

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 Mitchellville, Iowa.

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. “City” means the City of Mitchellville, Iowa.
3. “Clerk” means the city clerk of Mitchellville, 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 Mitchellville, Iowa.
6. “Council” means the city council of Mitchellville, Iowa.
7. “County” means Polk County or Jasper County, Iowa.
8. “May” confers a power.
9. “Measure” means an ordinance, amendment, resolution or motion.
10. “Must” states a requirement.
11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
12. “Ordinances” means the ordinances of the City of Mitchellville, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

15. "Shall" imposes a duty.

16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.

17. "State" means the State of Iowa.

18. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.

19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY. The applicant for any permit or license under this Code of Ordinances, by making such application, assumes and agrees to pay for any injury to or death of any person or persons whomsoever, and any loss of or damage to property whatsoever, including all costs and expenses incident thereto, however arising from or related to, directly, indirectly or remotely, the issuance of the permit or license, or the doing of anything thereunder, or the failure of such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Code of Ordinances or the terms and conditions of such permit or license, and such applicant, by making such application, forever agrees to indemnify the City and its officers, agents and employees, and agrees to save them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, including all costs and expenses incident thereto, by reason of the foregoing. The provisions of this section shall be deemed to be a part of any permit or license issued under this Code of Ordinances or any other ordinance of the City whether expressly recited therein or not.

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

building, or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine.

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

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CHAPTER 2

CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

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

2.02 FORM OF GOVERNMENT. The form of government of the City is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five (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)

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

3.02 ENVIRONMENTAL VIOLATION. A municipal infraction 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.

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

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

1. Standard Civil Penalties.
 - A. First offense – not to exceed \$750.00
 - B. Each repeat offense – not to exceed \$1,000.00

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

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

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

- (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
- (2) The City is notified of the violation within 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.

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

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

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

5.07 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:
(*Code of Iowa, Sec. 362.5*)

1. Compensation of Officers. The payment of lawful compensation of a City officer or employee holding more than one City office or position, the holding of which is not incompatible with another public office or is not prohibited by law.
(*Code of Iowa, Sec. 362.5[3a]*)
2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
(*Code of Iowa, Sec. 362.5[3b]*)
3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.
(*Code of Iowa, Sec. 362.5[3c]*)
4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.
(*Code of Iowa, Sec. 362.5[3e]*)
5. Newspaper. The designation of an official newspaper.
(*Code of Iowa, Sec. 362.5[3f]*)
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.
(*Code of Iowa, Sec. 362.5[3g]*)
7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.
(*Code of Iowa, Sec. 362.5[3h]*)
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (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[3i]*)

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2,500.00) in a fiscal year.

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

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[3l])

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose

7.02 Finance Officer

7.03 Cash Control

7.04 Fund Control

7.05 Operating Budget Preparation

7.06 Budget Amendments

7.07 Accounting

7.08 Financial Reports

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-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. Two signatures are required on all City checks. Checks shall be prenumbered and signed by the Deputy Clerk and the Mayor or the Mayor Pro Tem, following Council approval, except as provided by subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose

8.02 Definitions

8.03 Period of Partial Exemption

8.04 Amounts Eligible for Exemption

8.05 Limitations

8.06 Applications

8.07 Approval

8.08 Exemption Repealed

8.09 Dual Exemptions Prohibited

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 9

URBAN RENEWAL

EDITOR'S NOTE

Ordinance No. 12-5-95, adopted December 19, 1994, established the Mitchellville Urban Renewal Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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CHAPTER 10

URBAN REVITALIZATION

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.

ORDINANCE NO.	ADOPTED	NAME OF AREA
4-15-96	May 6, 1996	Mitchellville Urban Revitalization Area
2048	March 6, 2006	Amends Ordinance No. 4-15-96
2066	February 4, 2008	Amends Ordinance No. 4-15-96

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing

the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.

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

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

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

15.03 APPOINTMENTS. The Mayor shall appoint the Mayor Pro Tem. In addition, the Mayor shall appoint, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. Library Board of Trustees
3. Fire Chief
4. Park and Recreation Commission
5. Zoning Board of Adjustment
6. City Tree Board
7. Building Board of Appeals

15.04 COMPENSATION. The salary of the Mayor is two hundred fifty dollars (\$250.00) per month.

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.05 Appointments
17.06 Compensation
17.07 Ex-Officio Members of Boards

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 construction of any improvements, bridges, or buildings.

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars (\$100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that 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. 380.1[a])

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

1. Regular Meetings. The regular meetings of the Council are on the first and third Mondays of each month at seven o'clock (7:00) p.m. in the Council Chambers at City Hall. If such day falls on a legal holiday, the meeting is held at a mutually agreeable time, as determined by the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Administrator/City Clerk
2. City Attorney
3. Director of Public Works
4. Assistant Director of Public Works
5. Building Inspector
6. Animal Control Officer
7. Planning and Zoning Commission
8. Cemetery Superintendent

17.06 COMPENSATION. The salary of each Council member is fifty dollars (\$50.00) per month.

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

17.07 EX-OFFICIO MEMBERS OF BOARDS. A Council member shall serve as an ex-officio member without a vote on each appointive board.

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CHAPTER 18

CITY CLERK

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

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

18.01 APPOINTMENT AND COMPENSATION. The City Administrator is ex officio City Clerk and has the duties, powers, and functions prescribed in this chapter, by State law, and other ordinances of the City. The Council shall specify by resolution the compensation to be paid for such services.

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

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

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

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

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

(Code of Iowa, Sec. 380.7[1 & 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, except that ordinances and amendments may be published by posting in the following places:

Legacy Bank
Post Office
City Hall

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than ten (10) days after the first date of posting. Unauthorized removal of the posted ordinance or amendment prior to the completion of the ten days shall not affect the validity of said ordinance or amendment. The Clerk shall note the first date of such posting on the official copy of the ordinance and in the official ordinance book immediately following the ordinance.

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:
(Code of Iowa, Sec. 372.13[4])

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

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation

20.02 Attorney for City

20.03 Power of Attorney

20.04 Ordinance Preparation

20.05 Review and Comment

20.06 Provide Legal Opinion

20.07 Attendance at Council Meetings

20.08 Prepare Documents

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.

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

20.08 PREPARE DOCUMENTS. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.

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

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CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment and Term

21.03 Powers and Duties

21.02 Compensation

21.01 APPOINTMENT AND TERM. The Council shall appoint by majority vote a City Administrator/City Clerk who, if appointed, shall hold office at the discretion of the Council and be subject to removal by a majority vote of the Council.

21.02 COMPENSATION. The City Administrator/City Clerk shall receive such annual salary as the Council shall from time to time determine by resolution, and payment shall be made in the manner provided for the payment of compensation and allocation of benefits to other employees of the City.

21.03 POWERS AND DUTIES. The powers and duties of the City Administrator/City Clerk are as follows:

1. To attend all meeting of the Council.
2. To serve as City Clerk and perform the duties of Clerk as identified in Chapter 18 of this Code of Ordinances.
3. To serve as City Treasurer and perform the duties of Treasurer as identified in Chapter 19 of this Code of Ordinances.
4. To have responsibility for the supervision of the following departments and offices and be directly responsible to the Council for the proper function of same:
 - A. Public Works Department;
 - B. Building Department;
 - C. City Administration Department.
5. To be responsible for the preparation and administration of the annual budget in the manner prescribed by law.
6. To compile and maintain current and up-to-date information regarding all funding sources of the City, including State and Federal grant and loan programs; to plan, develop, prepare and submit, with the approval and at the discretion of the Council, applications for grants, loans and other sources of funding and to administer all such fundings.
7. To formulate and recommend employment and personnel policies, compensation schedules and benefits for the approval of the Council.
8. To review and evaluate, along with the appropriate department head, the applications for City employment in the departments under the City Administrator/City Clerk's supervision and jurisdiction and make recommendations to the Council for approval.

9. To employ, promote or reclassify, upon recommendation from the appropriate department head, any City employee for departments or areas under the City Administrator/City Clerk's supervision and jurisdiction.
10. To represent the City, as directed by the Council, in all negotiations and relations with employees, contractors, consultants, other governmental units, and civic organizations in which the City may have an interest, and cooperate with, assist and advise all administrative agencies, City boards and commissions and act as the Council's liaison and representative to such entities.
11. To be authorized to direct the purchasing of all commodities, materials, supplies, capital outlay and services for all departments of the City that have been budgeted and appropriated by resolution of the Council, and to enforce a program to determine that such purchases are received and are of the quality and character called for in the order.
12. To coordinate with department heads the management of all buildings, structures, and land under the jurisdiction of the Council, and also be charged with the care and preservation of all City-owned equipment, tools, machinery, appliances, supplies and commodities over which the City Administrator/City Clerk, by this chapter, has specific authority.
13. To reside, within a period of one year after appointment, within the City limits of the City.
14. To attend City, County, regional and any other meetings as requested by the Mayor and/or Council.
15. To execute and file a bond for the faithful performance of the duties of the office, and in favor of the City, in such sum as determined by the Council. The City shall pay the cost of such bond.
16. To perform such other duties as the Mayor or Council may direct.
17. To serve as City Zoning Administrator and perform the duties of Zoning Administrator as identified in Chapter 165, Article 7, Section 6 of the Mitchellville Zoning Ordinance.

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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 Mitchellville 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 four (4) 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 Polk County or Jasper County rural area surrounding the City. 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. Members of the Board shall be appointed for a term of six (6) years, except for the filling of vacancies. Each term shall expire on December 31, respectively.
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 Chairperson, 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. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

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

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

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

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

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

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

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

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

22.08 EXPENDITURES. All money appropriated by the Council for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board. The warrant writing officer is the City Clerk.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

23.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members, who shall be residents of the City and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure

or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

CHAPTER 24

PARK AND RECREATION COMMISSION

24.01 Commission Created
24.02 Organization
24.03 Powers and Duties
24.04 Personnel

24.05 Reports
24.06 Meetings
24.07 Rules
24.08 Penalties

24.01 COMMISSION CREATED. A Park and Recreation Commission is hereby created to advise the Council of the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation. It shall also plan and oversee City programs for the leisure time of the City's residents of all ages.

24.02 ORGANIZATION. The Commission shall consist of five (5) members appointed by the Mayor with the approval of the Council, for staggered terms of five (5) years ending on December 31 of each year. Four (4) members of the Commission shall be citizens and residents of the City. The fifth member may be a resident of the unincorporated Polk or Jasper County area surrounding the City. The Commission shall designate the Chair and Vice Chair every year. Members shall serve without compensation. Vacancies shall be filled in the same manner as the original appointments.

24.03 POWERS AND DUTIES. The Commission shall plan and implement recreational and cultural activities for the City. The Commission shall have oversight for the daily operations of all park facilities and related facilities as designated by the Council. These operations are subject to the limitation of expenditures for supplies, contracts and capital outlays set forth in the annual budget for park operations. The Commission shall order supplies by utilizing procedures established by the City Administrator for all departments of the City and payments shall be made by warrant check, as approved by the Council. The Commission shall meet with the City Administrator no later than January 1 of each year to compose a departmental budget for the next fiscal year which shall be presented to the Council for its consideration. The Commission shall formulate and implement an annual strategic plan to include recreational and cultural activities and capital improvement planning.

24.04 PERSONNEL. The personnel for the Commission shall be provided by the City Administrator and shall be under the Administrator's supervision. The City Administrator shall cooperate with the Commission in the allotment of time of City employees for park and recreational activities. The City Administrator may serve in an advisory capacity for the Commission.

24.05 REPORTS. The Commission shall maintain minutes and records of its proceedings, a copy of which shall be submitted to City Hall for record keeping. The Commission shall make written reports to the Council of its activities from time to time as activities warrant or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Commission.

24.06 MEETINGS. The Commission shall, upon being appointed, set a time and place for its meeting which shall be at least once per month and at such other times as the Commission may determine is necessary to conduct its business.

24.07 RULES. The Commission has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the public. The Commission shall also create bylaws with which to govern itself and to conduct its meetings. These bylaws shall include an attendance clause and will be subject to Council approval.

24.08 PENALTIES. Violation of a Commission rule which has been approved by the Council and adopted by ordinance may be cause for denial of use of a facility or participation in a program, but such denial which extends for more than one day may be appealed to the Commission or to the Council for a hearing. The violation may be prosecuted as a simple misdemeanor if it is a violation of this Code of Ordinances.

CHAPTER 25

CITY TREE BOARD

25.01 Creation and Establishment
25.02 Term of Office
25.03 Compensation
25.04 Duties and Responsibilities

25.05 Operation
25.06 Interference with Board
25.07 Review by Council

25.01 CREATION AND ESTABLISHMENT. There is hereby created and established a City Tree Board for the City, which shall consist of five (5) members, residents of the City, who shall be appointed by the Mayor with the approval of the Council.

25.02 TERM OF OFFICE. The members of the Board shall serve staggered terms of three (3) years and in the event that a vacancy occurs during the term of any member, said member's successor shall be appointed for the unexpired portion of the term.

25.03 COMPENSATION. Members of the Board shall serve without compensation.

25.04 DUTIES AND RESPONSIBILITIES. It is the responsibility of the Board to study, investigate, and to develop and/or update annually and administration of a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees, shrubs, vegetation along the City streets or on any City property. The Board, when requested by the Council, shall consider, investigate, make findings, report, and recommend upon any special matter or question coming within the scope of its work.

25.05 OPERATION. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be quorum for the transaction of business.

25.06 INTERFERENCE WITH BOARD. It is unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning or removing of any street trees or park trees, as authorized by this chapter.

25.07 REVIEW BY COUNCIL. The Council shall have the right to review the conduct, acts, and decisions of the Board. Any person may appeal from any ruling or order of the Board to the Council, who may hear the matter and make final decision.

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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
30.12 Reserve Police Officer Program

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 Council, the other members of the department.
(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)

30.12 RESERVE POLICE OFFICER PROGRAM.

1. Selection of Members. The Reserve Police Program shall consist of no more than six (6) volunteer members. A Reserve Police Officer has regular police power while functioning as the Police Department representative. Following training as established in subsection 2, qualified members shall be recommended by the Chief of Police and approved by the City Council.
2. Training. Training for individuals appointed as reserve peace officers shall be provided by instructors in a community college or other facility, including a law

enforcement agency, selected by the individual and approved by the law enforcement agency and the Iowa Law Enforcement Academy. All standards and training required under Chapter 80D of the *Code of Iowa* constitute the minimum standards for reserve peace officers. Upon satisfactory completion of training, the Iowa Law Enforcement Academy shall certify the individual as a reserve peace officer. There shall be no exemptions from the personal and training standards provided for in this chapter.

3. Reserve Officer's Uniform and Insignia. During their hours of duty, Reserve Officers shall wear a uniform as prescribed by the Chief of Police. They shall also wear a badge of office on their outer garment and in plain view.
4. Carrying of Weapons by Reserve Police Officers. No member of the Reserve Police Force shall carry any weapons during hours of duty until they have been properly trained and certified by I.L.E.A., and approved by the City Council.
5. Supervision of Reserve Officers. Reserve Police Officers shall be subordinate to and shall work only under the direction and supervision of a Regular Certified Police Officer.
6. Employment Status. Reserve Officers shall be considered City employees while they are performing police duties as authorized by the Chief of Police. They shall receive a salary from the City of not less than \$1.00 per year.
7. Pension or Retirement Fund. Reserve Police Officers will not be eligible for participation in any Pension or Retirement Fund sponsored by the City.

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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 Fire Chief Appointed
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 Fire District
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Emergency Ambulance Service

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

35.05 COMPENSATION. Members of the department shall 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 FIRE CHIEF APPOINTED. The Fire Chief shall be appointed by the Mayor subject to approval of the Council.

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.
2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

3. Authority at Fires. When in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

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

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

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

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

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

(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)

35.15 EMERGENCY AMBULANCE SERVICE. The department is authorized to provide emergency ambulance or rescue services and the accidental injury and liability insurance provided for herein shall include such operation.

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

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

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

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

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the

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

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

1. The reasonable cleanup costs incurred by the City or the agents of 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 or the agents of 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.
4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused that that person.

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 Fire 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 Fire Chief shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the Fire Chief, which shall then notify the Department of Natural Resources.

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. "Deface" means to intentionally mar the external appearance.

B. "Defile" means to intentionally make physically unclean.

- C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
 - D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
 - E. “Show disrespect” means to deface, defile, mutilate, or trample.
 - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. **Obstruct Use of Street.** Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.
- (Code of Iowa, Sec. 723.4[7])*
8. **Funeral or Memorial Service.** Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:
- A. Make loud and raucous that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
 - B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
 - C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances

41.02 False Reports to or Communications with Public Safety Entities

41.03 Providing False Identification Information

41.04 Refusing to Assist Officer

41.05 Harassment of Public Officers and Employees

41.06 Interference with Official Acts

41.07 Abandoned or Unattended Refrigerators

41.08 Antenna and Radio Wires

41.09 Barbed Wire and Electric Fences

41.10 Discharging Weapons

41.11 Throwing and Shooting

41.12 Urinating and Defecating

41.13 Fireworks

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

41.03 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

41.07 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)

41.08 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])

41.09 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.

41.10 DISCHARGING WEAPONS.

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

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

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

41.12 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.

