISSION REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without permission from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for permission shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, Maintenance Superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the applicant’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

123.06 PERMISSION GRANTED. Upon approval of the application and filing of bond and insurance certificate, permission shall be granted.

123.07 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the house mover shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the house mover shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.08 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured approval of the City.

123.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.08 the City is authorized to remove such building or structure and assess the costs thereof against the house mover and the surety on the house mover's bond.

123.10 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.11 OVERHEAD WIRES. The house mover shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order by the proper authorities, and shall be liable for the costs of the same.

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CHAPTER 124
SALVAGE YARD LICENSE

124.01 LICENSING OF SALVAGE YARD OPERATORS. No person shall operate or maintain a salvage yard within the City.

(Ch. 124 - Ord. 246 – Sep. 10 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles

135.08 Burning Prohibited
135.09 Excavations
135.10 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts
135.14 Driveway Permit Required

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 or within three (3) feet of 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. Permission Required. No excavation shall be commenced without first obtaining permission therefor. To obtain permission, the person shall file with the City a written notice giving the following information:
 - 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
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
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 contractor/property owner.
4. 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, at the expense of the contractor/property owner.

5. Backfilling and Resurfacing. Upon completion of the work, the contractor/property owner shall be responsible for backfilling the excavation up to six (6) inches from the original surface elevation and such backfilling is subject to inspection by the City. The resurfacing of the street or alley shall then be done by the City at the expense of the property owner.

6. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours 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 therefor to the contractor/property owner.

7. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the contractor and/or property owner. The contractor and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed

promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow. No person shall throw, push, or place or cause to be thrown, pushed or placed any ice or snow on public or private property so as to obstruct any fire hydrant.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.14 DRIVEWAY PERMIT REQUIRED. No person shall remove, reconstruct or install a driveway 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. All work under permit from removal, reconstruction or installation of a driveway must be completed within thirty (30) days of issuance.

(Ord. 169 – Sep. 00 Supp.)

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice and Accumulations	136.13 Encroaching Steps
136.04 Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within twelve (12) hours after the accumulation, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 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. All work under a permit for removal, reconstruction or installation of a sidewalk must be completed within thirty (30) days of issuance. *(Ord. 164 – Sep. 99 Supp.)*

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 (3 to 1 cement ratio, ready mix, 2000 psi) shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each controlled joint section shall be no more than four (4) feet in length.
 - B. All sidewalks throughout the Business District shall be constructed from lot line to the curb line unless the location of the sidewalk is varied by an appropriate resolution of the Council upon application by the landowner.
 - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) 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 shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ($\frac{1}{2}$) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ($\frac{1}{4}$) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at

least forty-eight (48) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets

securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 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.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 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)

136.17 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])

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 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.

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Notice of Vacation Hearing

137.03 Findings Required

137.04 Disposal of Vacated Streets or Alleys

137.05 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 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.

137.03 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.

137.04 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)

137.05 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

[illegible]

CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.

139.02 CHANGING NAME OF STREET. The Council may, by ordinance, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.
(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Clarksville, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk. No amendment to this chapter which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition

140.03 Unlawful Use of Controlled Access Facility
140.04 Access Controls Imposed

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:
(*Code of Iowa, Sec. 306A.3*)

1. Project No. F-375. On the Primary Road System extension improvement, Project No. F-375, Primary Road No. 188 within the City, described as follows:

Beginning at the center of the intersection of Superior Street and Main Street (Station 1151 + 60.6), thence northerly along Main Street 1320.0 feet on both sides to Station 1164 + 80.6, thence continuing northerly 1024.4 feet on the west side to the north corporation line (Station 1175 + 05)

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-375 on file in the office of the Clerk.

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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
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Clerk is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF CLARKSVILLE, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. 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.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

EDITOR'S NOTE

Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

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

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor

or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

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

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

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

(Ch. 146 – Ord. 177 – Oct. 01 Supp.)

CHAPTER 147

FIRE ZONE

147.01 Fire Zone Established
147.02 Plans Submitted
147.03 Buildings Prohibited
147.04 Construction Standards
147.05 Reconstruction Prohibited

147.06 Special Permit
147.07 Removal of Buildings
147.08 Storage of Materials Restricted
147.09 Sell or Transfer of Property

147.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

All that portion of the City lying within the boundaries and limits described as follows: One-half block on either side of Main Street between Greene Street and Poisal Street.

(Ord. 235 – Sep. 08 Supp.)

147.02 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

147.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

147.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code.

147.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

147.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary

purposes for a period of time not exceeding six (6) months from the date of such permission.

147.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

147.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

147.09 SELL OR TRANSFER OF PROPERTY. No person shall sell or transfer property within the Fire Zone without first being inspected by the City Code Enforcement Officer and Fire Chief. The purpose of the inspection shall be to determine that the building is in compliance with all provisions of this code regarding fire safety and that no condition exists on the property that would make it a threat to adjoining properties or the occupants of the building. If the original owner or transferor fails to have the property inspected as required, the buyer or transferee shall assume this responsibility along with any required renovation cost. *(Ord. 235 - Sep. 08 Supp.)*

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements

150.03 Building Numbering List

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.
(Code of Iowa, Sec. 364.12[3d])
2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.
(Code of Iowa, Sec. 364.12[3d])
3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of sixty (60) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.
(Code of Iowa, Sec. 364.12[3h])

150.03 BUILDING NUMBERING LIST. The Clerk shall be responsible for preparing and maintaining a building numbering list.

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CHAPTER 151

TREES

151.01 Definitions
151.02 Tree Board
151.03 Permit Required
151.04 Planting Restrictions

151.05 Duty to Trim Trees
151.06 Trimming Trees to Be Supervised
151.07 Disease Control
151.08 Hazard Trees

151.01 DEFINITIONS. For use in this chapter, “parking” or “R.O.W.” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic. “Hazard tree” is a tree that has a defect that creates an unreasonable risk of branch, stem or root failure and has a target present so if the tree falls, damage to property or personal injury could result.