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

(Code of Iowa, Sec. 727.2)

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

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

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

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

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 22 – Library
 - A. Section 22.10 – Injury to Books or Property
 - B. Section 22.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
 - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing

- D. Section 136.17 – Debris on Sidewalks
- E. Section 136.18 – Merchandise Display
- F. Section 136.19 – Sales Stands

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CHAPTER 43

DESIGNATION OF SPECIFIED CRIME PROPERTY

43.01 Definitions

43.02 Specified Crime Property Prohibited

43.03 Penalties

43.04 Procedure for Enforcement

43.05 Notice

43.06 Service of Notice

43.07 Administrative Appeal

43.08 Conduct of Hearing

43.09 Effect of Notice

43.01 DEFINITIONS. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Bootlegging” means the illegal sale or service of alcoholic liquor, wine or beer in violation of this chapter or Chapter 123 of the *Code of Iowa*.
2. “Controlled substance” means a drug, substance or immediate precursor as defined by Chapters 204A and 204B of the *Code of Iowa*.
3. “Gambling” means games of skill or chance as defined by Iowa Code Chapter 99B and prohibited by Iowa Code Chapter 725.
4. “Owner” means any person, agent, firm, corporation, association or a partnership, including a mortgagee in possession, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership and the right to present use and enjoyment of the premises.
5. “Person” means any natural person, association, partnership, corporation or other legal entity capable of owning or using property.
6. “Police Chief” means the person who has the responsibility to supervise and direct the Police Department, and for the purposes of this chapter may include his/her designee.
7. “Prostitution, pimping or pandering” means those acts or activities as defined by this chapter or Chapter 725 of the *Code of Iowa*.
8. “Specified crime property” means any structure, including the real property upon which it is situated, in which activity involving the unauthorized delivery, possession, or manufacture of a controlled substance, illegal gambling, bootlegging, prostitution, pimping, or pandering is occurring.
9. “Structure” means any building, building complex or structure, including but not limited to edifice, units or any portion thereof, and the real property upon which such building, building complex or structure is situated.

43.02 SPECIFIED CRIME PROPERTY PROHIBITED. No person shall use or allow to be used any structure as specified crime property. When the structure and the property upon which it is situated are owned by different persons, each person shall not use or allow to be used such structure and property as specified crime property.

43.03 PENALTIES. Any person who fails to perform an act required by this chapter or who commits an act prohibited by this chapter shall be guilty of a municipal infraction punishable by the civil penalty as provided by Section 3.03 of this Code of Ordinances.

43.04 PROCEDURE FOR ENFORCEMENT.

1. When the Police Chief has a reasonable belief that a structure is being used or maintained in violation of this chapter, the Police Chief shall notify the owner of record in writing that the structure has been declared to be a specified crime property.

2. A reasonable belief that a structure is being used as a specified crime property may be found from (but is not limited to) evidence of drug paraphernalia in or around the structure; an increase in vehicular or pedestrian traffic in or around the structure; observations of the exchange of money; verified citizen complaints of bootlegging; unauthorized delivery or manufacture of a controlled substance; illegal gambling, bootlegging, prostitution, pimping, or pandering; and any other activity which leads a police officer to reasonably believe violations exist.

43.05 NOTICE. The notice required in Section 43.04(1) of this chapter shall notify the owner of record in writing that a structure owned by such person has been declared to be a specified crime property, and such notice shall contain the following information:

1. The street address and a description sufficient for identification of the premises on which the structure is located, and

2. A statement that the Police Chief has found the structure to be in violation of this chapter, with an explanation as to why the structure has been declared a specified crime property.

43.06 SERVICE OF NOTICE.

1. A copy of the notice given pursuant to this chapter shall be served on the owner or an agent at least twenty (20) days prior to the commencement of any judicial action by the City. Service shall be made either personally or by mailing a copy of the notice by registered or certified mail, postage paid, return receipt requested, to each person at his/her address as it appears in the records of the County Auditor. In the event that notice is impossible to be served as set out above, a copy of the notice may be posted at the property if ten (10) days has elapsed from the service or mailing of the notice to the owner and no response or reply has been received by the City from the owner during that period of time.

2. The failure of any owner to receive actual notice of the determination of the Police Chief shall not preclude future proceedings under this chapter.

43.07 ADMINISTRATIVE APPEAL.

1. Upon receipt of a notice of specified crime property as set out in Section 43.05, the owner of record may challenge such notice by filing a request for an administrative hearing. Such request for hearing shall be in writing and filed with the City Clerk within ten (10) days of service of the notice of specified crime property. A copy of this chapter is available, upon request, from City Hall for copy fee.

2. Failure to request a hearing within such time period or to attend a scheduled hearing shall be deemed a waiver of the right to such a hearing.

3. Upon filing a request for an administrative hearing, further judicial action pursuant to this chapter shall be stayed pending the outcome of the administrative hearing.

43.08 CONDUCT OF HEARING.

1. The hearing held pursuant to this chapter shall be conducted before the City Council within a reasonable period of time, but not to exceed fifteen (15) business days, excluding Saturdays, Sundays, and City holidays, from the date of a written demand therefor. Such hearing may be continued for good cause. A notice of hearing, including the time, date and location of the hearing, shall be made by mailing a copy of the notice by first class mail, postage prepaid to the owner of record.

2. The sole issue before the City Council shall be whether there exists a reasonable belief that the structure was being used as specified crime property when the declaration of specified crime property was made pursuant to Section 43.01(8). The City Council shall decide only that either: (i) there is a reasonable belief that the structure was used as specified crime property and that the provisions of this chapter shall apply; or (ii) there is not sufficient reasonable belief that the structure was being used as specified crime property and that the procedures of this division shall be permanently stayed. A finding of no reasonable belief, however, shall not preclude a future independent complaint, investigation, and notice of specified crime property.

3. The decision of the City Council shall be issued within four (4) days of the hearing and the owner of record shall be notified consistent with the notice provisions of this chapter.

4. The decision of the City Council shall be final.

43.09 EFFECT OF NOTICE.

1. Subsequent to the declaration and notice that there exists a specified crime property, an owner shall have the opportunity to abate the illegal activity within ten (10) days. If a landlord/tenant relationship, the owner/landlord may be deemed to have abated the activity upon demonstration that he/she has taken legal action as allowed by Chapter 562A of the *Code of Iowa* to terminate the rental agreement and continues in good faith to follow abatement procedures and provides the Police Chief with copies of all notices served in accordance with Chapter 562A of the *Code of Iowa*.

2. If after twenty (20) days the Police Chief determines that a specified crime property has not been abated, a notice of fine and an order of abatement shall be filed in compliance with Chapter 364.22 of the *Code of Iowa*.

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CHAPTER 44

DRUG PARAPHERNALIA

44.01 Purpose

44.02 Controlled Substance Defined

44.03 Drug Paraphernalia Defined

44.04 Determining Factors

44.05 Possession of Drug Paraphernalia

44.06 Manufacture, Delivery or Offering For Sale

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

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

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

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

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

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

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

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

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

44.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled

substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.03 Open Containers in Motor Vehicles

45.02 Public Consumption or Intoxication

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

3. A person shall not simulate intoxication in a public place.
4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(54) and (55) of this Code of Ordinances.]*

CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.01 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. This is an objective standard. It shall, therefore, be 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. Unless accompanied by a responsible adult, no minor fourteen (14) years of age or younger shall be in any public place during the following times:

- (1) September 1 through May 31:
Sunday through Thursday – 10:00 p.m. to 5:00 a.m.
Friday and Saturday – 12:00 midnight to 5:00 a.m.
- (2) June 1 through August 31:
Sunday through Thursday – 11:00 p.m. to 5:00 a.m.
Friday and Saturday – 12:00 midnight to 5:00 a.m.

B. Unless accompanied by a responsible adult, no minor fifteen (15) years of age through seventeen (17) years of age shall be in any public place during the following times:

- (1) September 1 through May 31:
Sunday through Thursday – 11:00 p.m. to 5:00 a.m.
Saturday and Sunday – 1:00 a.m. to 5:00 a.m.
- (2) June 1 through August 31:
Sunday through Thursday – 12:00 midnight to 5:00 a.m.
Saturday and Sunday – 1:00 a.m. to 5:00 a.m.

3. Exceptions. The following are exceptions to the curfew:

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 of work;
- (2) Minor’s place of religious activity or, if traveling, within one hour after the end of the religious activity;

- (3) Governmental or political activity or, if traveling, within one hour after the end of the activity;
 - (4) School activity or, if traveling, within one hour after the end 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 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.
 - F. The minor's business, trade or occupation, in which the minor is permitted by law to be engaged, requires the presence of the minor in the public place.
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 periods 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 Police Chief 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.
7. Notice. Notice of the ordinance codified in this section and its contents may be posted in or about such public or quasi-public places as may be designated by the Council or the Police Department in order that the public may be constantly informed of the existence of such ordinance and its regulations.

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

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

46.03 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)

CHAPTER 47

PARK REGULATIONS

47.01 Purpose

47.02 Use of Drives Required

47.03 Fires

47.04 Littering

47.05 Parks Closed

47.06 Camping

47.07 Special Use Areas

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 USE OF DRIVES REQUIRED. No person shall drive any car, cycle or other vehicle, or ride or lead any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the City.

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 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 12:00 midnight and sunrise.

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 SPECIAL USE AREAS. No person shall use any Special Use Area as listed below, except as obviously intended:

Tennis Courts – Practicing or playing of tennis with appropriate equipment.

Batting Cages – These shall be used for the practicing of softball or baseball batting.

Violations of these provisions shall be punishable under the following schedule:

1. First Offense – \$25.00 fine
2. Second Offense – \$50.00 fine
3. Subsequent Offenses – \$100.00 fine

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

9. Weeds, Brush. Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard.
10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**
11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.
13. Occupational Materials. The outside storage of pipe, lumber, forms, machinery, or occupational materials upon property in the front or side yard corner lot or visible from public street in a residential district.
14. Wood Accumulation. The accumulation of any piles of wood which are not neatly stacked or secured in a stable manner to avoid collapse.
15. Residential Property; Not Planted After Construction. Property in a residential district not seeded, sodded, or otherwise planted with a ground cover more than 240 days after any disturbance in the front or side yard of the property caused by construction, grading, or other activity, excluding gardens; or at any time prior to the 240 days if the property is causing erosion or drainage problems on the same or nearby properties, including public streets.
16. Exterior Wall Surfaces Not Maintained. Any structure, or portion thereof, in any zoning district whose exterior wall surfaces are not maintained and kept in repair using materials compatible with the remaining undamaged wall surfaces and recognized as acceptable pursuant to the City building codes and exterior walls not completed in accordance with City-approved construction plans within 360 days after construction commences.
17. Construction Materials. Any construction materials, including piles of dirt, sand and sod left in the open on property or street right-of-way more than 60 days after construction has been completed or a certificate of occupancy has been issued, whichever occurs first.
18. Grass Height. Grass growing on land in the City which exceeds eight (8) inches in height.

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

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

3. Trees (**See Chapter 151**)

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

(Code of Iowa, Sec. 657.3)

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

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

50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

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

(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

† **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.

4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

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 for more than one month.

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 lawfully operated within the City and fully enclosed within a fence or wall of 8 to 10 feet in height.

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

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.10 Rabies Vaccination
55.02 Animal Neglect	55.11 Owner's Duty
55.03 Livestock Neglect	55.12 Confinement
55.04 Abandonment of Cats and Dogs	55.13 At Large: Impoundment
55.05 Livestock	55.14 Disposition
55.06 At Large Prohibited	55.15 Impounding Costs
55.07 Damage or Interference	55.16 Violation Fine Schedule
55.08 Annoyance or Disturbance	55.17 Pet Awards Prohibited
55.09 Vicious Dogs	

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

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

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

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

55.06 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.

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

55.10 RABIES VACCINATION. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's

possession, six months of age or over, which has not been vaccinated against rabies. Dogs kept in State or Federally licensed kennels and not allowed to run at large are not subject to these vaccination requirements.

(Code of Iowa, Sec. 351.33)

55.11 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)

55.12 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after 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.

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.15 IMPOUNDING COSTS. Impounding costs are set by resolution of the Council.

55.16 VIOLATION FINE SCHEDULE.

1. Violations of Sections 55.05, 55.06, 55.07, and 55.08 are governed by the following fine schedule:

First Offense — \$50.00

Second Offense — \$100.00

Third and Subsequent Offenses — \$200.00

2. Violations of Sections 55.02, 55.03, 55.04 and 55.09 are governed by the following fine schedule:

First Offense — \$250.00

Second Offense — \$500.00

Third and Subsequent Offenses — \$750.00

55.17 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

A. A prize for participating in a game.

B. A prize for participating in a fair.

C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:

A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

CHAPTER 56

COUNTY DOG LICENSE REQUIRED

56.01 Annual License Required

56.02 Kennel Dogs

56.01 ANNUAL LICENSE REQUIRED. Every owner of a dog over the age of four (4) months shall procure a dog license from the County Auditor.

56.02 KENNEL DOGS. Dogs kept in State or Federally licensed kennels, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Mitchellville 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)

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

1. “Parade” Defined. “Parade” means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit

granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

3. Parade Not A Street Obstruction. Any parade for which a permit has been issued as herein required, and the persons lawfully participating therein, shall not be deemed an obstruction of the streets notwithstanding the provisions of any other ordinance to the contrary.

4. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Truck Engine Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.25 – Violation of “Registration Applied For” card.
3. Section 321.32 – Registration card, carried and exhibited; exception.
4. Section 321.34 – Registration violation.
5. Section 321.37 – Display of plates.
6. Section 321.38 – Plates, method of attaching, imitations prohibited.
7. Section 321.57 – Operation under special plates.
8. Section 321.67 – Certificate of title must be executed.
9. Section 321.78 – Injuring or tampering with vehicle.
10. Section 321.79 – Intent to injure.
11. Section 321.91 – Penalty for abandonment.
12. Section 321.98 – Operation without registration.
13. Section 321.99 – Fraudulent use of registration.
14. Section 321.104 – Penal offenses again title law.
15. Section 321.115 – Antique vehicles; model year plates permitted.
16. Section 321.174 – Operators licensed.
17. Section 321.174A – Operation of motor vehicles with expired license.
18. Section 321.180 – Instruction permits.
19. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
20. Section 321.193 – Restricted licenses.
21. Section 321.194 – Special minor’s licenses.
22. Section 321.208A – Operation in violation of out-of-service order.

23. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
24. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
25. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
26. Section 321.218 – Operating without valid driver’s license or when disqualified.
27. Section 321.219 – Permitting unauthorized minor to drive.
28. Section 321.220 – Permitting unauthorized person to drive.
29. Section 321.221 – Employing unlicensed chauffeur.
30. Section 321.222 – Renting motor vehicle to another.
31. Section 321.223 – License inspected.
32. Section 321.224 – Record kept.
33. Section 321.231 – Authorized emergency vehicles.
34. Section 321.232 – Radar jamming devices; penalty.
35. Section 321.234 – Failure to obey seating requirements.
36. Section 321.234A – All-terrain vehicles.
37. Section 321.235A – Electric personal assistive mobility devices.
38. Section 321.247 – Golf cart operation on City streets.
39. Section 321.256 – Failure to obey traffic control devices.
40. Section 321.257 – Official traffic control signal.
41. Section 321.259 – Unauthorized signs, signals or markings.
42. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
43. Section 321.262 – Damage to vehicle.
44. Section 321.263 – Information and aid.
45. Section 321.264 – Striking unattended vehicle.
46. Section 321.265 – Striking fixtures upon a highway.
47. Section 321.266 – Reporting accidents.
48. Section 321.275 – Operation of motorcycles and motorized bicycles.
49. Section 321.276 – Use of electronic communication device while driving; text-messaging.
50. Section 321.277 – Reckless driving.
51. Section 321.277A – Careless driving.
52. Section 321.278 – Drag racing prohibited.

53. Section 321.281 – Actions against bicyclists.
54. Section 321.284 – Open container; drivers.
55. Section 321.284A – Open container; passengers.
56. Section 321.288 – Control of vehicle; reduced speed.
57. Section 321.295 – Limitation on bridge or elevated structures.
58. Section 321.297 – Driving on right-hand side of roadways; exceptions.
59. Section 321.298 – Meeting and turning to right.
60. Section 321.299 – Overtaking a vehicle.
61. Section 321.302 – Overtaking and passing.
62. Section 321.303 – Limitations on overtaking on the left.
63. Section 321.304 – Prohibited passing.
64. Section 321.306 – Roadways laned for traffic.
65. Section 321.307 – Following too closely.
66. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
67. Section 321.309 – Towing; convoys; drawbars.
68. Section 321.310 – Towing four-wheel trailers.
69. Section 321.312 – Turning on curve or crest of grade.
70. Section 321.313 – Starting parked vehicle.
71. Section 321.314 – When signal required.
72. Section 321.315 – Signal continuous.
73. Section 321.316 – Stopping.
74. Section 321.317 – Signals by hand and arm or signal device.
75. Section 321.318 – Method of giving hand and arm signals.
76. Section 321.319 – Entering intersections from different highways.
77. Section 321.320 – Left turns; yielding.
78. Section 321.321 – Entering through highways.
79. Section 321.322 – Vehicles entering stop or yield intersection.
80. Section 321.323 – Moving vehicle backward on highway.
81. Section 321.323A – Approaching certain stationary vehicles.
82. Section 321.324 – Operation on approach of emergency vehicles.
83. Section 321.324A – Funeral processions.
84. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
85. Section 321.330 – Use of crosswalks.

86. Section 321.332 – White canes restricted to blind persons.
87. Section 321.333 – Duty of drivers approaching blind persons.
88. Section 321.340 – Driving through safety zone.
89. Section 321.341 – Obedience to signal of train.
90. Section 321.342 – Stop at certain railroad crossings; posting warning.
91. Section 321.343 – Certain vehicles must stop.
92. Section 321.344 – Heavy equipment at crossing.
93. Section 321.344B – Immediate safety threat; penalty.
94. Section 321.354 – Stopping on traveled way.
95. Section 321.358 – Stopping, standing, or parking.
96. Section 321.359 – Moving other vehicle.
97. Section 321.362 – Unattended motor vehicle.
98. Section 321.363 – Obstruction to driver’s view.
99. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
100. Section 321.365 – Coasting prohibited.
101. Section 321.366 – Acts prohibited on fully controlled access facilities.
102. Section 321.367 – Following fire apparatus.
103. Section 321.368 – Crossing fire hose.
104. Section 321.369 – Putting debris on highway.
105. Section 321.370 – Removing injurious material.
106. Section 321.371 – Clearing up wrecks.
107. Section 321.372 – School buses.
108. Section 321.376 – School bus driver’s license.
109. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
110. Section 321.381A – Operation of low-speed vehicles.
111. Section 321.382 – Upgrade pulls; minimum speed.
112. Section 321.383 – Exceptions; slow vehicles identified.
113. Section 321.384 – When lighted lamps required.
114. Section 321.385 – Head lamps on motor vehicles.
115. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
116. Section 321.387 – Rear lamps.
117. Section 321.388 – Illuminating plates.
118. Section 321.389 – Reflector requirement.

119. Section 321.390 – Reflector requirements.
120. Section 321.392 – Clearance and identification lights.
121. Section 321.393 – Color and mounting.
122. Section 321.394 – Lamp or flag on projecting load.
123. Section 321.395 – Lamps on parked vehicles.
124. Section 321.397 – Improper light on bicycle.
125. Section 321.398 – Lamps on other vehicles and equipment.
126. Section 321.402 – Spot lamps.
127. Section 321.403 – Auxiliary driving lamps.
128. Section 321.404 – Signal lamps and signal devices.
129. Section 321.404A – Light-restricting devices prohibited.
130. Section 321.405 – Self-illumination.
131. Section 321.408 – Back-up lamps.
132. Section 321.409 – Mandatory lighting equipment.
133. Section 321.415 – Required usage of lighting devices.
134. Section 321.417 – Single-beam road-lighting equipment.
135. Section 321.418 – Alternate road-lighting equipment.
136. Section 321.419 – Number of driving lamps required or permitted.
137. Section 321.420 – Number of lamps lighted.
138. Section 321.421 – Special restrictions on lamps.
139. Section 321.422 – Red light in front.
140. Section 321.423 – Flashing lights.
141. Section 321.430 – Brake, hitch, and control requirements.
142. Section 321.431 – Performance ability.
143. Section 321.432 – Horns and warning devices.
144. Section 321.433 – Sirens, whistles, and bells prohibited.
145. Section 321.434 – Bicycle sirens or whistles.
146. Section 321.436 – Mufflers, prevention of noise.
147. Section 321.437 – Mirrors.
148. Section 321.438 – Windshields and windows.
149. Section 321.439 – Windshield wipers.
150. Section 321.440 – Restrictions as to tire equipment.
151. Section 321.441 – Metal tires prohibited.
152. Section 321.442 – Projections on wheels.

153. Section 321.444 – Safety glass.
154. Section 321.445 – Safety belts and safety harnesses; use required.
155. Section 321.446 – Child restraint devices.
156. Section 321.449 – Motor carrier safety regulations.
157. Section 321.450 – Hazardous materials transportation.
158. Section 321.454 – Width of vehicles.
159. Section 321.455 – Projecting loads on passenger vehicles.
160. Section 321.456 – Height of vehicles; permits.
161. Section 321.457 – Maximum length.
162. Section 321.458 – Loading beyond front.
163. Section 321.460 – Spilling loads on highways.
164. Section 321.461 – Trailers and towed vehicles.
165. Section 321.462 – Drawbars and safety chains.
166. Section 321.463 – Maximum gross weight.
167. Section 321.465 – Weighing vehicles and removal of excess.
168. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

62.06 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such

obstruction is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

62.07 TRUCK ENGINE BRAKES. It is unlawful for any person within the City to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any trucks.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 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. On Center Street from Third Street to Mill 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. On Center Street from Sixth Street to Third Street.
3. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.

- A. On Center Street from High Street to Jet Street.
4. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.
- A. On Sixth Street from Cotton Avenue to N.E. 120th;
 - B. On Cotton Avenue from Sixth Street to Mill Street;
 - C. On N.E. 120th from Sixth Street to Mill Street;
 - D. On Mill Street from N.E. 120th to Cotton Avenue.
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. On Center Street from Jet Street to junction of Old Highway 6.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

(Code of Iowa, Sec. 321.311)

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

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

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

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

1. At the intersection of Center Avenue North and Second Avenue.

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop
65.02 Stop Sign Location
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. Center Avenue;
2. Sixth Street, from Center Avenue to Cotton Avenue.

65.02 STOP SIGN LOCATION. Stop signs shall be located at the following intersections in the City:

(Code of Iowa, Sec. 321.345)

1. At the entrance to Sixth Street from Cotton Avenue and located on the southeast corner;
2. At the entrance to Sixth Street from Walnut Avenue and located on the southeast corner;
3. At the entrance to Sixth Street from Elm Avenue and located on the southeast corner;
4. At the entrance to Sixth Street from Market Avenue and located on the southeast corner;
5. At the entrance to Elm Avenue from Fifth Street and located on the southwest and northeast corners;
6. At the entrance to Center Avenue from Fifth Street and located on the southwest and northeast corners;
7. At the entrance to Center Avenue from Third Street and located on the southwest and northeast corners;
8. At the entrance to Elm Avenue from Second Street and located on the southwest and northeast corners;
9. At the entrance to Center Avenue from Second Street and located on the southwest and northeast corners;
10. At the entrance to Second Street from Arch Avenue and located on the southeast and northwest corners;
11. At the entrance to Center Avenue from First Street and located on the southwest corner;

12. At the entrance to Mill Street from Elm Avenue and located on the northwest and southeast corners;
13. At the entrance to Center Avenue from Mill Street and located on the southwest and northeast corners;
14. At the entrance to Center Avenue from High Street and located on the southwest corner;
15. At the entrance to Center Avenue from Jet Street and located on the southwest corner;
16. At the entrance to Sixth Street from Vine Avenue and located on the southeast corner;
17. At the entrance to Third Street from Vine Avenue and located on the southeast and northwest corners;
18. At the entrance to Oak Avenue from Second Street and located on the northeast corner;
19. At the entrance to High Street from Market Avenue and located on the southeast and northwest corners;
20. At the entrance to High Street from Mitchell Avenue and located on the northwest corner;
21. At the entrance to Mill Street from Mitchell Avenue and located on the southeast corner;
22. At the entrance to Center Avenue from Carter Street and located on the southwest corner;
23. At the entrance to Market Avenue from Carter Street and located on the northeast and southwest corners;
24. At the entrance to Elm Avenue from Carter Street and located on the northeast corner;
25. At the entrance to Mill Street from Market Avenue and located on the southeast corner;
26. At the entrance to Elm Avenue from Third Street and located on the northeast and southwest corners;
27. At the entrance to Third Street from Elm Avenue and located on the northwest and southeast corners;
28. At the entrance to Elm Avenue from Fourth Street and located on the northeast and southwest corners;
29. At the entrance to Fourth Street from Elm Avenue and located on the northeast and southeast corners;
30. At the entrance to Elm Avenue from First Street and located on the northeast corner;
31. At the entrance to Second Street from Market Avenue and located on the northwest corner;

32. At the entrance to Jasper Avenue or 120th Street from Third Street and located on the southwest corner;
33. At the entrance to Cotton Avenue from Fifth Street and located on the northeast corner;
34. At the entrance to Cotton Avenue from Fourth Street and located on the northeast corner;
35. At the entrance to Cotton Avenue from Third Street and located on the northeast corner;
36. At the entrance to Oak Avenue from Third Street and located on the southeast and northwest corners;
37. At the entrance to Vine Avenue from Fourth Street and located on the southeast corner;
38. At the entrance to Jasper Avenue or 120th Street from Mill Street and located on the southwest corner;
39. At the entrance to Jet Street from Space Avenue and located on the northwest corner;
40. At the entrance to Jet Street from Market Avenue and located on the northwest corner;
41. At the entrance to Elm Avenue from High Street and located on the northeast corner;
42. At the entrance to Fifth Street from Walnut Avenue and located on the northwest and southeast corners;
43. At the entrance to Third Street from Walnut Avenue and located on the northwest and southeast corners;
44. At the entrance to Mill Street from Cotton Avenue and located on the northwest corner and the median;
45. At the entrance to High Street from Space Avenue and located on the northwest corner;
46. At the entrance to Mill Street from Space Avenue and located on the southeast corner;
47. At the entrance to First Street from Market Avenue and located on the northwest corner;
48. At the entrance to Second Street from Market Avenue and located on the southeast corner;
49. At the entrance to Third Street from Market Avenue and located on the southeast and northwest corners;
50. At the entrance to Fourth Street from Market Avenue and located on the southeast and northwest corners;
51. At the entrance to Sixth Street from Center Avenue and located on the southeast corner;

52. At the entrance to Third Street from Park Avenue and located on the southeast corner;
53. At the entrance to Second Street from Park Avenue and located on the southeast and northwest corners;
54. At the entrance to Fourth Street from Arch Avenue and located on the southeast corner;
55. At the entrance to Third Street from Arch Avenue and located on the southeast and northwest corners;
56. At the entrance to Mill Street from Arch Avenue and located on the northwest corner;
57. At the entrance to Fourth Street from Oak Avenue and located on the southeast corner;
58. At the entrance of Jasper Avenue N.E. or N.E. 120th Street from Sixth Street and located on the southwest corner;
59. At the entrance to Walnut Avenue from Fourth Street and located on the southwest and northeast corners;
60. At the entrance to Vine Avenue from Fourth Street and located on the southwest corner;
61. At the entrance to Cotton Avenue S.W. from Mill Street S.W., located on the northwest corner of the triangular-shaped median;
62. At the entrance of Jasper Avenue N.E. or N.E. 120th Street from Clark's Lane N.E. and located on the southwest corner;
63. At the entrance to 6th Street NE from Neely Street located on the northwest corner;
64. At the entrance to 7th Street NE from Patchett Drive located on the northwest corner;
65. At the entrance to Neely Street from 7th Street located on the northwest corner;
66. At the entrance to Neely Street from Ryan Circle located on the northeast corner;
67. At the entrance to Neely Street from Lacy Circle located on the northeast corner;
68. At the entrance to Neely Street from Wise Court located on the southwest corner;
69. At the entrance to Jasper Avenue NE from Clarks Lane NE located on the southeast corner.

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 Third Street N.W. and Elm Avenue;
2. Intersection of Fourth Street N.W. and Elm Avenue.

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)

- NONE -

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 Weight Limits and Truck Routes

66.04 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 the City over those streets or bridges named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

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

66.03 WEIGHT LIMITS AND TRUCK ROUTES. No person shall operate a motor vehicle whose body weight or whose total gross weight exceeds the weight of ten (10) tons or more, when loaded or empty, over or upon any street within the City unless said street is a designated truck route.

1. Truck Routes. The following streets are designated truck routes:
 - A. Cotton Avenue from Sixth Street to Mill Street;
 - B. Mill Street from Cotton Avenue to N.E. 120th Street;
 - C. Elm Avenue from First Street to Mill Street;
 - D. First Street from Center Avenue to Elm Avenue;
 - E. Center Avenue from Sixth Street to south corporate limits;
 - F. Sixth Street from Cotton Avenue to N.E. 120th Street;
 - G. Second Street from Center Avenue to Park Avenue;
 - H. Park Avenue from Second Street south to RR right-of-way.
2. Deliveries Off Truck Routes. Any motor vehicle weighing ten (10) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set in this section to the nearest point of its scheduled or definite stop and proceed thereto, load or unload, and return by the most direct route to its point of departure from designated route.

3. Employer's Responsibility. The owners or any other person employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.
4. Exceptions. The restrictions imposed by weight limits and truck routes shall not apply to the following:
 - A. Emergency Vehicles. The operation of emergency vehicles upon any street within the City.
 - B. Public Utilities. The operation of trucks owned or operated by the City or any contractor or material workers while engaged in the repair, maintenance or construction of streets, public improvements or street utilities in the City.
 - C. Solid Waste. Vehicles used for solid waste pickup.
 - D. Detoured Trucks. The operation of trucks upon any officially established detour in any case where such trucks could lawfully operate upon the streets for which such detour is established.

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

(Code of Iowa, Sec. 321.471)

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 on Center Avenue

69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited

69.08 Persons With Disabilities Parking

69.09 No Parking Zones

69.10 Truck Parking Limited

69.11 Winter Weather Emergency

69.12 Parking on 2nd Street NE

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. Second Street on both sides from Center Avenue to 160 feet west of the intersection measured from the west edge of the west sidewalk of Center Avenue;
2. Center Avenue from Third Street South to First Street;
3. Elm Avenue between Third Street and Fourth Street on the west side of the street from 4:00 p.m. to 8:00 a.m.;
4. Third Street from Elm Avenue to 150 feet from the west edge of the west sidewalk on the north side of the street only;
5. In front of City Hall on Second Street, from a point 188 feet east to a point 224 feet from the center of Center Avenue on the south side;
6. Directly in front of church properties where designated by sign.

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 ON CENTER AVENUE. When parking and/or leaving from a parking place from First Street to Second Street on Center Avenue, vehicles so moving must park and leave in the direction of traffic in the nearest lane of traffic to said parking area.

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

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

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

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

15. Public Alleys. In any public alley within the City.

(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. Area Between Lot Line and the Edge of the Street. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curb line is installed, or the edge of the paved portion of the street.

18. 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.

19. Prisons and Correctional Facilities. Upon the west side of Elm Avenue S.W. beginning at the intersection of Elm Avenue S.W. and High Street S.W., north 160 feet, except in taking on or discharging of passengers or freight, and then only for such length of time as is necessary for such purpose.

20. On privately owned property or other area developed as off-street parking or parking facility without the consent of the owner, lessee or person in charge of such privately owned facility or parking area.

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

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

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

- A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit;
 - B. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the *Code of Iowa*;
 - C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the *Code of Iowa*.
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
 - A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the *Code of Iowa* when utilizing a wheelchair parking cone.
 - B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A(1) of the *Code of Iowa*.

69.09 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. Upon the west side of Elm Avenue between Third Avenue and Fourth Streets when school is in session from 8:00 a.m. to 4:00 p.m., except Saturdays, Sundays and holidays;
2. Except as provided in Section 69.03(5) of this chapter, on Second Street from the center of Center Avenue, 248 feet east thereof on the south side of the street;
3. On Second Street from the center of Center Avenue to 248 feet east thereof on the north side;
4. On Center Avenue from Fourth Street to Sixth Street;
5. On the west side of Elm Avenue from the north entrance of the Iowa Correctional Institution for Women from High Street to Jet Street;
6. On the west side of Space Avenue S.W. between Mill Street and High Street;

7. On the west side of Space Avenue S.W. between Carter Street and Jet Street;
8. On the west side of Mitchell Avenue S.W. between Mill Street and High Street;
9. On the west side of Market Avenue S.W. between Mill Street and Jet Street;
10. On the west side of Elm Avenue S.W. between Mill Street and Jet Street;
11. On High Street S.W. between Center Avenue and Elm Avenue;
12. On Mill Street S.W. between Mitchell Avenue and Cotton Avenue;
13. On Cotton Avenue between the north corporate limits and Mill Street;
14. On the west side of Jasper Avenue N.E. between Mill Street and Sixth Street;
15. On the east and west sides of Elm Avenue SW, from First Street to Mill Street SW;
16. On the east side of Vine Avenue NE between Second Street NE and Third Street NE;
17. On the south side of Third Street NE from the Jasper Avenue NE intersection, west for fifty (50) feet.

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

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

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

69.11 WINTER WEATHER EMERGENCY. A winter weather emergency is defined as any accumulation requiring street clearance. The emergency shall continue through the duration of the snow or ice storm and the 72-hour period after cessation of such storm. Such emergency conditions shall be determined by the Public Works Director and may be extended or shortened when conditions warrant. No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow

emergency unless the snow has been removed or plowed from said street, alley, or parking area and the snow has ceased to fall. Such ban shall be of uniform application and the Public Works Director is directed to publicize the requirements widely, using all available news media, in early November each year. Where predictions or occurrences indicate the need, the Public Works Director shall inform the news media to publicize the emergency and the parking rules thereunder. Such emergency may be extended or shortened when conditions warrant.

69.12 PARKING ON 2ND STREET NE. Parking shall only be allowed on the north side of the street.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

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

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

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

70.05 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose	75.07 Negligence
75.02 Definitions	75.08 Accident Reports
75.03 General Regulations	75.09 Thaw Ban
75.04 Operation of Snowmobiles	75.10 Towing
75.05 Operation of All-Terrain Vehicles	75.11 Dead Man Throttle
75.06 Hours of Operation	

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

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

1. “All-terrain vehicle” or “ATV” means a motorized flotation-tire vehicle, with not less than three and not more than six low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but that contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

3. “Off-road utility vehicle” means a motorized flotation-tire vehicle, with not less than four and not more than eight low-pressure tires, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than one thousand eight hundred (1,800) pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

4. “Snowmobile” means a motorized vehicle that weighs less than one thousand (1,000) pounds, that uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (48) inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the *Code of Iowa* or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

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

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

1. Streets. Snowmobiles shall be operated only upon streets that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

(Code of Iowa, Sec. 321G.9[4a])

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

- A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

(Code of Iowa, Sec. 321G.9[4c])

- B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

- (1) The crossing is made at an angle of approximately 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 that constitutes an immediate hazard; and

- (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

(Code of Iowa, Sec. 321G.9[2])

3. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

4. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of

the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF 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 and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

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

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

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

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking.”