151.02 TREE BOARD. The City shall have a Tree Board, a.k.a. Clarksville Trees Forever, with a membership of no less than 5 people, approved by the City Council for the purpose of encouraging the planting and care of trees in Clarksville. The Tree Board shall meet at least once annually, select its own officers, and maintain regular minutes of its meetings. The duties of the Tree Board are to offer recommendations on planting and care of trees located in the R.O.W. and on determining hazard trees. In addition, the Tree Board will review permits to plant or remove trees in the R.O.W.

151.03 PERMIT REQUIRED. A permit is required to plant or remove a tree in the City R.O.W area. The permit is free.

151.04 PLANTING RESTRICTIONS. No tree shall be planted in any parking except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than four (4) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended), ten (10) feet from driveways.

3. Prohibited Trees. No Box Elder, Green Ash, White Ash, Black Ash, Cottonwood, Mulberry, Willow, Black Locust, Lombardy and White Poplar, Tree of Heaven, Silver Maple, Russian Olive, Evergreens, Walnut or Soft Maple shall be planted in the parking.

151.05 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.06 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.05, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.07 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.08 HAZARD TREES. The Council, Public Works Director, and Tree Board members shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased, damaged, or a hazard tree. The City Council will make the final determination and take action. The following guidelines will be used to determine a total risk rating of hazard trees:

Future Potential/Defect Severity	Points
• Critical Defect – Failure imminent	10
• Severe Defect – Failure likely in storms	7
• Moderate Defect – Failure possible in severe storms	4
• Slight Defect – Failure unlikely	1
Size of Plant Part	
• Branches/leader > 20" DBH	5
• Branch 15 - 20"	4

- Branch 9 - 14" 3
- Branch 3 - 8" 2
- Branch < 3" 1

Total Risk Rating

- 13 – 15 Highest Risk/Critical
- 11 – 12 Severe Risk
- 9 – 10 Moderate Risk
- < 9 Low Risk

Trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment, pruning, or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon. No unauthorized person shall remove any tree or shrub on City property without the completion of a permit and approval by City Council. If the tree is determined to be hazard tree, then the City is responsible for removal, stump-grinding, and associated costs. If the tree is considered objectionable but not a hazard and permit is approved by City Council, then the homeowner is responsible for removal, stump-grinding, and associated costs, plus \$100.00 to replant a tree elsewhere in town.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

(Ch. 151 – Ord. 255 – Oct. 13 Supp.)

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CHAPTER 155

RESTRICTED RESIDENCE DISTRICT

155.01 Interpretation of Standards	155.08 Buildings Requiring Special Permits to Locate
155.02 Definitions	Within Restricted Districts
155.03 Districts and Boundaries	155.09 Special Permits in the Restricted Residence District
155.04 General Provisions	155.10 Parking Requirements
155.05 Issuance	155.11 Amendments
155.06 "R-1" Restricted Residence District	155.12 Violation and Penalties
155.07 Fencing	155.13 Validity
	155.14 Dwelling or Residential Units on First Floor

155.01 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control.

155.02 DEFINITIONS. For the purpose of this chapter certain terms and words are hereby defined. Words used in the present tense shall include the future, the singular number shall include the plural and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual; the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied.

1. Accessory Building or Use: A building or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal building or use. An accessory building shall be a minimum of seven (7) feet away, measured from the foundation, from other buildings or structures.
2. Building Officials: The City Code Enforcement Officer shall be a Building Official and be responsible for the enforcement of this chapter.
(Ord. 236 – Sep. 08 Supp.)
3. Church or Church School: A building used for public worship, or connected with a building so used, or for instruction in religious beliefs, or for the conduct of activities related to church affairs.
4. Dwelling or Residence: Any building or portion thereof which is designed or used exclusively for residential purposes but not including a tent, cabin, trailer or mobile home.

5. Dwelling, Single Family: A detached residence designed for or used exclusively and occupied by one family only.
6. Dwelling, Two-Family: A residence designed for or used exclusively and occupied by two (2) families only, with separate housekeeping and cooking facilities for each.
7. Dwelling, Multiple: A residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each.
8. Dwelling, Condominiums: A multiple dwelling as defined herein whereby the fee title to each dwelling unit is held independently of the others.
9. Dwelling, Row: Any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls.
10. Dwelling, Unit: A room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one family containing bathroom and/or kitchen facilities.
11. Family: One (1) or more persons occupying a single dwelling unit, provided that all members are related by blood, marriage, or adoption.
12. Garage: A structure for sheltering motor vehicles or household equipment and/or effects.
13. Home Occupation: An occupation or profession conducted entirely within an enclosed dwelling unit that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
14. Home Industry: An occupation or profession conducted entirely within an enclosed accessory building that is clearly incidental and secondary to residential occupancy and does not change the character thereof.
15. Household: A group of persons living together in a single dwelling unit with common access to, and common use of, all living and eating areas within the dwelling unit.
16. Lot: For the purposes of this chapter, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Such lot shall have frontage on a public street or private street, and may consist of: (a) A single lot of record; (b) A portion of a lot

of record; (c) A combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

17. Lot, corner: A lot abutting upon two (2) or more streets at their intersection.

18. Lot, depth of: The mean horizontal distance between the front and rear lot lines.

19. Lot, double frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

20. Lot, interior: A lot other than a corner lot.

21. Lot lines: The lines bounding a lot.

22. Lot of record: A lot which is a part of a subdivision recorded in the office of the County Recorder of Butler County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

23. Lot, width: The width of a lot measured at the building line and at right angles to its depth.

24. Lot reversed frontage: A corner lot, the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.

25. Manufactured home: A factory built structure, which is manufactured or constructed under authority of 42 U.S.C. Section 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving it to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be a minimum of twenty-two (22) feet in width and will be considered as a dwelling under the provisions of this chapter.

26. Mobile home: Any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon public highways or streets, or waterways; so designed and so constructed as to permit residential occupancy thereof, whether attached or unattached to a permanent foundation. Mobile homes shall include any such vehicle with motive power not registered as a motor vehicle in

Iowa. Mobile homes to be used for dwelling purposes shall be placed only in an approved mobile home park.

27. Mobile Home Park or Trailer Park: Any lot, parcel or portion thereof having an area of at least five (5) acres upon which three (3) or more mobile homes or trailers occupied for residential purposes are located regardless of whether or not a charge is made for such accommodations; and provided further that said Mobile Home Park shall provide a minimum of three thousand (3,000) square feet per mobile home unit, and maintain front, side, and rear yard areas around said park of at least thirty (30) feet. Each mobile home within said park must maintain at least twenty (20) feet of front, side, and rear yard from all other adjacent mobile homes. Further provided that said Mobile Home Park shall be licensed in accordance with the provisions of the regulatory agencies of the State of Iowa.

28. School: A public or private building used for educational purposes that is regulated by the state department of public instruction as to curriculum.

29. Stable, Private: A building or structure used or intended to be used for housing horses belonging to the owner of the property for non-commercial purposes.

30. Stable, Public and Riding Academy: A building or structure used or intended to be used for the housing or riding of horses on a fee basis. Riding instruction may be given in connection with a public stable or riding academy.

31. Yard: An open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and nearest permitted building shall be used.

32. Yard, front: A yard extending across the full width of the lot and measured between the front lot line and the building. "Front" shall be determined from the street where the address is derived.

33. Yard, rear: A yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On both corner lots and interior lots the opposite end of lot from the front yard.

34. Yard, side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

155.03 DISTRICT AND BOUNDARIES. The Official Restricted Residence District Map is on file with the City Clerk and is made a part of this chapter. Said map delineates various areas of the City into the following classifications:

“R-1” - Restricted Residence District

“N-R” - Non-residential District

For the purpose of this chapter, all restrictions described herein are applicable in the “R-1” Restricted Residence District. All district boundary lines shown on the official map correspond with property lines or street lines or center lines of right-of-way. In the case of a district boundary line which divides a property of single ownership, the City Council may make such boundary line adjustments as to place said lot of single ownership in or out of the Restricted Residence District.

All land that is hereafter annexed to the City of Clarksville shall be automatically classified as being in an R-1 Restricted Residence District until such classification is changed by amendment of this chapter, as provided herein.

155.04 GENERAL PROVISIONS.

1. Building Permit and Certificate of Occupancy Required in All Districts.

A. No building footprint, area, or size shall hereafter be altered or improved, in valuation of five hundred dollars (\$500) or more, unless a building permit, provided by the City Clerk, approved by the City Code Enforcement Officer, has been approved for each erection, reconstruction, or alteration. Said permit shall be applied for in writing on a properly completed application form, provided by the City Clerk, that is accompanied by plans and specifications sufficient to determine compliance with the applicable ordinances of the City. Any concrete or cement improvements, regardless of the valuation of the project, shall be subject to the permit process defined in this subsection.

(Ord. 236 – Sep. 08 Supp.)

B. A building permit shall not be issued for buildings that do not comply with this or any other ordinance of the City of Clarksville. The Building Official may revoke a permit or approval, issued under the provisions of this chapter, if a false statement or misrepresentation was made by the applicant on the

application or plans on which permit approval was based. Applicant grants to the City Building Official the right to enter onto Applicant's property to inspect the improvement or alteration to determine its compliance with the City Code. The City Building Official shall give Applicant prior notice before entering onto the property. In the event Applicant refuses to allow an inspection of the property, the Building Official may revoke a permit. *(Ord. 231 – Oct. 07 Supp.)*

C. Every permit issued shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The Building Official is authorized to grant, in writing, one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated and accompanied by a permit fee equal to ½ of the original fee. *(Ord. 250 – Sep. 10 Supp.)*

D. The City of Clarksville shall charge a fee for said building permit set by resolution. This does not include the cost of a flood plain permit, which is an additional and entirely separate permit and fee requirement (See Chapter 160 of the Code of Clarksville).

E. No change in the use or occupancy of land, nor any change in use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose or use until a certificate of occupancy has been issued by the Building Official. If the new occupancy complies with the provisions of this, and all other Ordinances of the City of Clarksville, the Building Official shall issue said certificate. A certificate of occupancy shall not be issued for uses that do not comply with this or any other Ordinances of the City of Clarksville. There shall be no fee for a certificate of occupancy.

2. Non-Conforming Uses and Lots in the Restricted Residence District.

A. A lawful, or authorized, non-conforming use existing at the time of adoption of this chapter may be continued, maintained, repaired, or sold to another party. Said non-conforming use may not be enlarged, expanded or changed, nor shall it occupy more lot area than was in use on the effective date of the ordinance

codified by this chapter unless the Official Restricted Residence Ordinance Map is amended or a Special Permit is granted.

B. If said lawful non-conforming use, or any portion thereof, is discontinued, either voluntarily by the owner or through the sale of the property or business, for a period of one (1) year or more, any future use of such land shall be in conformity with the provisions of the “R-1” Restricted Residence District unless the Official Restricted Residence Ordinance Map is amended or a Special Permit is granted.

C. In any Restricted Residence District on a lot of record at the time of enactment of this chapter, a single-family dwelling may be established regardless of the size or dimension of the lot, provided all other requirements of this chapter are met. However, where two (2) or more vacant and contiguous substandard recorded lots are held in common ownership, they shall be combined into zoning lots and shall thereafter be maintained in common ownership and shall be so joined and developed for implementing this chapter. The razing of a building on a substandard lot shall constitute the formation of a vacant lot.

155.05 ISSUANCE. The City Code Enforcement Officer shall approve all permits.
(Ord. 236 – Sep. 08 Supp.)

155.06 “R-1” RESTRICTED RESIDENCE DISTRICT. The following regulations shall apply in all areas designated in the “R-1” Restricted Residence District.

1. Principal Permitted Uses (Only one (1) principal permitted use shall be allowed per lot, including lots of record).
 - A. One and two family dwellings or residences.
 - B. Churches, cathedrals, temples, and similar places of worship.
 - C. Public and parochial schools, including elementary and secondary schools.
 - D. Fire stations.
 - E. Publicly owned parks, playgrounds, golf courses, libraries, and recreation areas.
 - F. Agricultural uses, including nurseries and truck gardens; provided that no offensive odors or dust are created, and provided further, that no retail sales shall be permitted on the premises. This shall not be construed to include the operation of livestock

feedlots or auctions, public stables, boarding kennels or veterinary clinics or such similar uses.