75.06 HOURS OF OPERATION. No ATV or snowmobile shall be operated in the City between the hours of 10:00 p.m. and 7:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

75.07 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)

75.08 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)

75.09 THAW BAN. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.

75.10 TOWING. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

75.11 DEAD MAN THROTTLE. No snowmobile shall be operated within the City unless equipped with a “dead man throttle” which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

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 77

SKATES AND SKATEBOARDS

77.01 Use Prohibited in Central Business District

77.03 Penalty

77.02 Pedestrians

77.01 USE PROHIBITED IN CENTRAL BUSINESS DISTRICT. The use of skateboards, roller skates and in-line skates is prohibited upon the sidewalks and the traveled portion of streets in the C-1 Central Business District and I-2 Heavy Industrial District, as designated on the official zoning map of the City.

77.02 PEDESTRIANS. Pedestrians upon the sidewalks shall have the right-of-way at all times over persons using skateboards, roller skates or in-line skates upon any sidewalk not prohibited in this chapter. Any person using or operating a skateboard, roller skates or in-line skates on any sidewalk shall turn off the sidewalk at all times when meeting or passing pedestrians.

77.03 PENALTY. The skateboard, roller skates or in-line skates of any person violating the provisions of this chapter may be impounded by the Police Chief for not less than five (5) days for a first offense, ten (10) days for a second offense and thirty (30) days for each additional offense thereafter. As used in this section, “impound” means that the Police Chief or any officer of the police department shall seize the skateboard, roller skates or in-line skates and hold the same in legal custody for the term required for a violation of this chapter.

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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] & Sec. 321.90)

1. “Abandoned vehicle” means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than 24 hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. “Demolisher” means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “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. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. 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. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, 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 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 or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 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. “Operator” means any individual, partnership, corporation or other association that owns, operates, drives, or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

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 five (5) 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.

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. 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 twenty-five (25) 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	90.11 Installation of Water Service Pipe
90.02 Superintendent's Duties	90.12 Responsibility for Water Service Pipe
90.03 Mandatory Connections	90.13 Failure to Maintain
90.04 Abandoned Connections	90.14 Curb Valve
90.05 Permit	90.15 Interior Valve
90.06 Connection Charge and Water Meter Fee	90.16 Inspection and Approval
90.07 Compliance with Plumbing Code	90.17 Completion by the City
90.08 Plumber Required	90.18 Shutting off Water Supply
90.09 Excavations	90.19 Operation of Curb Valve and Hydrants
90.10 Tapping Mains	

90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water system, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 CONNECTION CHARGE AND WATER METER FEE. There shall be a connection charge in the amount of one hundred twenty-five dollars (\$125.00) paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served. In addition, the person making the application shall pay a water meter fee in the amount of one hundred ninety dollars (\$190.00).

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions of the Plumbing Code adopted by the City, the laws of the State and other applicable rules and regulations of the City.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a State-licensed plumber.

90.09 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.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All new customer service lines, tapping into a City main, shall be one-inch Type 'K' Copper. Where a larger connection than a one-inch tap is desired, two or more 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])

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.13 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])

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

90.15 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.

90.16 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.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving

another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 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.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

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CHAPTER 91

WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems- Exception

91.04 Location of Meters

91.05 Meter Setting

91.06 Meter Repairs

91.07 Right of Entry

91.08 Irrigation Meters

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, 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 IRRIGATION METERS. A “prime meter” measures water consumed and disposed through the public water and sanitary sewer systems, respectively. “Irrigation meters” may additionally be installed to measure water which is not disposed through the public sanitary sewer treatment system. The water used for irrigation meters would include water for swimming pools, yards, gardens or other uses where sanitary sewer service charges are not applicable. Irrigation meters shall be installed at the property owner’s expense. Irrigation meters shall be installed not more than four (4) feet from the prime meter. Sewer charges shall not apply to water amounts measured by irrigation meters. The water rate to be charged for irrigation meters shall be the current minimum use rate in effect per 1,000 gallons and there shall not be any base rate charged. Shut-off valves are required ahead and after the irrigation meter and must be within one (1) foot of the meter. A back flow preventer to

protect against contamination of the water system must be installed after the irrigation meter. The irrigation meter must be installed horizontal to the floor with the arrow on the meter being in the direction of the flow of water to the outside. No underground irrigation systems are allowed in the public right-of-way. Irrigation meters, back flow preventer and outside reader shall be purchased from the City. The property owner shall install the back flow preventer and provide the meter setting. This plumbing is to be inspected and approved by the City. The City will install the meter and outside reader after inspection.

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 following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate
First 2,000	\$10.36 (minimum bill)
2,001 to 10,000	\$5.75 per 1,000 gallons
Over 10,000	\$5.18 per 1,000 gallons

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred fifty percent (150%) of the rates provided in Section 92.02. 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 or estimated each month.
2. Bills Issued. The Clerk shall prepare, date and issue bills for combined service accounts; bills shall be deemed issued as of the date indicated on the bill.
3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within fifteen (15) days of the date of issue. The net amount shall be due from the 15th day of the month until the last day of the month and the gross amount shall be due from the 1st to the 15th day of the month.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The City shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.
2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property 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 City Administrator and Water Superintendent shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If it is found that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. Fees. A fee of fifty dollars (\$50.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the

customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property 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.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer served a deposit of one hundred dollars (\$100.00) intended to guarantee the payment of bills for service.

(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 valve when the property is expected to be vacant for an extended period of time. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

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CHAPTER 93

PUBLIC WATER SUPPLY WELLHEAD PROTECTION

93.01 Definitions

93.02 Substances Regulated

93.03 Maps of Zones of Influence

93.04 Restrictions within the Primary Protection Zone

93.05 Restrictions within the Secondary Protection Zone

93.06 Restrictions within the Zone of Sensitivity

93.07 Exceptions

93.08 Determination of Locations within Zones

93.09 Enforcement and Penalties

93.10 Inspections

93.11 Notice of Violation and Hearing

93.12 Injunctive Relief

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

1. “Alluvium” means sand, clay, etc., gradually deposited by moving water.
2. “Aquifer” mean a rock formation, group of rock formations or part of a rock formation that contains enough saturated permeable material to yield significant quantities of water.
3. “Contamination” means the presence of any harmful or deleterious substances in the water supply.
4. “Flow system boundaries” means a delineation criterion that uses groundwater divides, surface water bodies, or other hydrologic/physical features to delineate a wellhead protection area.
5. “Groundwater” means subsurface water in the saturated zone from which wells, springs, and groundwater runoff are supplied.
6. “Hazardous substances” means those materials specified in Section 93.02 of this chapter.
7. “Labeled quantities” means the maximum quantity of chemical as recommended on the label, for specific applications.
8. “Person” means any natural person, individual, public or private corporation, firm association, joint venture, partnership, municipality, governmental agency, political subdivision, public officer, or any other entity whatsoever or any combination of such, jointly or severally.
9. “Petroleum product” means fuels, (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils, hydraulic fluids, solvents, and other similar products.
10. “Pollution” means the presence of any substance (organic, inorganic, radiological, or biological) or condition (temperature, pH, turbidity) in water that tends to degrade usefulness of the water.
11. “Potable water” means water that is satisfactory for drinking, culinary, and domestic purposes, meeting current drinking water standards.
12. “Primary containment” means the first level of product-tight containment, i.e., the inside portion of that container which comes into immediate contact on its inner surface with the hazardous material being contained.

13. “Public utility” means any utility (gas, water, sewer, electrical, telephone, cable television, etc.) whether publicly owned or privately owned.
14. “Secondary containment” means the level of product-tight containment external to and separate from the primary containment. Secondary containment shall consist of leakproof trays under containers, floor curing or other containment systems and shall be of adequate size and design to handle all spills, leaks, overflows, and precipitation until appropriate action can be taken. The specific design and selection of materials shall be sufficient to preclude any substance loss. Containment systems shall be sheltered so that the intrusion of precipitation is effectively prevented.
15. “Shallow well” means a well located and constructed in such a manner that there is not a continuous five-foot layer of low-permeability soil or rock between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface.
16. “Time-related capture zone” means the surface or subsurface area surrounding a pumping well that will supply groundwater recharge to the well within some specified period of time.
17. “Toxic substance” means any substance that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption into the body.
18. “Transit” means the act or process of passing through the wellhead protection zones, where the vehicle in transit may be parked (within the wellhead protection area) for a period not to exceed two hours.
19. “Water pollution” means the introduction in any surface or underground water, or any organic or inorganic deleterious substance in such quantities, proportions, and accumulations that are injurious to human, plant, animal, fish, and other aquatic life or property or that unreasonable interferes with the comfortable enjoyment of life or property or the conduct of business.
20. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.
21. “Well field” means a tract of land that contains a number of wells for supplying water.
22. “Wellhead protection zones” means aones delineated fixed radii criterion around wellheads, within which toxic substances will be regulated to protect the quality of the underground resource.
23. “Zone of contribution” means the area surrounding a pumping well that encompasses all areas or features that supply groundwater recharge to the well.

93.02 SUBSTANCES REGULATED. The materials regulated by this chapter consist of the following:

1. Substances listed in 40 CFR Section 302.4, List of Hazardous Substances and Reportable Quantities.
2. Substances listed by the Iowa Labor Commissioner pursuant to Section 898.12 of the *Code of Iowa* (Hazardous Chemicals Risks – Right to Know).

3. Substances listed in 40 CFR Section 261, subparts A, B, C, and D, Federal Hazardous Waste List.

93.03 MAPS OF ZONES OF INFLUENCE.

1. Maps. Zone of protection maps and any amendments thereto are incorporated by reference and made a part of this chapter. These maps are on file at City Hall. At the time of adoption of the ordinance codified in this chapter, the location of all wells in Jasper County, Iowa, supplying potable water to the City Water System shall be located on the official wellhead protection map with primary zone, secondary zone and zone of sensitivity indicated.
2. Map Maintenance. The zone of protection maps may be updated on an annual basis. The basis for such an update may include (but is not limited to) the following:
 - A. Changes in the technical knowledge concerning the aquifer.
 - B. Changes in permitted pumping capacity of City wells.
 - C. Addition of wells or elimination of existing wells.
 - D. Designation of new well fields.
3. Wellhead Protection Zones. The zones of protection indicated on the zone of protection maps are as follows:
 - A. Primary Protection Zone. The area within the two-year-time-related capture zone of any well supplying potable water to the Mitchellville water system.
 - B. Secondary Protection Zone. The area within the ten-year-time-related capture zone, excluding the primary protection zone, of any well supplying potable water to the Mitchellville water system.
 - C. Zone of Sensitivity. The area within the 20-year-time-related capture zone, excluding the primary and secondary protection zones, from any well supplying potable water to the Mitchellville water system.

93.04 RESTRICTIONS WITHIN THE PRIMARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted uses within the primary protection zone. Uses not listed are to be considered prohibited.
 - A. Industrial buildings provided there is no on-site waste disposal or fuel storage tank facilities associated within this use, and the Iowa DNR separation distances for wells” for sources of contamination is complied with.
 - B. Playgrounds and parks.
 - C. Wildlife areas, open spaces.
 - D. Lawns and gardens.
 - E. Non-motorized trails, such as biking, skiing, nature and fitness trails.

2. Additional restrictions are as follows:
 - A. No person shall discharge or cause or permit the discharge of a hazardous substance to soils, groundwater, or surface water within the primary protection zone. Any person knowing or having evidence of a discharge shall report such information to the wellhead protection officer.
 - B. Any persons responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, and may be subject to fines as specified in this chapter.
 - C. No person shall discharge or cause or permit the discharge of fertilizers or pesticides in excess of labeled quantities to the soils, ground water, or surface water within the primary protection zone. Any person knowing or having evidence of a discharge shall report such information to the wellhead protection officer.

93.05 RESTRICTIONS WITHIN THE SECONDARY PROTECTION ZONE.

1. Permitted Uses. The following uses are permitted in the secondary protection zone. Uses not listed are to be considered prohibited.
 - A. All uses listed as permitted in the primary protection zone.
 - B. Sewer - residential and commercial.
 - C. Aboveground storage tanks when in compliance with State Fire Marshal's regulations.
 - D. Basement storage tanks.
 - E. Livestock grazing and field cropping activities.
2. Additional restrictions are as follows:
 - A. No person shall discharge or cause or permit the discharge of a hazardous substance to the soils, groundwater, or surface water within the secondary protection zone. Any person knowing or having evidence of a discharge shall report such information to the wellhead protection officer.
 - B. Any persons responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs, and may be subject to fines.
 - C. Any person who stores, handles, produces, or uses chemicals within the secondary protection zone shall make available the relevant MSDS sheets to the wellhead protection officer regardless, of such person's status under Section 93.07(4).

93.06 RESTRICTIONS WITHIN THE ZONE OF SENSITIVITY.

1. Permitted Uses. The following uses are permitted in the zone of sensitivity. Uses not listed are to be considered prohibited.
 - A. All uses listed as permitted in the primary protection zone.
 - B. All uses listed as permitted in the secondary protection zone.

- C. All uses, handling and storage, when in compliance with, and allowed by, Federal, State, and local laws and regulations.
2. Additional restrictions are as follows:
- A. No person shall discharge or cause or permit the discharge of a hazardous substance, in excess of labeled quantities, to the soils, groundwater, or surface water within the zone of sensitivity.
 - B. Any persons responsible for discharging or causing or permitting such discharge of hazardous substances will be financially responsible for all environmental cleanups costs and may be subject to fines.

93.07 EXCEPTIONS.

1. The following activities or uses are exempt from the provisions of this chapter:
- A. The transportation of any hazardous substance through the well field protection zones, provided the transporting vehicle is in transit.
 - B. The use of any hazardous substance solely as fuel in a vehicle fuel tank or as a lubricant in a vehicle.
 - C. Fire, police, emergency medical services, emergency management center facilities, or public utility transmission facility.
 - D. Retail sales establishments that store and handle hazardous substances for resale in their original unopened containers only in the secondary protection zone and the zone of sensitivity.
 - E. Consumer products limited to use at a facility solely for janitorial or minor maintenance purposes.
 - F. Consumer products located in the home which are used for personal, family, or household purposes
 - G. The storage and use of hazardous substances as a fuel or lubricant to provide auxiliary power for emergency use to the well field, provided an enclosed secondary containment system is provided for the hazardous substance.
 - H. The use of water treatment chemicals connected with the operation of the well or plant.
2. The use of structures or facilities existing at the time of the adoption of the ordinance codified in this chapter may be continued even though such use may not conform with the regulations of this chapter. However, the storage and use of hazardous substances within the primary protection zone must provide an enclosed secondary containment system. Such structure or facility may not be enlarged, extended, reconstructed, or substituted subsequent to adoption of said ordinance unless exemption is granted by the City Council.
3. Any person who engages in nonresidential activities relating to the storage, handling, use and/or production of any toxic or hazardous substances that are exempt from this chapter by law shall not be subject to the restrictions contained herein.

4. All requests for permits or special exceptions in the Mitchellville wellhead protection zones must be made in writing to the City Council. All requests must include a list of all hazardous chemicals (MSDS sheets will be made available upon request) to be stored, handled, used, or produced under the permit or special exception. All requests may be required to include an environmental assessment report at the discretion of the City Council. Any exemptions or permits granted will be made conditional and may include environmental monitoring and cleanup costs. The exemption or permit will be made void if environmental and/or safety monitoring indicate that the facility or activity is emitting any releases of harmful contaminants to the surrounding environment. The facility will be held financially responsible for all environmental cleanup costs.

93.08 DETERMINATION OF LOCATIONS WITHIN ZONES. In determining the location of properties within the zones depicted on the zone of protection maps, the following rules shall apply:

1. Properties located wholly within one zone reflected on the applicable zone of protection map shall be governed by the restrictions applicable to that zone.
2. For properties having parts lying within more than one zone as reflected on the applicable zone of protection map, each part shall be governed by the restrictions applicable to the zone in which it is located.

93.09 ENFORCEMENT AND PENALTIES.

1. The Water Superintendent is designated as the wellhead protection officer unless another person is specifically designated by the City Council to supervise the implementation and enforcement of this chapter.
2. The wellhead protection inspector shall be the Water Superintendent.
3. No building permit shall be issued which is a violation of the Iowa DNR *Separation Distance From Wells*, a violation of this chapter, or a source of contamination for a City well.
4. No new underground tanks will be allowed for auxiliary fuel storage in the primary or secondary zones.
5. Any person who fails to comply with the provisions of this chapter shall be subject to the provisions provided therein.

93.10 INSPECTIONS.

1. The wellhead protection inspector shall have the power and authority to enter and inspect all buildings, structures and land within all wellhead protection zones for the purpose of making an inspection. The inspector will notify the person having authority over a property in writing with 48 hours' notice of an inspection. Failure of a person having authority over a property to permit an inspection shall be sufficient grounds and probable cause for a court of competent jurisdiction to issue a search warrant to the protection officer or inspector to inspect such premises.
2. In the event a building or structure appears to be vacant or abandoned, and the owner cannot be readily contacted in order to obtain consent for an inspection, the officer or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection thereof.

3. The wellhead protection officer or inspector shall inspect each City well annually and shall maintain an inventory, if applicable, of all hazardous substances which exist within the primary and secondary protection zones. One format that may be used is Iowa DNR Form, OMB No. 2050-0072. MSDS sheets on these chemicals will be made available to the Inspector as under Section 93.05(2)(B).

93.11 NOTICE OF VIOLATION AND HEARING. Whenever an officer or an inspector determines that there is a violation of this chapter, said officer shall give notice thereof, and such notice of violation shall:

1. Be in writing;
2. Be dated and signed by the officer or inspector;
3. Specify the violation or violations; and
4. State that said violations shall be corrected within 10 days of the date on which the inspector issued the notice of violation.