G. Conversions of one family dwellings into two family dwellings in accordance with the lot area, frontage, height, and yard requirements of this section.

H. Mobile Home Parks or Trailer Parks may be established provided approval is granted by the City Council after a public hearing has been held pursuant to the establishment of such use.

I. Multiple dwellings, including row dwellings consisting of not more than six (6) units in a continuous row, cooperative apartment house, and condominium dwellings.

J. Boarding and rooming houses.

K. Nursing, convalescent and retirement homes.

L. Funeral homes.

M. Uses other than those permitted in this section may be erected, reconstructed, altered, or placed provided the City Council shall have approved, by Special Permit, the said erection, reconstruction, alteration, or placement of the use.

2. Permitted Accessory Uses.

A. Customary home occupation as a secondary use carried on entirely within the residence not including any garage or other building or structure not designed and used for daily, human habitation and where there is no evidence of such occupation being conducted on the premises by virtue of signs, or displays, or excessive noise, odors, electrical disturbances, or traffic generation, except one (1) sign not larger than two (2) square feet in area, with no more than one (1) non-resident assistant and where not more than one-half (1/2) of the floor area of any one floor is devoted to such use.

B. A residential accessory building or structure customarily used in conjunction with a dwelling, namely, a garage with a capacity of not more than 1,000 square feet floor area, a tool or "summer" house not exceeding 100 square feet floor area, or a private swimming pool properly fenced and screened. Any other building on residential property shall not be deemed a residential accessory use if not incidental to a residential purpose, or if it is used in conjunction with or for the business of selling goods or rendering services. It is unlawful to move any previously constructed accessory building or structure into or within the City

limits. It is unlawful to have more than two (2) accessory buildings or structures on any residential property. For purposes of this subsection residential property is defined as a one- or two-family residence or dwelling including all lots that are adjoining.

(Ord. 231 – Oct. 07 Supp.)

C. Accessory Building Materials. No detached accessory building walls or roofs shall be constructed of any type of fabric, plastic, vinyl, or fibrous materials.

(Ord. 261 – Oct. 13 Supp.)

3. Lot and Building Regulations. (Minimum requirements)

A. Lot Area: One family dwelling - 8,000 square feet.
Two family dwelling - 8,000 square feet.
Multiple family or other permitted use –
10,000 square feet.

B. Lot area per dwelling unit; Row housing and multiple dwellings - 2,500 square feet each for the first four (4) units, plus 850 square feet per additional unit.

C. Lot width: One family dwelling - 66 feet.
Two family dwelling - 66 feet.
Row housing units - 25 feet per unit.
Multiple family dwelling and other permitted
uses - 75 feet.

D. Front yard: Twenty (20) foot setback - any lot which abuts on two (2) or more streets shall have a fifteen (15) foot side yard between each lot line abutting on said side street and any building. On lots of record, the average setback of adjacent dwellings may be used. Schools and churches are exempt from front yard setback requirements.

E. Side yards: Six (6) foot setback for all principally permitted uses.

Accessory Building - unattached in rear yard a minimum setback distance of five (5) feet from the principal building; seven (7) feet from side yard lines.

F. Rear yard: Ten (10) foot setback for all principally permitted uses.

Accessory Building - unattached in rear yard a minimum setback distance of five (5) feet from the principal building; seven (7) feet from rear yard lines.

G. Maximum height:

Principal building - 45 feet except that for each one (1) foot that the building or a portion of it sets back beyond the required front, side, and rear yards, one (1) foot may be added to the height limit of such building or portion thereof, provided, however, that no building shall exceed a height of 75 feet. Accessory building - 20 feet.

H. Maximum number of stories:

Principal building - 4 stories.

Accessory building - 2 1/2 stories.

I. Maximum rear yard coverage for an accessory building(s): 40 percent.

J. Minimum Size. All dwellings shall have a minimum floor area of not less than 850 square feet on the main floor, and the minimum dimensions of the main floor of the dwelling shall not be less than 24 feet.

K. Siding. All dwellings must be sided with a material other than flat or corrugated sheet metal.

L. Maximum Occupancy. The maximum occupancy of any dwelling unit shall not exceed the following requirements: for the first occupant, 250 square feet of floor space and at least 150 square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

M. Concrete Floor. Any building over 100 square feet in area shall have a concrete floor with a one foot foundation barrier. Portland cement (3 to 1 cement ratio, ready mix, 3500 psi) shall be the only cement used in the construction.

(Ord. 236 – Sep. 08 Supp.)

N. Setback on Alleys. No person shall erect, reconstruct, alter, repair or move into the City any structure, fence or other permanent construction so that all or part of such structure will be within two (2) feet of any boundary line of a City alley.

O. Foundation. All dwellings shall have a permanent foundation. Foundation will extend to all perimeters of dwelling and in depth of forty-eight (48) inches below the ground. Manufactured homes shall conform to the requirements of Chapter 146 of this code.

(Ord. 243 – Sep. 09 Supp.)

155.07 FENCING. The following regulations shall apply to all fences built, repaired or replaced in the R-1 District.

1. No one shall build, repair, replace or extend any new or existing fence, wall or other similar structure unless such structures meet the fence, wall or other similar structure unless such structures meet the following criteria:
 - A. All fences shall be erected solely on the property owner's property and shall not extend over the property line.
 - B. Each fence will be set back from any side lot line by eighteen (18) inches, unless the adjoining property owner has waived this setback requirement in writing and filed it with the Building Official. The waiver is irrevocable and is binding on all successors in interest. No setback is required for a non-maintenance fence erected on the property owner's property, if there is an official survey of said property.
 - C. No fence shall exceed eight (8) feet in height. On street frontage lot lines, corner lots and for any front yards, the height shall not exceed four (4) feet. The front yard limitation shall be twenty-two (22) feet when there are no adjacent buildings or if there are, shall be the average setback for adjacent buildings.
 - D. On any new fences the supporting poles shall be on the inside of such a fence, unless waived in writing by the adjoining property owner. Such waiver will be irrevocable.
 - E. Each new fence shall be subject to a building permit.
2. Natural Fencing. The foregoing restrictions shall not apply to any fences comprised solely of any living plants being used as a living plants being used as a living fence, excepting that no part of such living fence shall be planted to hang over the property line. Further, the frontage height descriptions of four (4) feet shall also apply to such living fences.