93.12 INJUNCTIVE RELIEF. If any person who engages in nonresidential activities stores, handles, uses, and/or produces toxic substances within the wellhead protection zones, as indicated on the zone of protection maps, continues to operate in violation of the provisions of this chapter, then the City may file an action for injunctive relief in the court of jurisdiction.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. "Combined sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Major contributing industry" means an industrial user of the publicly owned treatment works that:
 - A. Has a daily flow of 25,000 gallons or more per average work day; or

- B. Has a flow greater than five percent of the flow carried by the municipal system receiving the waste; or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
- C. Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- D. Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have a significant impact, either singularly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.
10. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
11. “NH₃” or “NH₃N” (denoting ammonia) means that all portions of nitrogen in the form of protein or intermediate decomposition products which is determined by standard laboratory procedures for analysis of ammonia nitrogen, expressed in milligrams per liter (mg/l).
12. “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.
13. “pH” means the logarithms (Base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in “Standard Methods.”
14. “Population equivalent” means a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds (200 mg/l) of B.O.D., 0.20 pounds (240mg/l) of suspended solids and 0.03 pounds (40mg/l) of ammonia-nitrogen (NH₃N) and 1.25 pounds (1,500 mg/l) sulfate.
15. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
16. “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.
17. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
18. “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.
19. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
20. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
21. “Sewer” means a pipe or conduit for carrying sewage.

22. “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.
23. “Significant noncompliance” means:
- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a 6-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
 - B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4-B.O.D., TSS, fats, oils and grease and 1.2 for all other pollutants except pH);
 - C. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering health of City personnel or the general public);
 - D. Any discharge of pollutants that has caused imminent endangerment to the public or the environment, or has resulted in the City’s exercise of its emergency authority to halt or prevent such a discharge;
 - E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
 - F. Failure to provide, within 30 days after the due date, any required reports, periodic self-monitoring reports and reports on compliance schedules;
 - G. Failure to accurately report noncompliance;
 - H. Any other violation(s) which the City determines will adversely affect the operation or implementation of the local pretreatment program.
24. “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.
25. “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.
26. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
27. “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.
28. “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 sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet of the property line of such

owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

*(Code of Iowa, Sec. 364.12 [3f])
(IAC, 567-69.1[3])*

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee and Connection Charge

96.03 Plumber Required

96.04 Connection Requirements

96.05 Property Owner's Responsibility

96.06 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount of twenty-five dollars (\$25.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of two hundred forty dollars (\$240.00) paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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

96.04 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and the installation of the building sewer and its connection to the public sewer shall conform to the requirements of the Plumbing Code adopted by the City, the laws of the State and the City Standard Specifications. 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.

96.05 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.06 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])

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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 permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (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 (½) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite

sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. **Radioactive Wastes.** Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. **Excess Alkalinity.** Any waters or wastes having a pH in excess of 9.5.
10. **Unusual Wastes.** Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. **Noxious or Malodorous Gases.** Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. **Damaging Substances.** Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. **Untreatable Wastes.** Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
14. **pH.** Any waters or wastes having a pH less than 5.0 or greater than 9.0 or wastewater having any other corrosive properties (i.e., H₂S) capable of causing damage or hazard to structures, equipment and/or personnel of the wastewater facilities.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. **Rejection.** Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 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 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

98.01 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 a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(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.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Rates

99.03 Special Rates

99.04 Private Water Systems

99.05 Payment of Bills

99.06 Lien for Nonpayment

99.07 Special Agreements Permitted

99.01 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 RATES.

1. Basis for Charge. The wastewater service charge for the use of and for service supplied by the wastewater facilities of the City shall consist of a basic user charge for operation and maintenance plus replacement and local capital financing charge and a surcharge, if applicable. The user charge shall be based on water usage as recorded by water meters and/or sewer meters for waste having the following normal domestic (population equivalent) wastewater concentrations:

- Average day, 20 degrees centigrade (20-C) biochemical oxygen demand (BOD) of 200 mg/l.
- A suspended solids (SS) content of 240 mg/l.
- An ammonia-nitrogen (NH₃N) content of 40 mg/l.
- An oil and grease content of 100 mg/l.
- A sulfate content of 1,500 mg/l.

A. First 2,000 gallons or less per month (minimum bill) for a charge of \$9.00.

B. All usage over 2,000 gallons per month @ \$4.50 per 1,000 gallons.

2. All gallonage classifications in the above rate schedule include a constant rate of \$1.94 per 1,000 gallons for operation, maintenance and replacement costs.

3. In the case of non-metered services, the minimum service charge shall be not less than \$9.00 per month, which is necessary to retire the indebtedness, to pay operating, maintenance, and replacement and to fund reserves necessary for maintaining the sanitary sewer facility.

4. Customers of the sanitary sewer facility who are not also customers of the municipal water system shall pay a minimum charge of \$9.00 per month.

5. Service to industrial establishments may be by contract if the City deems this to be in its best interest.

6. Sewer service shall be available to any customer outside the corporate limits of the City, which the City agrees to serve, at the rate of one hundred fifty percent

(150%) of the rates provided above. Service to customers outside the corporate limits may be with a contractual agreement, if the City deems it to be in the City's best interest.

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.09 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.10 Waste Storage Containers
105.05 Open Burning Restricted	105.11 Prohibited Practices
105.06 Separation of Yard Waste Required	105.12 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.
2. “Discard” means to place, cause to be placed, throw, deposit or drop.
(Code of Iowa, Sec. 455B.361[2])
3. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
4. “Garbage” means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
5. “Landscape waste” means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.
(IAC, 567-20.2[455B])
6. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.
(Code of Iowa, Sec. 455B.361[1])
7. “Owner” means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
8. “Refuse” means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.
(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. “Rubbish” means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

(IAC, 567-100.2)

12. “Sanitary disposal” means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. 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. This open burning method of disposal shall be allowed ONLY between the dates March 15 through May 15, and October 1 through November 30 each year. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags

resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(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. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises, hauled to the Metro East Landfill or, using the required bags and stickers, placed at the curb for collection. Necessary “Yard Waste Disposal Stickers” for the curbside removal of yard waste will be available through the offices of Waste Connections, 4705 NE 22nd St., Des Moines (265-7374), at City Hall and will be available through other area retailers that are willing to offer them within the community. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(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 of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.
4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Metropolitan Waste Authority are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

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.

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, used or available, is \$10.10 per month for each residential single-family and two-family premises. Each multi-family dwelling, business and industrial premises shall contract with an independent hauler for the collection of solid waste.

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)

CHAPTER 107

COLLECTION OF RECYCLABLE MATERIALS

107.01 Purpose

107.02 Definitions

107.03 Establishment of Recyclable Collection Program

107.04 Nonexclusive Agreement

107.05 Collection of Recyclable Fees

107.06 Lien for Nonpayment

107.01 PURPOSE. The purpose of this chapter is to provide for the collection and disposal of recyclable materials from eligible residences within the City.

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

1. “Eligible residence” means any residential dwelling located within the City that receives solid waste collection from the City’s authorized solid waste collector.
2. “Facility” or “facilities” means the facility or facilities designated by the City to which the hauler shall deliver all recyclable material collected by the hauler.
3. “Non-recyclable material” means any material not defined as recyclable material.
4. “Recyclable material” means old newspapers (ONP), old corrugated containers (OCC), magazines, catalogs, junk mail, kraft bags, bimetal and ferrous cans, aluminum cans, clear glass containers, high density polyethylene (HDPE) and polyethylene terephthalate (PETE), whether alone or in combination, and any other material that may be added to this list by the City in the future.
5. “Set out” means the action, event, or instance comprised of the proper placement of the home storage container(s) of recyclable material for collection at the eligible residence.

107.03 ESTABLISHMENT OF RECYCLABLE COLLECTION PROGRAM.

1. The City has previously entered into an agreement with the Metro Waste Authority. This agreement authorizes and directs the Metro Waste Authority to contract on behalf of the City for the collection of recyclable materials under the Metro Waste Authority’s “Curb-It” program. The costs for collection of this program shall be borne by the City. The costs for the purchase of recyclable bins; the costs of educational programs instructing citizens as to the program; and the costs for processing the recyclables collected shall be paid for by the Metro Waste Authority.
2. The hauler designated by Metro Waste Authority as the recyclables collection hauler will provide once per week collection of recyclable materials to all eligible residences under the terms and conditions of the contract executed between Metro Waste Authority and the designated hauler.

107.04 NONEXCLUSIVE AGREEMENT. Nothing in the agreement between Metro Waste Authority and the City and/or the Metro Waste Authority and the designated hauler for recyclable material within the City shall be construed or interpreted to constitute a grant of a

franchise or exclusive right to the designated hauler to collect all recyclable material within the City.

107.05 COLLECTION OF RECYCLABLE FEES. The collection and disposal of recyclable materials as provided by this chapter are declared to be beneficial to the eligible residences to be served and there shall be levied and collected fees thereunder in accordance with the following:

1. Fees. The fee for recyclable material collection and disposal service, used or available, is \$2.60 per month for each eligible residence.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Recyclable material 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 apply in the event of a delinquent account.

107.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for recyclable material collection service. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted

110.02 Rights and Privileges

110.03 Pipes and Mains

110.04 Construction and Maintenance

110.05 Excavations

110.06 Indemnification

110.07 Applicable Regulations

110.08 Quality and Quantity

110.09 Police Regulations

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in 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. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of the ordinance codified by this chapter.

110.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* or as subsequently amended or changed.

110.03 PIPES AND MAINS. The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, 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.

110.04 CONSTRUCTION AND MAINTENANCE. 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 select said alternative route.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

110.06 INDEMNIFICATION. The Company shall indemnify and save harmless the 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 the Company’s negligence in construction, reconstruction, excavation, operation or maintenance of the gas facilities 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.

110.07 APPLICABLE REGULATIONS. 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.

110.08 QUALITY AND QUANTITY. During the term of this franchise the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

110.09 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

EDITOR'S NOTE

Ordinance No. 99-5 was passed and approved by the Council on August 16, 1999.

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Rights and Privileges
111.03 Poles and Wires
111.04 Construction and Maintenance
111.05 Excavations

111.06 Indemnification
111.07 Applicable Regulations
111.08 Quality and Quantity
111.09 Police Regulations

111.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of the ordinance codified by this chapter.

111.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* or as subsequently amended or changed.

111.03 POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be 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. The Company is authorized and empowered to cut and trim at its expense, any trees extending into any street, alley or public ground so as to prevent limbs or branches from interfering with the wires and facilities of the Company.

111.04 CONSTRUCTION AND MAINTENANCE. 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 select said alternative route.

111.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

111.06 INDEMNIFICATION. The Company shall indemnify and save harmless the 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 in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities 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.

111.07 APPLICABLE REGULATIONS. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

111.08 QUALITY AND QUANTITY. During the term of this franchise the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

111.09 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

EDITOR'S NOTE

Ordinance 99-4 adopting an electric franchise for the City was passed and approved by the Council on August 16, 1999.

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted

112.02 Police Power

112.01 FRANCHISE GRANTED. Northwestern Bell 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. 7-12-82 granting a telephone franchise to Northwestern Bell Telephone Company was approved by the Council on July 12, 1982 and approved by a majority of the electors of the City in an election held on August 24, 1982.

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CHAPTER 113

CABLE TELEVISION FRANCHISE AND REGULATIONS

113.01 Definitions	113.21 Performance Standards
113.02 Use of Property	113.22 Channel Capacity and Performance
113.03 Taxes	113.23 Installation and Maintenance of Subscriber Terminals in City Buildings and Schools
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113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Cable Television System” means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. “FCC” means the Federal Communications Commission.
4. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. “Grantee” means Heritage Communications, Inc., d/b/a Heritage Cablevision, Inc., a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Grantee” means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
6. “Private property” means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.
7. “Property of the Grantee” means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

8. “Public property” means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

113.02 USE OF PROPERTY. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. **Laws and Regulations.** The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable thereto.
2. **Restrictions.** The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
 - A. Impair the owner’s interest in or title thereto;
 - B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;
 - C. Adversely affect the then value or character thereof;
 - D. Cause or be likely to cause structural damage thereto, or any part thereof;
 - E. Cause or be likely to cause any damage or injury to any utility service available thereto;
 - F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;
 - G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or
 - H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

113.03 TAXES. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

113.04 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. **General Liability.** Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance. The amount of such insurance shall be not less than \$100,000 as to any one person, \$300,000 as to any one occurrence for injury or death to persons, and

\$100,000 for damages to property, with so-called umbrella coverage of at least \$5,000,000.

2. Worker's Compensation. Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.

3. Automobile. Automobile Insurance with limits of not less than \$100,000/\$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000 covering all automotive equipment, with so-called umbrella coverage of at least \$5,000,000.

4. Notice of Cancellation. All of said insurance coverage shall provide a ten (10) day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

5. Copies Filed. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.

6. Defense Costs. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

113.05 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

113.06 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage or injury to any property or person whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (b) the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, and/or (c) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

113.07 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the Grantee or to a limited

partnership of which the Grantee or other wholly owned subsidiary of Heritage Communications, Inc. is a general partner without the prior consent of the City.

113.08 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into the possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within sixty (60) days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

113.09 DEFAULT OF GRANTEE. In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within thirty (30) days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

113.10 TERMINATION. Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

113.11 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

113.12 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE. During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

113.13 INTERFERENCE. The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the Grantee.

113.14 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is

insufficient, or when holders of other public licenses or franchises have installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

113.15 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced.

113.16 ALTERATION OF GRADE. In the event that during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

113.17 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five (5) days' advance notice to arrange for such temporary cable changes.

113.18 TREE TRIMMING. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

113.19 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of fifty (50) homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

113.20 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the Grantee.

113.21 PERFORMANCE STANDARDS. The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

113.22 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

113.23 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS. During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such locations within such buildings as may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

113.24 TELECAST OF EDUCATIONAL ACTIVITIES. The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

113.25 PROGRAM ALTERATION. Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

113.26 SUBSCRIBER RATES AND CHARGES. All rates for service shall be reasonable, compensatory and nondiscriminatory. Except as otherwise provided in the franchise, the Grantee shall have the right, privilege and authority to change the rates and charges.

113.27 SERVICE RULES AND REGULATIONS. The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

113.28 SERVICE AGREEMENTS. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

113.29 PAYMENTS TO CITY. The Grantee shall pay to the City one percent (1%) of its annual "basic monthly cable television service" revenue for the service rendered to customers located within the City. All payments as required by the Grantee to the City shall be made annually and shall be due forty-five (45) days after the close of the year. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system.

113.30 INJURY TO PROPERTY OF THE GRANTEE. No person shall wrongfully or unlawfully injure the property of the Grantee.

113.31 INTERCEPTING SIGNALS OF THE GRANTEE. No person shall wrongfully or unlawfully intercept the signals of the Grantee.

113.32 FILING OF REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

113.33 FILING OF MAPS AND PLATS. On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

113.34 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall file with the City, copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

113.35 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

113.36 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

113.37 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

113.38 ARBITRATION. Any controversy between the City and the Grantee regarding the rights, duties and liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceedings under Section 113.10. Such arbitration shall be before three (3) disinterested arbitrators, one (1) named by the City, one (1) named by the Grantee, and one (1) named by the two (2) thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

113.39 RESERVATIONS. The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power.

EDITOR'S NOTE

Ordinance No. 2-2-81A adopting a cable television franchise for the City was passed and adopted on February 2, 1979.

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CHAPTER 114

REGULATION OF CABLE TELEVISION RATES

114.01 Authority

114.02 Rate Regulation Proceedings

114.03 Certification

114.04 Notice of Rate Change

114.05 Delegation of Power

114.01 AUTHORITY. The City has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission (FCC), concerning Cable Rate Regulation, 47 C.F.R. §§76.900 *et. seq.*, as they currently read and hereafter may be amended, which are herewith incorporated by reference.

114.02 RATE REGULATION PROCEEDINGS. Any rate regulation proceedings conducted hereunder shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the City or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by the City, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

1. The City shall publish notice as provided in Section 362.3 of the *Code of Iowa* and shall mail, by certified mail, to the Cable Operator a notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.
2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the City is subject to review by the FCC.
3. The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The City may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the City or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may announce the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.
4. In the course of the rate regulation proceeding, the City may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of

perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The City may request proprietary information, provided that the City shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator.

6. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by the City to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

7. Upon termination of the rate regulation proceeding, the City shall adopt and release a written decision as to whether or not the rate or proposed rate increase is reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

8. The City may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase.

9. Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.

10. The City shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

114.03 CERTIFICATION. The City shall file with the FCC the required certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the City shall notify the Cable Operator that the City has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

114.04 NOTICE OF RATE CHANGE. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the City is not empowered to exercise rate regulation, the Cable Operator shall give notice to the City of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

114.05 DELEGATION OF POWER. The City may delegate its powers to enforce this chapter to municipal employees or officers (the “cable official”). The cable official will have the authority to:

1. Administer oaths and affirmations;
2. Issue subpoenas;
3. Examine witnesses;
4. Rule upon questions of evidence;
5. Take or cause depositions to be taken;
6. Conduct proceedings in accordance with this chapter;
7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and
9. Take actions and make decisions or recommend decisions in conformity with this chapter.