155.08 BUILDINGS REQUIRING SPECIAL PERMITS TO LOCATE WITHIN RESTRICTED DISTRICTS. Construction of clinics, offices, hospitals, utility buildings and substations, any type of commercial stores and warehouses, plant nurseries, farm buildings, and industrial buildings and structures may be authorized by special permit to locate within the Restricted Residence District only if it appears that said use and type of building will be compatible with the residential character of the district, and that the particular use could not practicably be built in an unrestricted area, or the restricted district boundaries amended logically, due to topography, access to railroad or highway or other proper reason acceptable to Council.

155.09 SPECIAL PERMITS IN THE RESTRICTED RESIDENCE DISTRICT. With the exception of the principal and accessory uses stated in this chapter, a written special permit shall be required for the erection, reconstruction, alteration, or repair of any building and for its occupancy and use within the restricted residential district of this City. Said permit shall be applied for in writing on a properly completed application form provided by the Building Official that is accompanied by plans and specifications sufficient to determine compliance with applicable ordinances of the City. Said application shall be made to the Building Official at least twenty-one (21) days before the City Council meeting at which the request for Council action is made.

No permit shall or will be granted until a public hearing has been conducted by the City Council at a regularly scheduled meeting. Notice of the public hearing shall be placed in a publication of general circulation at least seven (7) days, but not more than twenty (20) days, prior to the hearing. As a courtesy and in addition to publication, the notice of hearing shall be provided to property owners within three hundred (300) feet of the property in question. Notice to property owners shall be mailed at least seven (7) days, but not more than twenty (20) days, prior to hearing. The applicant shall be responsible to provide a list of the names and addresses of the property owners, who are to receive said courtesy notice, together with addressed envelopes with pre-paid first (1st) class postage thereon to the Building Official who shall then mail the notices to the property owners.

After a public hearing is conducted, but prior to consideration of a special permit, the City Council shall weigh the application using the following special permit standards. The City Council shall find that:

1. The establishment, maintenance, or operation of the special permit will not be detrimental to, or endanger, the public health, safety, or general welfare of the City;
2. The special permit will not be injurious to the use and enjoyment of other property already permitted, nor substantially diminish or impair property values of the neighborhood;
3. The establishment of special permits will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
4. Adequate utilities and public services (e.g. police and fire protection, sewer and water service), access roads, drainage and/or necessary facilities have been or are being provided;

5. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
6. The special permit shall, in all other respects, conform to the applicable regulations and ordinances of the City of Clarksville; and
7. A properly noticed public hearing, as outlined in the Section, was conducted by the City Council prior to special permit consideration.

After a public hearing is conducted and consideration has been given to the above standards, the City Council shall act on the special permit application. The Council may either approve, deny, or table a special permit application by simple majority roll call vote unless sixty (60) percent of the surrounding property owners who received notice object to the special permit application in which case the City Council shall be bound by different voting requirements in that granting a special permit shall then require an affirmative three-fourths (3/4) vote of all the members of the City Council.

Each special permit application shall be accompanied by a check payable to the City of Clarksville or a cash payment in the amount of twenty-five dollars (\$25) to cover processing costs.

155.10 PARKING REQUIREMENTS. There shall be a minimum of two (2) off-street parking spaces per dwelling unit required in the Restricted Residence District. This provision shall also apply to all mobile homes, as herein defined.

155.11 AMENDMENTS. From time to time the City Council may wish to amend, change, or alter provisions of this chapter and/or the Official Map, which is a part of this chapter. Such amendments, changes, or alterations is hereby allowed, provided that prior to such amendment a public hearing be held at which time all parties involved in such an amendment including those in adjacent properties may be heard. Notice of the public hearing pertaining to amendments, changes, or alterations of this chapter shall be made in accordance with the Special Permit procedures for conducting such hearings, as defined herein. Upon adoption, publication, and recordation by the City Council, such amendments, changes, or alterations shall become effective.

155.12 VIOLATION AND PENALTIES. Any building or structure erected, altered, repaired or used in violation of this chapter passed by the City Council of Clarksville, Iowa, shall be deemed a nuisance, and the City Council may provide for the abatement of such nuisance through the procedures outlined in Chapter 50 of the Code of Clarksville.

155.13 VALIDITY. Should any section, provision, or part of this chapter be declared by a court of competent jurisdiction to be invalid, or unconstitutional, that decision shall not affect the validity of the chapter as a whole or any section, provision, or part thereof, not adjudged invalid or unconstitutional.

(Ch. 155 – Ord. 222 – Dec. 05 Supp.)

155.14 DWELLING OR RESIDENTIAL UNITS ON FIRST FLOOR.

No dwellings or residential units shall be allowed on the first floor level of any building, zoned R-1, and located on Main Street between the intersections of Weare Street and Prospect Street. Dwellings or residential units located on the first floor level that, at the time of the passing of this amendment, is occupied by the owner or tenant may be used as a dwelling or residential unit until the building is sold or transferred.

(Ord. 227 – Nov. 06 Supp.)

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CHAPTER 156

PROPERTY MAINTENANCE CODE

156.01 Purpose

156.02 Applicability

156.03 Maintenance of Exterior of Premises

156.04 General Maintenance

156.05 Structural and General Maintenance

156.01 PURPOSE. The purpose of this chapter is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises, to fix certain responsibilities and duties upon owners and operators, and distinct and separate responsibilities and duties upon occupants.

156.02 APPLICABILITY. Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, commercial, business or industrial occupancy shall comply with the provisions of this chapter, whether or not such building has been constructed, altered or repaired before or after the enactment of this chapter.