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CHAPTER 115

CEMETERY

115.01 Definition

115.02 Trusteeship

115.03 Cemetery Superintendent Appointed

115.04 Duties of Superintendent

115.05 Records

115.06 Sale of Interment Rights

115.07 Perpetual Care

115.08 Cemetery Lots Without Perpetual Care

115.09 Annual Care

115.10 Rules and Regulations

115.01 DEFINITION. The term “cemetery” means the Mitchellville Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

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

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

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

115.03 CEMETERY SUPERINTENDENT APPOINTED. The Council shall appoint a Cemetery Superintendent who shall operate the cemetery in accordance with the rules and regulations therefor and under the direction of the Council.

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

115.04 DUTIES OF SUPERINTENDENT. The duties of the Cemetery Superintendent are as follows:

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

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery;
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a monthly report of the cemetery operation to the Council.

115.05 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.06 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

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

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

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

115.08 CEMETERY LOTS WITHOUT PERPETUAL CARE. Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

115.09 ANNUAL CARE. An annual care charge, as specified in the rules and regulations, shall be made by the City on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The City reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

115.10 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the

Code of Iowa, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery.

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

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

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

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or

permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

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

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

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

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee’s place of business.

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

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

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

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

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

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

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

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

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

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

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

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and that is required to be registered with the Iowa Department of Inspection and Appeals.
2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.
3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.
4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.
4. “Place of business” means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.
6. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

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

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

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

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose

122.02 Definitions

122.03 License Required

122.04 Application for License

122.05 License Fees

122.06 Bond Required

122.07 License Issued

122.08 Display of License

122.09 Time Restriction

122.10 License Exemptions

122.11 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day..... \$ 5.00
 - B. For one week..... \$ 25.00
 - C. For up to six (6) months..... \$ 100.00
 - D. For one year or major part thereof \$ 175.00

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 TIME RESTRICTION. All peddler’s and solicitor’s licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

122.10 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.11 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit 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.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

123.06 PERMIT FEE. A permit fee of ten dollars (\$10.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 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.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

CHAPTER 124

JUNK DEALERS

124.01 Definition

124.02 Separate License Required

124.03 Fees

124.04 Junk Yards Enclosed

124.05 Placement of Junk

124.06 Burning Prohibited

124.07 Application

124.01 DEFINITION. The term “junk dealer” as used in this chapter includes any person who keeps, maintains, operates or uses a building, lot, parcel of ground or other place for assembling, collecting, dumping, wrecking, storing or keeping, depositing or removing any old iron, junked automobiles, junked machinery or accessories thereto or any refuse, junk or waste material for the purpose of salvage or sale.

124.02 SEPARATE LICENSE REQUIRED. A separate license is required for each and every place that junk is assembled, collected, dumped, wrecked, deposited and removed, stored or kept.

124.03 FEES. The yearly fee for operating as a junk dealer is five dollars (\$5.00), payable in advance, for each separate place operated by such junk dealer.

124.04 JUNK YARDS ENCLOSED. Each junk yard shall be enclosed by a substantial enclosure of not less than eight (8) feet, and more than ten (10) feet high, constructed of galvanized corrugated sheet iron or such other suitable material as may be approved by the Council. Such enclosure shall at all times be painted and maintained in good, clean condition.

124.05 PLACEMENT OF JUNK. Any junk placed in any junk yard shall be so placed as to remain within the enclosure and shall not be piled higher than the top of the enclosure. No junk or materials of any kind shall be kept on the outside along the outer perimeter of the fence of any junk yard.

124.06 BURNING PROHIBITED. It is unlawful to burn, in any junk yard, refuse or junk, including rubber tires, batteries and rubber from wires which cause obnoxious odors.

124.07 APPLICATION. The provisions of this chapter apply to all junk dealers and every junk dealer shall comply with all of the provisions of this chapter.

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CHAPTER 125

PAWNBROKERS

125.01 Definitions	125.09 Renewals
125.02 License Required	125.10 Denial, Suspension or Revocation
125.03 License; Criteria Required	125.11 Records
125.04 License Issuance	125.12 Records; Failure to Maintain
125.05 License Fee	125.13 Identification Tag
125.06 Separate License for Each Place of Business	125.14 Prohibited Acts
125.07 Display of License	125.15 Search for Stolen Property
125.08 Sale or Transfer of License	

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

1. “Pawnbroker” means every person who makes loans or advancements upon pawn, pledge or deposit of personal property, or who receives actual possessions of personal property as security for loans, with or without a mortgage or bill of sale thereon, or who by advertisement, sign or otherwise holds himself or herself out as a pawnbroker.
2. “Police reports” are defined as follows:
 - A. “Positive” means a report or review compiled by the Police Chief which does not disclose a criminal record of a felony, or any conviction under this chapter two or more times in a calendar year, or conviction under Chapter 714 of the *Code of Iowa*.
 - B. “Negative” means a report or review compiled by the Police Chief which discloses a criminal record of a felony, or any conviction under this chapter two or more times in a calendar year or a conviction under Chapter 714 of the *Code of Iowa*.

125.02 LICENSE REQUIRED. No person shall engage in the pawn business without first obtaining a pawnbroker license. All applicants for such licenses shall apply in writing to the Clerk. All license applications shall contain the following information:

1. The full name, residential address, business address, date of birth and social security number of the applicant, and where the applicant is a corporation or partnership, of the officers or partners;
2. The name and address of the owner of the business premises;
3. The business, occupation or employment of the applicant, including location thereof, for the two years immediately preceding the date of application; and
4. The arrest record of the applicant and whether the applicant has ever been convicted of any crime, except simple misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained, and the sentence imposed as a result of such conviction.

125.03 LICENSE; CRITERIA REQUIRED. Upon receipt of a pawnbroker license application, the Clerk shall forward a copy of the application to the Police Chief who shall review the application. The applicant shall furnish such evidence as may be reasonably required in support of the statements set forth in the application. The Police Chief shall report to the Clerk within 30 days of receipt of the application considering, but not limited to the following criteria:

1. Whether the applicant or applicant's agents or employees charged with receiving or distributing property have been convicted of a felony. However, if the conviction of a felony occurred more than five years before the application for a pawnbroker license, and if such person's rights of citizenship have been restored by the governor, such conviction shall not be a bar to obtaining a pawnbroker's license;
2. Whether the applicant has truthfully reported all relevant facts within the pawnbroker application; and
3. The applicant has such financial standing and good reputation to indicate that he or she will comply with all the laws of the State of Iowa and the City.

125.04 LICENSE ISSUANCE. Upon receipt of a positive report and the appropriate fees, the Clerk shall approve the application if the applicant has fully complied with all of the requirements of this chapter, and the Clerk thereupon shall issue a pawnbroker's license to the applicant and forward a copy to the Chief of Police. The license shall expire within one year following issuance. The license shall state the name, the business to be transacted and the place where it is to be carried on, and the date of issuance and expiration of the licenses. In the event that the Clerk determines that the applicant for a new or renewal license has not fully complied with all the requirements of this chapter, or that the police department returns a negative report, or that the applicant has falsified the application, then the Clerk shall, after consultation with the City Attorney, advise the Council of the basis for questioning the qualifications, and the procedures for notice and hearing as set forth in Section 125.10 of this chapter apply.

125.05 LICENSE FEE. An applicant for a pawnbroker license shall submit a fee of two hundred dollars (\$200.00) to the Clerk at the time of filing the application. In the event that the application is denied, fifty dollars (\$50.00) of the total fee shall be retained to cover administrative costs.

125.06 SEPARATE LICENSE FOR EACH PLACE OF BUSINESS. Any person conducting several of separate pawnbroker businesses shall pay the license fee and procure a license for each place and any violations in one licensed premises shall be deemed violations in all premises licensed by that pawnbroker.

125.07 DISPLAY OF LICENSE. Every licensed pawnbroker shall display the license conspicuously in the business so that it may be readily observed by all persons entering the premises.

125.08 SALE OR TRANSFER OF LICENSE. No pawnbroker licenses shall be sold or transferred. The purchaser or purchasers of any pawnbroker business or of a majority of the stock of any corporation operating a pawnbroker business shall make application for and obtain a new license before operating such business at the locations for which the license has been issued.

125.09 RENEWALS. Every licensed pawnbroker shall apply for a license annually by application as if for an original license. There shall be no automatic renewal. Such application shall be filed and the fee paid no less than 45 days prior to the expiration of the current license.

125.10 DENIAL, SUSPENSION OR REVOCATION.

1. A pawnbroker license may be denied, suspended or revoked for any violation of this chapter, including but not limited to the failure to comply with new or renewal application procedures, a negative police report, or falsification of a new or a renewal application, or for the failure to maintain records in conformity with the requirements enumerated under this chapter.

2. The Clerk shall upon receipt of information alleging that grounds exist to deny, suspend, or revoke the pawnbroker license of any applicant or licensee under this chapter, and after consultation with the City Attorney, report the circumstance to the Council, which in such case shall cause notice to be sent by ordinary mail to the applicant or licensee, which notice shall state that a denial, suspension, or revocation hearing has been set before the Council, the grounds for the proposed denial, suspension or revocation, the date and time of the hearing and the place where the hearing will be conducted. Upon such hearing, if the Council determines that one or more such grounds do exist, it may deny an application or suspend or revoke any existing license. A suspension shall constitute a minimum period of 14 calendar days to a maximum period of 30 calendar days during which period the licensee may not conduct any business except the redemptions and shall conspicuously post a sign stating the terms of the suspension at the entrance of the premises. Such a sign shall be supplied by and posted by the Police Chief. If in the event such license is revoked, no pawnbroker license shall be issued to that person for a period of one year.

125.11 RECORDS. The Police Department shall furnish pawn log sheets to every licensee who shall accurately and legibly enter in ink in the English language the following information at the time of purchase or receipt of any property:

1. The date and hour of the transaction;
2. The amount paid, advanced or loaned for the article;
3. A detailed and accurate description of the article;
4. The name and address of the person from whom the property is purchased or received, date of birth, driver's license number, State of Iowa identification number or social security number, sex, age, height, race and type of photo identification presented.

It shall not be deemed compliance with this section if the licensee or the licensee's agent or employee lists his or her own name as the person selling or transferring the article. When the pawn log sheets are completed, or upon demand of the Police Chief, the licensee shall surrender the original sheets to the Police Chief, who shall provide a copy of the sheets to the licensee; the originals to remain the property of the City. The licensee shall also maintain a record of the name and residential address of any person redeeming an article of property, the date of such transaction and description of the article redeemed. In the event property is disposed of other than by redemption, the licensee shall record a description of the property, how disposed of and the name and address to whom the article was transferred. Such

redemption or sales records shall be maintained by the licensee for one year from the date of transaction and shall be at all times open to examination and recordation by the Police Chief.

125.12 RECORDS; FAILURE TO MAINTAIN. No licensee, his or her agents, or employees shall fail to maintain or surrender or falsify, delete, alter, destroy, or otherwise destroy any records required by this chapter.

125.13 IDENTIFICATION TAG. The licensee, his or her agents or employees shall also legibly record the date and hour the property was purchased or received in the property or such information shall be securely affixed to the property. Such information must conform to the information recorded pursuant to this chapter.

125.14 PROHIBITED ACTS. No licensee, his or her agents, or employees purchasing or receiving any article of property shall:

1. Receive any property without first viewing a form of identification containing a photograph of the person identified.
2. Melt, alter, destroy, sell, redeem, remove from the licensed premises or otherwise dispose of such article within 15 days after the receipt and report of any property is made as required by this chapter, except upon written permission of the Police Chief.
3. Purchase or receive any property from any person under the age of eighteen without his or her parent or guardian being present at the time of the transaction and without receiving their written consent, a copy of which must be submitted along with the records required by this chapter.
4. Purchase or receive any property or surrender any property from 6:00 p.m. to 8:00 a.m. Monday through Saturday, and 6:00 p.m. Saturday through 8:00 a.m. Monday.
5. Conceal, secrete, or destroy for the purpose of concealing, any article purchased or received for the purpose of preventing identification.
6. Deface, alter or remove any serial number or identifying marks from an article in his or her possession.
7. Take possession of defaced or altered property as described in subsection 6.

125.15 SEARCH FOR STOLEN PROPERTY. Whenever the Police Chief has reason to believe that any licensee or his or her agents has possession of any stolen property on the license premises, the Police Chief shall have the right and duty to enter and search the premises of such person for the purpose of discovering stolen property. No licensee or his or her agents or employees shall refuse, resist or attempt to prevent the Police Chief, with or without warrant, from examining the licensed premises for the purpose of discovering stolen property or any violation of this chapter.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Maintenance of Parking or Terrace

135.11 Failure to Maintain Parking or Terrace

135.12 Dumping of Snow

135.13 Driveway Culverts

135.01 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, on any paved or surfaced street or alley, or in any ditch.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner 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 permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit

holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 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 permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Fee. A permit fee of ten dollars (\$10.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

13. Permit Exemption. Utility companies are exempt from the bond requirement of this section. They shall, however, comply with the application requirements and all other pertinent provisions.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property. Before installing a culvert, a permit must first be obtained from the City and the construction materials must be approved by the City. The City shall inspect the driveway culvert after completion. 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.

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 seventy-two (72) hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to 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 or reconstruction of permanent sidewalks upon any street in the City. The order shall be directed to adjacent property owners and shall provide that they shall have the obligation and the opportunity to install sidewalks in the designated areas meeting all City specifications at the property owner's expense. The notice shall further state that they shall have ninety (90) days to notify the City that the project has been completed or the City may then direct the construction of the sidewalk at City expense to then be assessed against the property by special assessment certified to the County Assessor as provided for in the *Code of Iowa*. Sidewalk construction is mandatory for all new construction projects in all zoning districts. The Council may, upon a showing of just cause by the property owner, waive the requirement of sidewalk construction for new construction; however, the provision of a waiver under this section shall not apply to any other provision of this section or to any property that is governed by the Subdivision Regulations of the City.

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (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 graded to the established grade. When circumstances, either due to natural topography, excessive cost or such other reasonable conditions as the City may determine upon inspection so indicate, application may be made to the City Building Inspector to deviate the grade of the sidewalk from that of the established grade. Upon inspection and approval, a statement in writing shall be issued by the Building Inspector granting such approval

to the property owner. This approval shall be conditioned upon the obligation of the property owner to reconstruct the sidewalk to grade in the event the adjacent street is reconstructed at any time in the future.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than five (5) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from 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. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries

or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 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.

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CHAPTER 137

PLACEMENT OF MAILBOXES

137.01 Type of Mailbox
137.02 Location of Boxes

137.03 Maintenance of Approaches
137.04 Nonconforming Existing Mailboxes

137.01 TYPE OF MAILBOX. All mailboxes placed upon the streets and right-of-ways of the City shall be as approved by the U.S. Postal Service regulations.

137.02 LOCATION OF BOXES. All mailboxes meeting the above specification shall be set in clusters of at least two and not more than twenty-four boxes per location. Boxes shall not be set closer than twenty-five feet to an intersection. (Said intersection shall be determined by measuring twenty-five feet from the middle of the intersecting street down the street the mailboxes are to be placed upon.) Mailboxes shall not be placed closer than five feet from any alley or driveway approach. Mailboxes meeting the above specifications may be placed in the street right-of-way provided that the support thereof shall be at least two feet behind the curb or edge of the traveled way and no portion of the box or support shall extend into the traveled way. Said boxes shall not obstruct a paved sidewalk for pedestrians and where the roadway has a shoulder to maintain, said box and support shall be placed so as to not interfere with the road maintenance or snow removal.

137.03 MAINTENANCE OF APPROACHES. All approaches to the mailboxes shall be maintained by the individual owners of the boxes at said approach and the City shall not be responsible for surfacing, grading or maintaining said approaches.

137.04 NONCONFORMING EXISTING MAILBOXES. All existing mailboxes in the City which at the time of the passage of the ordinance codified in this chapter will not be affected by this chapter and shall be allowed to remain in place. Any mailboxes installed after the passage of such ordinance must meet the requirements and specifications of this chapter.

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CHAPTER 138

VACATION AND DISPOSAL OF STREETS

138.01 Power to Vacate

138.02 Planning and Zoning Commission

138.03 Notice of Vacation Hearing

138.04 Findings Required

138.05 Disposal of Vacated Streets or Alleys

138.06 Disposal by Gift Limited

138.01 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])

138.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

138.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

138.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

138.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

138.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

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CHAPTER 140

NAMING OF STREETS

140.01 Naming New Streets
140.02 Changing Name of Street
140.03 Recording Street Names
140.04 Street Plan

140.05 Street Names
140.06 Suffixes
140.07 Addresses

140.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

140.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

140.03 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)

140.04 STREET PLAN. The names and designations of all the public highways (except alleys), streets and avenues in the City are hereby changed and re-established to conform to the plan and the particular specifications hereinafter contained. Whenever in this section a street or avenue is mentioned either by the old or the new name or designation, the same shall be construed to mean any extension of said street or avenue now in existence or that hereafter may be laid out or established. The general plan for changing the names and designations of the streets and avenues of the City is as follows:

1. All public highways (except alleys) running east and west in the City shall hereafter be known as streets;
2. All public highways (except alleys) running north and south in the City shall hereafter be known as avenues;
3. Subject to approval of the Council all public highways (except alleys) that may hereafter be laid out running north and south that are circular and short in length and do not conform in location and alignment with the general plan shall hereafter be known as courts;
4. Subject to approval of the Council all public highways (except alleys) that may hereafter be laid out running east and west that are circular and short in length and do not conform in location and alignment with the general plan shall hereafter be known as places;

5. Subject to approval of the Council all public highways (except alleys) that may hereafter be laid out running in a gradual curving direction shall be hereafter known as drives, if greater in length than five (5) blocks, and shall be hereafter known as lanes, if less than five (5) blocks in length;
6. Center Street from the north corporate limits of the City to the south corporate limits of the City and any future extensions thereof shall hereafter be known and designated as Center Avenue, and shall be the base line of numbering avenues;
7. First Street from the west corporate limits of the City to the east corporate limits of the City and any future extensions thereof shall hereafter be known and designated as First Street, and shall be the base line of numbering streets;
8. That part of Center Avenue lying north of First Street shall hereafter be known and designated as Center Avenue North;
9. That part of Center Avenue lying south of First Street shall hereafter be known and designated as Center Avenue South;
10. That part of First Street lying east of Center Avenue shall hereafter be known and designated as First Street East;
11. That part of First Street lying west of Center Avenue shall hereafter be known and designated as First Street West;
12. All avenues and streets established or hereafter laid out east of Center Avenue North, and north of First Street East shall hereafter be known and designated as *Avenue Northeast* and *Street Northeast*, each street being prefixed by the number according to the number of blocks from the base line, or according to the established name of each street as set out hereinafter, and each avenue being prefixed by the name set out hereinafter;
13. All avenues and streets established or hereafter laid out west of Center Avenue North and north of First Street West shall hereafter be known and designated as *Avenue Northwest* and *Street Northwest*, each street being prefixed by the number according to the number of blocks from the base lines or according to the established name of each street as set out hereinafter, and each avenue being prefixed by the name set out hereinafter;
14. All avenues and streets established or hereafter laid out east of Center Avenue South and south of First Street East shall hereafter be known and designated as *Avenue Southeast* and *Street Southeast*, each street being prefixed by the number according to the number of blocks from the base line, or according to the established name of each street as set out hereinafter, and each avenue being prefixed by the name set out hereinafter.
15. All avenues and streets established or hereafter laid out west of Center Avenue South and south of First Street West shall hereafter be known and designated as *Avenue Southwest* and *Street Southwest*, each street being prefixed by the number according to the number of blocks from the base lines or according to the established name of each street as set out hereinafter, and each avenue being prefixed by the name set out hereinafter.