156.03 MAINTENANCE OF EXTERIOR OF PREMISES. The exterior of the premises and all structures thereon shall be kept free of all nuisances, and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It is the duty of the owner or operator to keep the premises free of hazards which include but are not limited to the following:

1. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash and debris.
2. Dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.
3. Loose and overhanging objects, and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
4. Holes, excavations, breaks, projections, obstructions, icy conditions, uncleared snow and excretion of pets and other animals on paths, walks, driveways, parking lots and parking areas, and other parts

of the premises which are accessible to holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery.

5. Adequate run-off drains shall be provided and maintained to eliminate any recurrent or excessive accumulation of storm water.
6. Sources of infestation.
7. Foundation walls shall be kept structurally sound, free from defects and damage and capable of bearing imposed loads safely.
8. Chimneys and all flue and vent attachments thereto shall be maintained structurally sound, free from defects, and so maintained as to perform capably at all times the functions for which they were designed. Chimneys, flues, gas vents or other draft-producing equipment shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.
9. Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railing properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair and free from defects.
10. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining property.
11. All exterior building walls shall be covered with a permanent siding material so as to provide an effective weather resistant exterior wall envelope.

156.04 GENERAL MAINTENANCE. The exterior of every structure or accessory structure (including fences) shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated, and adjoining properties protected from blighting influences.

156.05 STRUCTURAL AND GENERAL MAINTENANCE. The outside building walls shall not have any holes, loose boards, or any broken, cracked or damaged finish which admits rain, cold air, dampness, rodents, insects or vermin. Every dwelling shall be so maintained as to be weather-tight and

watertight. Basements, cellar and crawl spaces shall be free of moisture resulting from seepage and dampness. Basement and cellar floors will be paved with stone or concrete not less than four (4) inches thick and maintained at all times in a condition so as to be smooth, clean, free from cracks, breaks and other hazards. All parts of the premises shall be maintained so as to prevent infestation. All parts of the dwelling shall be kept in a clean and sanitary condition, free of nuisance and free from health, safety and fire hazards. All boards and wood, including floor boards, sub-floors, joists, bridging and all other boards in any interior or exterior floor, wall, roof or other part of the structure, shall be maintained to be free of cracks, termite damage or rot. Any damaged members shall be replaced.

(Ch. 156 – Ord. 263 – Oct. 13 Supp.)

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CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Statutory Authority and Purpose	160.13 Flood Plain Development Permit Required
160.02 Definitions	160.14 Application for Permit
160.03 Lands to Which Chapter Applies	160.15 Action on Application
160.04 Rules for Interpretation of Flood Hazard Boundaries	160.16 Construction and Use to Be as Provided in Application and Plans
160.05 Compliance	160.17 Variances
160.06 Abrogation and Greater Restrictions	160.18 Factors Upon Which the Decision to Grant Variances Shall be Based
160.07 Interpretation	160.19 Conditions Attached to Variances
160.08 Warning and Disclaimer of Liability	160.20 Nonconforming Uses
160.09 General Flood Plain Management Standards	160.21 Amendments
160.10 Special Floodway Standards	
160.11 Special Shallow Flooding Areas Standards	
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160.01 STATUTORY AUTHORITY AND PURPOSE.

1. Statutory Authority. The Legislature of the State of Iowa has in Chapter 364, Code of Iowa, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents.
2. 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 flood losses with provisions designed to:
 - A. Restrict Use. 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.
 - B. Vulnerable Uses Protected. 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.
 - C. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
 - D. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 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. “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. (See 100-year flood.)
2. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. (Also see “lowest floor.”)
3. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
4. “Existing construction” means any structure for which the “start of construction” commenced before the effective date of the community’s Flood Insurance Rate Map. (May also be referred to as “existing structure.”)
5. “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) was completed before the effective date of these flood plain management regulations.
6. “Expansion of existing factory-built home park or subdivision” means 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).
7. “Factory-built home” means any structure designed for residential use which 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 home” includes mobile homes, manufactured homes, and modular homes and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
8. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. "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.
10. "Flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of floodwaters related to the occurrence of the 100-year flood.
11. "Flood Insurance Rate Map (FIRM)" means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. "Flood plain" means any land area susceptible to being inundated by water as a result of a flood.
13. "Flood plain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, flood proofing, and flood plain management regulations.
14. "Flood proofing" 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.
15. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge floodwaters 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.
16. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. "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 in 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 which 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 by either (i) an approved State program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
18. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:
- A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 160.09(4)(A); and
 - B. The enclosed area is unfinished (not carpeted, dry-walled, 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 100-year flood level; and
 - D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C, and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than \$500.
20. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.
21. "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 these flood plain management regulations.

22. “100-year flood” means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.
23. “Recreational vehicle” means a vehicle which is:
- A. Built on a single chassis;
 - B. Four hundred (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.
24. “Routine maintenance” means a vehicle which is:
- A. Built on a single chassis;
 - B. Four hundred (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.
25. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A, AE, A1-A30, AO and AH on the City’s Flood Insurance Rate Map.
26. “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 or 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.

27. "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, and other similar uses.

28. "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.

29. "Substantial improvement" means any improvement to a structure which 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 comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. 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 which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the Flood Insurance Rate Map shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

31. "Violation" means the failure of a structure or other development to be fully compliant with this chapter.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City. The Flood Insurance Rate Maps for Butler County and Incorporated Areas, City of Clarksville, Panels 19023C0216D, 0218D, dated September 16, 2011, which were prepared as part of the Butler County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100- year flood shall be considered as having significant flood hazards. The Butler 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.

160.04 RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES. The boundaries of the Special Flood Hazard 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 City Clerk shall make the necessary interpretation.

160.05 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.

160.06 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. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.07 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 Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

160.08 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 special flood hazard 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 thereunder.

160.09 GENERAL FLOOD PLAIN MANAGEMENT STANDARDS.

All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Development which involves the 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 Iowa Department of Natural Resources to determine whether the land involved is either wholly or partly within the floodway or floodway fringe. Where 100-year flood elevation data has not been provided in the Flood Insurance Study, the 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.

1. All development within the areas of significant flood hazard shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
 - D. Obtain all other necessary permits from Federal, State, and local governmental agencies, including approval, when required, from the Iowa Department of Natural Resources.
2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the City Council, 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. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.
3. Nonresidential Buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement)

elevated a minimum of one foot above the 100-year flood level, or together with attendant utility and sanitary systems, be flood-proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, 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) to which any structures are flood-proofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. 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:

- (1) A minimum of two openings 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.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that 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.

B. 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.

C. 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.

5. Factory-Built Homes.

A. All 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 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. 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.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters. 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 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters 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 100-year flood elevation.

D. 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.

7. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to floodwaters; or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, floodwalls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

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

10. 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 100-year flood. Proposals for subdivisions greater than 5 acres or 50 lots (whichever is less) shall include 100-year flood elevation data for those areas located within the area of significant flood hazard.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

- (1) The structure shall not be used for human habitation.
- (2) The structure shall be designed to have low flood damage potential.
- (3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- (4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
- (5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one foot above the 100-year flood level.

- B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
- 12. Recreational Vehicles.
 - A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
 - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and
 - (2) 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.
 - B. 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 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes.
- 13. 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.

160.10 SPECIAL FLOODWAY STANDARDS. In addition to the General Floodplain Standards, uses within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

- 1. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. 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.

2. All uses within the floodway shall:
 - A. Be consistent with the need to minimize flood damage.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
3. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.
4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable General Floodplain Standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.
5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
6. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.
7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
8. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
9. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.11 SPECIAL SHALLOW FLOODING AREAS STANDARDS. In addition to the General Floodplain Standards, uses within shallow flooding areas must meet the following applicable standards.

1. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map (FIRM), the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of 2.0 feet if no number is specified) above the highest natural grade adjacent to the structure.

2. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.
3. In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures.

160.12 ADMINISTRATION. The City Clerk shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.
2. Review all flood plain development permit 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 flood plain construction.
3. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
4. Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been flood-proofed.
5. Notify adjacent communities and/or 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.
6. Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.

160.13 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A flood plain development permit issued by the Administrator shall be secured prior to any flood plain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations) including the placement of factory-built homes.

160.14 APPLICATION FOR PERMIT. Application for a flood plain development permit shall be made on forms furnished by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.
2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address, or similar description) that will readily identify and locate the work to be done.
3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.
4. Flood Elevation. Elevation of the 100-year flood.
5. Floor Elevation. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood-proofed.
6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
7. Other. Such other information as the Administrator deems reasonably necessary for the purpose of this chapter.

160.15 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain 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 therefor. The Administrator shall not issue permits for variances except as directed by the Council.

160.16 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood plain development permits, issued on the basis of approved plans and applications, 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, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.17 VARIANCES. The City Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal

enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Cause. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
2. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year 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.
3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Notice to Applicant. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) 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 (ii) such construction increases risks to life and property.

160.18 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the City Council shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other land or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the City.
6. The requirements of the facility for a flood plain location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater expected at the site.
12. Such other factors which are relevant to the purpose of this chapter.

160.19 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.18, the Council 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 not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.
2. Limitation of periods of use and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. 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 purposes of this chapter.
5. Flood proofing measures.

160.20 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.

2. 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.

160.21 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 from the Department of Natural Resources.

(Ch. 160 – Ord. 254 – Sep. 11 Supp.)

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CHAPTER 165

SUBDIVISION REGULATIONS

165.01 Definitions

165.02 Preliminary Plat Required

165.03 Contents of Preliminary Plat

165.04 Preliminary Plat Approval

165.05 Final Plat

165.06 Other Filings

165.07 Approved Copy Filing

165.08 Minimum Standards of Design and Development

165.09 Improvements

165.10 Modifications

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

1. “Plat” means a map, drawing or chart of a subdivision.
2. “Subdivision” means the division of a lot, tract or parcel of land into three (3) or more lots, plots, sites or other divisions of land, for the purpose, whether immediate or future, of sale or building development. It also includes resubdivision of land or lots.

165.02 PRELIMINARY PLAT REQUIRED. Whenever the owner of any tract or parcel of land desires to subdivide or resubdivide into three or more building sites, said person shall file a preliminary plat, in triplicate, together with a written statement specifying such person’s intentions respecting the character of the proposed development, deed restrictions, condition of abstract title, drainage, parks and playgrounds and the intended date of beginning development, with the City. Two copies of the plat and other required information shall be referred by the Clerk to the Council for its preliminary study and approval.

165.03 CONTENTS OF PRELIMINARY PLAT. The preliminary plat shall be drawn to a scale not less than one inch to one hundred feet (1" = 100') and shall show the proposed location and width of streets and alleys, lot lines and area of each lot. The plan shall also show surrounding streets, lots, watercourses and sewer or water mains. Wherever the land is so rolling or rugged that the preliminary location and grades of streets and sewer cannot properly be considered, the Council may require the developer to provide a topographical map of the property showing contour intervals of not less than five feet. At the time the preliminary plat is filed, the subdivider shall show the location of all utilities that will service the area and the planned extension thereof within the subdivision. Utilities are defined as electric, telephone, gas, water, sanitary sewers, storm drains, sidewalks and curb and gutter.

165.04 PRELIMINARY PLAT APPROVAL. The Council shall approve or reject the preliminary plat and plan within thirty (30) days after submission thereof. Approval of the preliminary plat and plan constitutes authorization to proceed with the preparation of the final plat, but the final plat and plan must be submitted to the Council for approval, as provided in this chapter.

165.05 FINAL PLAT. The subdivider shall file with the Clerk for submission to the Council six (6) copies of the final plat, which in addition to the general requirements specified for the preliminary plat, shall show the following data and information:

1. The boundaries of the property;
2. The lines of all proposed streets and alleys, with their widths and names, and other areas to be dedicated to public use;
3. The lines of adjoining streets and alleys, with their widths and names;
4. All lot lines and easements with figures showing their dimensions;
5. All dimensions, both lineal and angular;
6. Radii, arcs and chords, points of tangency, central angles for all circilinear streets and radii for all rounded corners;
7. All monuments together with their description;
8. Title and description of property subdivided showing its location and extent, points of compass, scale of plan, name of subdivider and name of engineer staking the lots;
9. Profiles may be required of any streets.