140.05 STREET NAMES. Under the general plan as in Section 140.04 set forth, the names and designations of the streets and avenues of the City shall hereafter be as follows:

1. The established Second Street, Third Street, Fourth Street, Fifth Street, and Sixth Street running west of Center Avenue North to the west corporate boundary line shall be Second Street Northwest, Third Street Northwest, Fourth Street Northwest, Fifth Street Northwest and Sixth Street Northwest.
2. The established Second Street, Third Street, Fourth Street, Fifth Street, and Sixth Street running east of Center Avenue North to the east corporate boundary line shall be Second Street Northeast, Third Street Northeast, Fourth Street Northeast, Fifth Street Northeast and Sixth Street Northeast.
3. The established Mill Street, High Street, Carter Street and Jet Street running west from Center Avenue South to the west corporate boundary line shall be Mill Street Southwest, High Street Southwest, Carter Street Southwest and Jet Street Southwest.
4. The established, or to be established, Mill Street, High Street, Carter Street, and Jet Street running east from Center Avenue South to the east corporate boundary line shall be Mill Street Southeast, High Street Southeast, Carter Street Southeast, and Jet Street Southeast.
5. The established Market Avenue, Elm Avenue, Walnut Avenue, and Cotton Avenue running north from First Street West to the north corporate boundary line shall be Market Avenue Northwest, Elm Avenue Northwest, Walnut Avenue Northwest and Cotton Avenue Northwest.
6. The established Market Avenue running south from First Street West to the south corporate boundary line shall be Market Avenue Southwest.
7. The established Elm Avenue running south from First Street West to the south corporate boundary line shall be Market Avenue Southwest.
8. The established Elm Avenue running south from First Street West to the south corporate boundary line shall be Elm Avenue Southwest.
9. The established, or to be established, Walnut Avenue and Cotton Street running south from First Street West to the south corporate boundary line shall be Walnut Avenue Southwest and Cotton Avenue Southwest.
10. The established Park Avenue, Arch Avenue, Oak Avenue, Vine Avenue, and the unnamed avenue at the east corporate boundary line and any streets hereafter established running north of First Street East to the north corporate boundary line shall be Park Avenue Northeast, Arch Avenue Northeast, Oak Avenue Northeast, Vine Avenue Northeast and Jasper Avenue Northeast.
11. The established, or to be established, Park Avenue, Arch Avenue, Oak Avenue, Vine Avenue and the unnamed avenue at the east corporate boundary line running south of First Street East to the south corporate boundary line shall be Park Avenue Southeast, Arch Avenue Southeast, Oak Avenue Southeast, Vine Avenue Southeast and Jasper Avenue Southeast.

140.06 SUFFIXES. That part of all avenues and streets lying east of Center Avenue North and north of First Street East shall be designated in writing addresses with the suffix

Northeast; and that part of First Street West shall be designated in writing addresses with the suffix *Northwest*; that part of all avenues and streets lying west of Center Avenue South and south of First Street West shall be designated in writing addresses with the suffix *Southwest*; and that part of all avenues and streets lying east of Center Avenue South and south of First Street East shall be designated in writing addresses with the suffix *Southeast*.

140.07 ADDRESSES. In writing an address, the number of the house, building or structure shall be first given, followed by the name of the avenue or street, and that followed by the suffix indicating on which end the avenue or street named the number is found, thus: *622 Fifth Street Northwest*.

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CHAPTER 145

SWIMMING POOLS

145.01 Definition
145.02 Permit
145.03 Enclosure

145.04 Distance From Property Line
145.05 Access
145.06 Inspection

145.01 DEFINITION. A “swimming pool” is any artificial basin of water which has a capacity of one hundred (100) gallons or more, a maximum depth of eighteen (18) inches or more and which is designed or manufactured for use for recreational purposes.

145.02 PERMIT. No person shall construct, enlarge, alter, or otherwise improve a swimming pool without first obtaining a building permit as required by the City’s Zoning Ordinance, or maintain such pool contrary to the provisions of this chapter.

145.03 ENCLOSURE. Enclosure of pools shall be as described below.

1. **In-Ground Pools.** Every outdoor swimming pool shall be completely surrounded by a fence or wall at least six (6) feet in height. Such fence or wall shall be non-climbable and shall be constructed of sufficiently strong materials and of such structural design as to make the pool inaccessible to small children. There shall not be a distance greater than ten (10) feet between fence posts.
2. **Above-Ground Pools.** In lieu of the above, swimming pools manufactured and approved for installation above ground shall be installed in accordance with the following criteria: Enclosure of an above-ground swimming pool shall be accomplished in an approved manner that will reasonably secure the pool and any deck or platform attached thereto from unauthorized access by small children and shall provide a degree of security at least the equivalent of that required for in-ground swimming pools. For the purpose of this requirement a fence or wall which is designed to attach to the vertical water enclosing fence may be used in such a manner that the combined height of the pool and fence will equal a height not less than six (6) feet.

145.04 DISTANCE FROM PROPERTY LINE. No part of a swimming pool enclosure shall be constructed within four (4) feet of a property line, other wall, fence or other structure which can be readily climbed by children.

145.05 ACCESS. All gates and doors in the fence or wall shall be self-latching or self-closing. At all times, when the pool is “unattended,” such gates, doors, steps, ladders, ramps or any other device affording access to the pool shall be secured against unauthorized access. “Unattended” means the absence of an adult person in the outdoor swimming pool or within constant eyesight of said pool and no more than twenty (20) feet therefrom.

145.06 INSPECTION. Persons maintaining an outdoor swimming pool pursuant to this chapter shall be deemed to consent to periodic inspections of same for compliance with this and other chapters in this Code of Ordinances at reasonable times by City employees.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

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

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three (3) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of ninety (90) 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 MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

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CHAPTER 151

TREES

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| <p>151.01 Definitions</p> <p>151.02 Street Species to Be Planted</p> <p>151.03 Prohibited Species</p> <p>151.04 Spacing</p> <p>151.05 Distance from Sidewalk</p> <p>151.06 Distance from Street Corners and Fireplugs</p> <p>151.07 Utilities</p> <p>151.08 Public Tree Care</p> | <p>151.09 Tree Topping</p> <p>151.10 Pruning, Corner Clearance</p> <p>151.11 Dead or Diseased Tree Removal on Private Property</p> <p>151.12 Removal of Stumps</p> <p>151.13 Interference with City Tree Board</p> <p>151.14 Review by Council</p> <p>151.15 Penalty</p> |
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151.01 DEFINITIONS. For use in this chapter, the following definitions are given.

1. “Parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. “Park trees” are trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the City to which the public has free access as a park.
3. “Street trees” are trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

151.02 STREET TREE SPECIES TO BE PLANTED. No person shall plant any tree in the parking or street without a permit issued by the City. The following list constitutes the official street tree species for the City.

SMALL TREES	MEDIUM TREES	LARGE TREES
Globe Norway Maple	Norway Maple	Black Maple
Globe Red Maple	Schwedler’s Maple	Sugar Maple
Amur Maple	Crimson King Maple	Scarlet Oak
Tatarian Maple	Gingko (Male)	Northern Red Oak
Redbud	Little Leaf Linden	American Linden
Washington Hawthorne	Honeylocust (thornless)	Sycamore
Purpleleaf Plum	Christine Buisman Elm	White Swamp Oak
Carmine Crabapple		Bur Oak
American Hophornbeam		
Japanese Lilac		

151.03 PROHIBITED SPECIES. The following are defined as undesirable species and shall not be planted in the parking:

Specifically:

Box Elder	Catalpa	Mulberry
Chinese Elm	Cherry	Ailanthus
American Elm	Willows	Fruit Trees
Walnut	Pin Oak	Birch
Hickory	Green Ash	Hackberry
Cottonwood	Marshall’s Seedless Ash	White Ash
Silver Maple	Shrubbery of any kind	All coniferous trees, such as pines, firs, spruce, etc.

151.04 SPACING. The spacing of street trees will be in accordance with the three species size classes listed in Section 151.02, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet, except in special plantings designated or approved by a landscape architect.

151.05 DISTANCE FROM SIDEWALK. The distance trees may be planted from sidewalks will be in accordance with the tree species size classes listed in Section 151.02 and no trees may be planted closer to any sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; and large trees, 4 feet.

151.06 DISTANCE FROM STREET CORNERS AND FIRE PLUGS. No street tree shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet from any fireplug.

151.07 UTILITIES. No street trees other than those species listed as small trees in Section 151.02 may be planted under or within 10 lateral feet of any overhead electrical wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

151.08 PUBLIC TREE CARE. The City has the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. 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. The City Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with this chapter.

151.09 TREE TOPPING. It is unlawful as a normal practice for any person or City department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter

within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Tree Board.

151.10 PRUNING; CORNER CLEARANCE. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of fifteen (15) feet above the surface of the street or eight (8) feet above the sidewalk. Said owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub back to the property line when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. Residents are required to notify City Hall prior to trimming or removing trees on City property. It will be at the discretion of the City Public Works Department whether a site inspection is needed prior to the trimming or removal of said trees.

151.11 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The City has the right to cause the removal of any dead or diseased trees on private property within the City when such trees constitute a hazard to life and property, or harbor insects or diseases which constitute a potential threat to other trees within the City. The City will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

151.12 REMOVAL OF STUMPS. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump does not project above the surface of the ground.

151.13 INTERFERENCE WITH CITY TREE BOARD. It is unlawful for any person to prevent, delay, or interfere with the City Tree Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees or park trees, as authorized in this chapter.

151.14 REVIEW BY COUNCIL. The Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the Council who may hear the matter and make final decision.

151.15 PENALTY. Any violation of the provisions of this chapter is hereby declared a nuisance, subject to appropriate penalties and actions as provided in Chapter 50 of this Code of Ordinances.

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CHAPTER 155

BUILDING CODE

155.01 Adoption of Building Code	155.23 Foundation Retaining Walls for Group R Occupancies
155.02 Deletions	155.24 Retaining Walls
155.03 Amendments and Additions	155.25 Residential Wood Floor Cantilevers
155.04 Department Established; Director Appointed	155.26 Existing Structures
155.05 Electrical	155.27 Secondary Storm Sewer
155.06 Work Exempt from Permit	155.28 Depth of Water Service
155.07 Permit Fees	155.29 Floor Drains
155.08 Expiration	155.30 Water Heater Floor Drain
155.09 Board of Appeals	155.31 Minimum Water Service Size
155.10 Demolition of Buildings and Structures	155.32 Building Sewer
155.11 Obstruction Permit; Bond and Insurance	155.33 Drainage Backwater Valve
155.12 Permanent Occupancy of Public Property	155.34 Vents Not Required
155.13 Exterior Building Wall Construction	155.35 Prohibited Locations of Gas Pipe
155.14 Certificates of Occupancy	155.36 Signs and Billboards; Definitions
155.15 Climatic and Geographic Design Criteria	155.37 Inspections of Signs
155.16 Premises Identification	155.38 Billboard License and Bond Required
155.17 Handrails	155.39 Sign Erector's License
155.18 Requirements for Egress Window Landings	155.40 Sign Erector's Bond
155.19 Snow Loads	155.41 Shelter for the Homeless
155.20 Minimum Depth Frost Protection Footings	155.42 Violations
155.21 Frost Protection for Accessory Structures	
155.22 Foundations for Stud Bearing Walls	

155.01 ADOPTION OF BUILDING CODE. This chapter shall consist of the *International Building Code*, 2006 Edition, *International Residential Code*, 2006 Edition, including Appendix Chapters G and M, and the *International Existing Building Code*, 2006 Edition, as published by the International Code Council, which codes are incorporated herein by this reference as fully as though set forth herein in their entirety, excepting only such portions as are hereinafter stated to be deleted therefrom and such additional provisions as are hereinafter set forth. This chapter and all provisions incorporated herein by reference or otherwise shall be known as the "Building Codes," may be cited as such, and will be referred to herein as such and as "this code."

155.02 DELETIONS. The following are hereby deleted from this code and are of no force or effect herein:

1. Section 103 and Section R103
2. Subsection 105.2 and Subsection R105.2
3. Subsection 105.5 and Subsection R105.5
4. Subsections 108.2 and 108.3 and Subsections R108.2 and R108.3
5. Section 112 and Section R112
6. Subsection 1405.12.2 (IBC) and subsection R613.2
7. Subsection R907.3 #4

155.03 AMENDMENTS AND ADDITIONS. The remaining sections in this chapter are and represent amendments and additions to the requirements contained in the *International*

Building Code, International Residential Code, and International Existing Building Code, and where their requirements conflict with those of the International Building Code, International Residential Code, and International Existing Building Code, the requirements of this chapter shall prevail. The sections listed below shall be construed in the context of the enumerated chapter or chapters of the International Building Code, International Residential Code, and International Existing Building Code.

1. Section 155.03 – Section 202 IBC and Section R202 (definition of bedroom)
2. Section 155.05 – IBC and IEBC (Electrical Code)
3. Section 155.14 – Section 110.1 and Section R110.1 (Certificates of Occupancy)
4. Section 155.16 – Section 501.2 IBC (Premises Identification)
5. Section 155.17 – Section 1012.4 IBC and Section R311.5.6.2 IRC (Handrails)
6. Section 155.18 – Section 1026.3 IBC and Section R310.1 IRC (Egress window maximum height)
7. Section 155.20 – Section 1805.2.1 IBC (Minimum Depth Frost Protection Footings)
8. Section 155.21 – Section 1805.2.1 IBC and Section R403.1.4.1 IRC (Frost Protection for Accessory Structures)
9. Section 155.22 – Table 1805.4.2 IBC and Table R403.1 IRC (Minimum footing requirements)
10. Section 155.24 – Section R404.5 IRC (retaining walls)
11. Section 155.26 - Sections 3410.2 IBC & 1301.2 IEBC (Existing Structures)
12. Section 155.28 – Section P2603.6 IRC (Water Service Depth)
13. Section 155.29 – Section P2719.1 IRC (Floor Drains)
14. Section 155.30 – Section P2803.6.1 IRC (Water Heater Floor Drain)
15. Section 155.31 – Section P2903.7 IRC (Minimum Water Service Pipe)
16. Section 155.32 – Section P3005.4.2 IRC (Building Sewer)
17. Section 155.33 – Section P3008.1 IRC (Backwater Valves)
18. Section 155.34 – Section P3101.2.1 IRC (Vent Not Required)
19. Section 155.35 – Section G2415.1 IRC (Prohibited Locations For Gas Pipe)

For the purposes of this code, the word “bedroom” means any room with a permanently built-in closet, designed for and potentially used for sleeping purposes at the present time and/or in the future. Bedrooms shall meet all the minimum provisions of this code to include a minimum of 70 square feet of floor area with the least horizontal dimension of 7 feet, glazing for natural light to be not less than 8 percent of floor area, heat provided in the room to maintain a minimum of 68 degrees, 3 feet from the floor and 2 feet from the exterior walls, a height of 7 feet in the rooms shall be maintained, shall meet the minimum emergency escape and rescue opening, shall have a permanently powered smoke alarm device with battery backup. Bedrooms include dens, offices, playrooms, family rooms, storage areas, and other

rooms with built-in closets. For the purpose of this chapter “bedrooms and sleeping rooms shall be synonymous with each other.

155.04 DEPARTMENT ESTABLISHED; DIRECTOR APPOINTED. There is hereby established in the City the Department of Building, which shall be under the direction and supervision of the Building Official. The Building Official shall be responsible to the City Administrator for the enforcement of the Building Codes, and such other ordinances as shall assign the Building Official that function, and shall perform such other duties as may be required by the City Administrator or by any classification plan adopted by the City. The Building Official shall have the authority to appoint staff members and delegate duties to those staff members. The Building Official shall submit a report to the City Administrator not less than once a year, covering the work of the department during the preceding period and shall incorporate in that report a summary of recommendations as to desirable amendments to this code. The Building Official shall keep a permanent, accurate account of all fees and other moneys collected and received under this code, the names of the persons upon whose account the same were paid, the date and amount thereof, together with the location of the building or premises to which they relate. The titles Director of Building and Building Official, as used herein, are synonymous and may be used interchangeably.