165.06 OTHER FILINGS. The subdivider shall also file with the final plat all the acknowledgments, certificates and opinions as required by law, as well as a statement of all private restrictions.

165.07 APPROVED COPY FILING. After approval of the final plat and plan by the Council, two (2) copies of the final plat and the plan shall be filed in the office of the Clerk and the office of the County Recorder.

165.08 MINIMUM STANDARDS OF DESIGN AND DEVELOPMENT. No preliminary plat or final plat of a subdivision shall be approved by the Council unless it conforms to the minimum standards and requirements contained in this section.

1. Street Access. Every lot in a proposed subdivision shall be served by a publicly dedicated street.
2. Continuation of Streets. The arrangement of streets in new subdivisions shall make provision for the continuation of the principal existing streets adjoining additions, insofar as they may be necessary for public requirements. However, adjoining developments of unequal character shall not be united with connecting streets where the connection would adversely affect property values, unless it is deemed necessary in the public interests. Wherever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted.
3. Street Widths. Street widths shall be designed in accordance with their character and use. Minimum rights-of-way shall be:
 - A. Major arteries and parkways, 100 feet;
 - B. Secondary and main thoroughfares, 80 feet;
 - C. Neighborhood residential streets, 60 feet;
 - D. Minor residential streets, 60 feet.
4. Intersections. Streets shall intersect main thoroughfares adjacent to the subdivision at right angles, and intersections within the subdivision shall be as nearly at right angles as may seem practical.
5. Curved Streets. The location of all curved streets shall be so designed as to fit the natural topography as closely as possible and to make possible desirable land subdivision and safe vehicular traffic.
6. Centerline Radii of Streets. Minimum centerline radii of curved minor residential streets shall be not less than 100 feet and the centerline radii of curved major and secondary thoroughfares shall be not less than 300 feet.
7. Terminal Streets. Terminal residential streets or cul-de-sacs may be established where necessary to afford access to all lots. No terminal street may be platted longer than 500 feet and all such terminal streets shall terminate in a circular open space having a minimum diameter of 100 feet.
8. Street Names. Street names may be indicated but shall not duplicate or resemble too closely names of existing streets. Where the platted street is a logical extension of an existing street, the name of the existing street shall be used.

9. Alleys. Alleys in residential blocks shall be a minimum width of 16 feet. Alleys are not recommended for residential areas except where properties front on a major thoroughfare or where they seem necessary as a continuation of an existing alley system. Alleys are required in the rear of all business lots and shall be a minimum width of 20 feet.
10. Utility Easements. Where alleys are not provided, easements of not less than 5 feet in width shall be provided on each side of all rear lot lines, and side lines where necessary, for utility lines. Easements of greater width may be required along lines or across lots where necessary for the extension of main sewers and similar utilities.
11. Blocks. No block shall be longer than 1,000 feet between street lines. The width of blocks shall not be less than 200 feet and not more than 300 feet, except when it is desired to provide a development containing large residential lots, the Council may modify the requirements.
12. Lot Size. Lots in new subdivisions where City water and sewer connections are contemplated shall meet the following minimum requirements:
 - A. 66-foot frontage on street property line where lot is rectangular; 50-foot frontage on curving streets;
 - B. 120 feet in depth;
 - C. 8,400 square feet in area.
13. Corner Lots. Corner lots shall have not less than 5 feet extra width to permit adequate building setback on both streets.
14. Side Lot Lines. All side lines of lots shall be at right angles to straight street lines, or radial to curved street lines, unless a variation to this requirement will give a better street or lot plan.
15. Corner Markers. All lots shall have a permanent marker at each corner.

165.09 IMPROVEMENTS. Before any portion of the final plat of any subdivision is finally approved for recording, the subdivider shall make and install, at the subdivider's expense, all the improvements required in this section, in that portion of the plat which is to be finally recorded. In lieu of final completion of the minimum improvements before the plat is finally approved, the subdivider may post a bond approved by the Council, which bond will insure to the City that the improvements will be completed by the subdivider within one year (or any period of time mutually agreed upon by the subdivider and the Council) after final approval of the plat and plan. The bond

to be provided may be in the form of a subdivider's bond or a construction contract performance bond. The amount of the bond shall not be less than the estimated cost of the improvements, and the amount of the estimates must be approved by the Council. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof, to complete the improvements. The required improvements and additional requirements pertaining to improvements are as follows:

1. Work Required. The subdivider shall perform the following work:
 - A. Install sanitary sewers and individual lot services from the main to the lot line as specified by the City upon recommendation of the City engineer.
 - B. Install water mains, valves, hydrants and individual lot services from the main to the lot line as specified by the City upon recommendation of the City engineer.
 - C. Install storm drains, if necessary and required;
 - D. Bring all streets to an established grade;
 - E. Install curb and gutter, and cross gutters where required;
 - F. Furnish and place six inches of crushed rock base in all streets;
 - G. Install sidewalks in accordance with City specifications unless this sidewalk requirement is waived by the Council.
2. Engineer Supervision. All improvements shall be designed and the construction thereof shall be supervised by a licensed engineer.
3. Plans. All improvements shall be presented to the Council in the form of plans and specifications for their approval before any work thereon is performed. Upon completion, the work will be inspected by the Council and accepted or corrections ordered as required to meet the approved specifications. After formal acceptance, the City will assume maintenance responsibilities. However, any damage to completed and accepted improvements caused by the subdivider shall be corrected at the subdivider's expense.
4. Use of Public Property. No planting, gateway, entrance or similar improvements shall be made on public property except with the permission and approval of the Council.
5. Street Surfacing. The City will install the all-weather surfacing on all streets in accordance with traffic requirements. In no case shall

this be less than a prime coat and a single application of bituminous inverted penetration wearing surface.

6. Increased Water and Sewer Line Size. Where necessary for future development the City may require larger than the minimum sizes specified for water and sewer pipe.

165.10 MODIFICATIONS. Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of some section or subsection of this chapter would result in real difficulties and substantial hardships, the Council may vary or modify the requirements so that the subdivider is allowed to develop the property in a reasonable manner, but at the same time the public welfare and interests of the City must be protected and the general intent and spirit of this chapter preserved.

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