155.05 ELECTRICAL. Any reference in the *International Building Code* and *International Existing Building Code* to the “ICC Electrical Code” shall be replaced with “the National Electrical Code as adopted per Chapter 158 of the City of Mitchellville Code of Ordinances.”

155.06 WORK EXEMPT FROM PERMIT. A building permit shall not be required for the following. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

Building:

1. One-story detached accessory structures used as tool or storage sheds, playhouses, pet shelters, and similar uses, provided the projected floor area does not exceed 120 square feet in area and complies with all applicable zoning requirements. Such building must be located at least 3 feet from any property line and/or the easement width and 10 feet into the rear yard from any principal structure in an A-1, R-1, R-2, R-4 and one- and two-family dwellings in an R-3 and R-5 Zoning District. Setbacks for all other zoned districts shall comply with the applicable zoning regulations as adopted by this Code of Ordinances.
2. Movable and non-fixed cases, racks, fixtures, counters, and partitions not over 5 feet, 9 inches high.
3. Retaining walls which are not over 4 feet in height, measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.
4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height or diameter or width does not exceed two to one.
5. Prefabricated swimming pools accessory to a Group R-3 occupancy or one- and two-family structure which are less than 18 inches in depth and do not have a capacity of more than 100 gallons.

6. Swings and other playground equipment accessory to detached one- and two-family dwellings.
7. Sidewalks and driveways not more than 30 inches above adjacent grade, and not over any basement or story below and are not part of an accessible route.
8. Painting, papering, tiling, carpeting, cabinet tops and similar finish work.
9. Temporary motion picture, television and theater stage set and scenery.
10. Window awnings supported by an exterior wall and do not require additional support for Group R, Division 3 occupancies when projecting not more than 54 inches.
11. Amusement rides. (For the purposes of this exemption, accessory structures serving amusement rides and other structures located within the confines of an amusement ride theme park are not considered an amusement ride.)
12. Mobile or manufactured residential buildings which are:
 - A. Located in an authorized mobile home park or similar development, and
 - B. Installed in a manner complying with the State Building Code, said installation to be certified in the manner specified by the State Building Code Commissioner.
13. Minor maintenance and repair work that is deemed by the Building Official not to affect structural strength, safety, fire resistance, or sanitation, provided that no such work shall be performed in a manner contrary to any provisions of this code or any other laws.

Unless otherwise exempted, separate plumbing, electrical, and mechanical permits will be required when appropriate for the above exempted items. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the code or any other laws or ordinances of this jurisdiction.

155.07 PERMIT FEES.

1. Permit Fees.
 - A. A fee for each building permit shall be paid to the Building Official in the amount set forth in the Schedule of Fees as adopted by the City Council. Building permit fees are figured on valuation. Valuation is figured by totaling square footage according to type of building or value of project. The amounts used to determine the valuation shall be set by the Building Official as determined necessary but not to exceed more than once in 12-month period typically beginning in January/February of each year. No building permits shall be issued to any person who has fees outstanding as required by this code or any other laws or ordinances of the City.
 - B. The determination of value or valuation under any of the provisions of the building code shall be made by the Building Official. The valuation to be used in computing the permit and plan-check fees shall be the total value of all construction work for which the permit is issued, as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning,

elevators, fire extinguishing systems and any other permanent work or permanent equipment. A fee for each building permit shall be paid to the Building Official in the amount set forth in the Schedule of Fees as adopted by the City Council.

C. If a permit is issued for a specific amount of work and, upon inspection, it is determined that more work was performed than was authorized by the permit, the permittee shall amend the permit or obtain another permit to include all additional work and shall pay a new base fee and any unit fees as described in paragraph A above.

D. Permits and fees for mechanical, plumbing, and electrical work shall meet the requirements of Ordinances 156, 157, and/or 158 respectively.

2. Additional permit fees are as follows:

A. Plan Check Fees. Plan check fees shall be in the amount set forth in the Schedule of Fees as adopted by the City Council.

B. Sidewalks and Approaches. Sidewalks and approaches shall be constructed with all new buildings. All approaches must be minimum 6 inches thick concrete from street to property line. Fees for sidewalks and approaches shall be in the amount set forth in the Schedule of Fees as adopted by the City Council.

C. Foundations. The fee for a permit to construct only a foundation shall be 150% of the fee in the amount set forth in the Schedule of Fees as adopted by the City Council. For purposes of this determination, the valuation of the foundation shall be considered to be ten percent (10%) of the total building valuation.

D. Accessibility Review Fee. A fee in the amount set forth in the Schedule of Fees as adopted by the City Council shall be charged for the review of plans in accordance with Sec. 661-16.303 of the Iowa Administrative Code and Chapter 11 of the IBC for handicap accessibility provisions. The review fee shall not be required for construction for and associated with one- and two-family dwellings and for projects with an assessed value of construction of less than \$2,000.00.

E. Thermal Efficiency Standards. In addition to other fees required in this section, a fee in the amount set forth in the Schedule of Fees as adopted by the City Council shall be paid to the Building Official for the review of plans and inspection of construction for compliance with the thermal efficiency standards of the Iowa State Building Code and Chapter 13 of the *International Building Code*.

F. Double Fee. Except in emergency situations, as determined by the Building Official, where work for which a building permit is required by this code is started or proceeded with by any person prior to obtaining a required permit, the fees in the amount set forth in the Schedule of Fees as adopted by the City Council shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work or from any other penalties prescribed herein. No additional permits of any type shall be issued to any person who owes the

City the double fee described in this subsection. However, no double fee shall be imposed upon any person who starts without a permit if:

- (1) The work is started on a Saturday, Sunday, or holiday, or during any other day when the Building Department is not normally open for business; and
- (2) The person secures the proper permit on the next Building Department working day.

No plan review is required prior to issuance of the permit.

G. Refunds. If, within 30 days of the date of issuance, the holder of a building permit decides not to commence the work described in said permit, said person may, upon application to the Building Official, be refunded that portion of the permit fee which is in excess of the permit refund fee in as set forth in the Schedule of Fees as adopted by the City Council.

H. Permit Renewals. Fees for permit renewals as stated in Section 155.08 shall be based on the percentage of valuation of remaining work to be performed provided the plans are not changed. If the plans are changed enough to warrant a review, then the permit fee shall be one-half of the cost of the original fee (or the hourly cost to the jurisdiction, whichever is greater), plus any fees as set forth in subsection J of this code section. This cost shall include supervision, overhead, hourly wages, and fringe benefits of the employees involved.

I. Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official. To obtain a reinspection, the applicant shall file an application therefor in writing on a form furnished for that purpose and pay the reinspection fee as set forth in the Schedule of Fees as adopted by the Council. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

J. Other Inspections and Fees. See the Schedule of Fees as adopted by Council.

Persons performing work for the Federal Government, the State, the County or City may obtain permits for such work without paying the permit fees described herein; provided, however, nothing in this section shall be construed to exempt payment of permit fees by persons performing work under the direction of the City in connection with the abatement of any public law. An expired permit may not be reissued without a permit fee except by resolution of the Council.

155.08 EXPIRATION. Every permit, except a demolition permit, issued by the Building Official under the provision of the building code shall expire under any one of the following conditions:

1. Failure to begin work authorized within 180 days after issuance of the permit.
2. Suspension or abandonment of work for 120 days after commencement of the work. Time of occurrence of suspension or abandonment of work shall be computed from the date of the most recent inspection since which no progress has been made.
3. Failure to complete work on a structure designed for residential uses within one year after issuance of a permit.
4. Failure to complete work on a structure designed for commercial or industrial uses within two years after issuance of a permit. For permits with a valuation exceeding \$10,000,000.00, work shall be completed within three years after issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence or continue work. The Building Official is authorized to grant, in writing, for periods not more than 180 days each, two extensions. The extension shall be requested in writing and justifiable cause demonstrated. Any of the extensions may be further extended by action of the Council. In all cases, when a renewal is granted, the structure for which the permit is required shall comply with code requirements in effect at the time the permit is renewed.

155.09 BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and hereby created a Board of Appeals, consisting of five (5) members. Board members shall be chosen and appointed based on diversity and building construction knowledge, all of whom shall be residents of the City. One member of said Board of Appeals (at a minimum) shall be a private citizen. The Building Official or designated representative shall be an ex-officio member without a vote and shall act as Secretary of the Board. The appointment of members shall be for three-year terms, expiring on December 31, with not more than two members' terms expiring any one year. The Building Board of Appeals shall be appointed by the Mayor, subject to Council approval, and shall serve without compensation. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall meet at will and when there are appeals or business on file for a hearing. Nominal appeal fee to the Building Board of Appeals shall be paid as set forth in Section 155.07 of this chapter. The appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

155.10 DEMOLITION OF BUILDINGS AND STRUCTURES.

1. Permit Required; Expiration.
 - A. No person shall commence the work of demolishing any building or structure until a permit authorizing such work has been obtained from the Building Official. Every demolition permit issued under the provisions of this code shall expire by limitation and become null and void if the work

authorized by such permit is not commenced within seven (7) calendar days from the date of issuance, or if the work authorized by such permit is not completed within 30 calendar days of the date of issuance, unless, because of the extensiveness of the project, the Building Official deems at the time of issuance, a longer period for either commencement or completion should be granted.

B. Any permittee holding an unexpired demolition permit may request in writing an extension of time within which the demolition work may be commenced or completed. If such request contains good and satisfactory reasons showing that circumstances beyond the control of the permittee have prevented timely commencement or completion of the work, the Building Official may extend the applicable expiration date.

C. The fee for such permit shall be at the same rate as the original permit.

D. If a demolition permit to remove an unsafe building, or a building that is the subject of a public nuisance action has expired, the Building Official shall order the prompt removal of such structure, in accordance with all requirements of this chapter. All of the costs attendant to this action, including administrative costs, shall be either assessed against the property or collected from the owner unless otherwise directed by the Council.

2. Application For Permit. Application for a permit to demolish a building or structure shall be made to the Building Official. The applicant shall provide the following information:

A. In the case of demolition by explosives, the applicant shall furnish the information required in this subsection and shall furnish information regarding the person who will be conducting the demolition by explosives and shall furnish plans showing how the building or structure will be prepared for demolition, the type and amount of explosives to be used; and a detailed plan showing what safety precautions will be taken to protect persons and property.

B. A permit for the demolition of a building or structure by the use of explosives may be issued by the Council subject to the following:

(1) The applicant for a permit must demonstrate to the Council the need for demolition by explosives rather than demolition by conventional means and must demonstrate that demolition by explosives can be safely conducted at the specific location requested.

(2) The Building Official, Fire Chief, and Police Chief shall review the application and submit their opinions to the Council concerning whether or not the demolition can be safely conducted together with any recommendations they may have.

(3) The applicant shall provide a certificate of liability insurance for personal injuries, death and for property damage in an amount not less than \$1,000,000 naming the City as an additional named insured party. The certificate shall provide that the coverage shall not be canceled or changed without ten days' prior written notice to the

City. The Council may require additional insurance coverage in instances where the hazard appears greater than normally expected and may also in such instances require the posting of a bond acceptable to the City in an amount commensurate with the severity of the hazard. The bond shall provide that the applicant shall well and satisfactorily perform the demolition. The bond shall be for the benefit of the City and any person who is injured or damaged by the failure of the applicant to satisfactorily perform the demolition.

(4) The applicant shall agree to indemnify and hold harmless the City from all losses resulting from damages or injuries caused by the applicant or the applicant's employees, servants or agents arising out of the use of explosives in demolition.

(5) The applicant shall pay the City in advance for reasonable expenses that will be incurred by the City in furnishing necessary security and police protection in the vicinity of the demolition site.

(6) The applicant shall observe all applicable Federal, State, and local laws in the course of the demolition including but not limited to the following:

a. The applicable provisions of the fire prevention code relating to the storage, transportation and use of explosives.

b. The rules and regulations of the United States Environmental Protection Agency relating to the demolition of buildings or structures containing asbestos materials or other hazardous air pollutants.

(7) The applicant shall meet all other requirements of this chapter relating to the demolition of structures or buildings; provided, however, should a conflict exist between the provisions of this chapter and other provisions of the Code of Ordinances, the provisions of this chapter shall be deemed controlling.

(8) The applicant need not obtain an obstruction permit as provided in Section 155.11 of this chapter to block off portions of the public property within an appropriate distance of the demolition site, provided that the obstruction is for less than a 24-hour period and provided that the obstruction is for security purposes in connection with the use of explosives. However, the applicant shall be required to obtain an obstruction permit to use public property in the cleanup operations following the detonation of explosives.

(9) The Council shall at any time have the authority to impose additional requirements and safety precautions in the interest of the public health, safety, and welfare.

3. Permit Issuance, Validity, Expiration, Revocation, Fees.

A. Except as otherwise provided in this section, the issuance, validity, expiration, and revocation of any permit to demolish a building or structure shall be administered in accordance with Section 155.07 of this chapter and

Section 105 of the *International Building Code* and Section R105 of the *International Residential Code*.

- B. Permits fees shall be as set forth in the amount set forth in the Schedule of Fees as adopted by the Council.
4. Utility Services. No permit to demolish shall be issued until it has been established that existing utility services have been properly disconnected and approved.
5. Bond Required.
- A. Before a permit is issued to remove a building which has been ordered removed as a public nuisance pursuant to the provisions of the *International Building Code* and *International Residential Code*, and which period of time granted by the courts for removal or other remedial action by the applicants or other party of interest has expired, the applicant may be required to post a cash bond equal to the estimated costs of the removal of the building and the disconnection of the existing utility services. If the building is not removed by the applicant at the time the permit expires at a time specified by the Building Official, such bond shall be forfeited and used toward the costs of the City to remove it.
- B. If the building is removed by the applicant prior to the time the permit expires, such bond shall be returned to the applicant. A return of the bond does not exempt the applicant from further assessments to the real estate for costs which have occurred prior to the issuance of the permit.
6. General Requirements.
- A. The Building Official shall have the authority to impose at any time reasonable requirements and safety precautions in the interest of public health, safety, and welfare which, in the opinion of the Building Official, are commensurate with the severity of hazard, either demonstrated or anticipated, provided that such requirements may be appealed to, and reviewed by, the board of appeals at the request of the affected party.
- B. In addition, the following provisions shall be met:
- (1) The discharging, loading, or dumping of building materials from any building shall be accomplished in such manner as to minimize the creation of dust and scattering of debris. Materials shall not be dropped by gravity to any point lying outside the building walls except through an enclosed chute, unless such materials are dust free and the height of drop is at least equal to the horizontal distance to the nearest property or barricade line. Where such horizontal distance is not available and practical necessity dictates the dropping of relatively large masses of materials, the Building Official may approve appropriate protective measures designed to provide protection from danger equivalent to that afforded by the otherwise required horizontal setback; provided however, in all cases, such materials shall be handled in a manner approved by the Air Pollution Control Division of the County Health Department.

(2) When necessary to protect the public health, safety, or welfare, every demolition project shall be barricaded, fenced, lighted, and signed with warning and/or directional signs in a manner approved by the Building Official. The Building Official may also require the presence of approved security guards or flag persons. Such barricades, fences, lights, and signs as may be deemed necessary by the Building Official for protection of the public shall be maintained after completion of the demolition work until such time as the site is cleaned of all debris and all excavations, basements, and depressions in the ground are restored to grade and rendered harmless.

(3) Adequate precautions shall be taken to insure that procedures or conditions relating to the demolition work do not constitute a fire hazard. If, in the opinion of the Fire Chief, a fire hazard exists, or is likely to exist, the Fire Chief may order the cessation of work or require that appropriate protective measures, approved by the Fire Chief, be taken.

(4) All streets, alleys, and public ways adjacent to the demolition site shall be kept free and clear of any rubbish, refuse, and loose materials resulting from the demolition work unless an obstruction permit for such space has been obtained.

Upon completion of the demolition work, the site shall be left in a clean, smooth condition. Inorganic building rubble, sand, clean earth, or other approved fill material may be used to fill excavations, basements, and depressions, provided that the top 12 inches shall be clean earth or its equivalent in terms of surface smoothness, freedom from dust, and cleanliness. If the surface is to be used for the parking of vehicles, it shall be constructed as required in the Zoning Code.

155.11 OBSTRUCTION PERMIT; BOND AND INSURANCE.

1. No person shall use any portion of public property as described in the *International Building Code* and *International Residential Code* without first obtaining an obstruction permit which shall state:

- A. The name of the owner of the property abutting the public property to be used.
- B. The name of the person applying for the obstruction permit.
- C. An accurate description of the public property to be obstructed or occupied.
- D. The length of time said obstruction or occupancy shall exist.
- E. An agreement to comply in all respects with the provisions and requirements of this code and other ordinances of the City relating to the use of streets and alleys, and to indemnify and save and keep harmless the City from any and all costs, expense or liability for damages, or injuries to persons or property, or liability of any kind whatsoever, arising from or growing out of the use and occupancy of such street or growing out of the deposit of such

material or any failure to properly pile, deposit, guard, light or care for the same.

F. Such additional requirements as may be deemed necessary for the protection of the City and its inhabitants.

2. Before an obstruction permit shall be issued, there shall be placed on file in the office of the Department of Building Permits and Inspections:

A. **Surety Bond.** A surety bond in the sum of \$5,000.00 conditioned to insure removal of the obstruction by or before the expiration date of said obstruction permit, or such extended time as may be granted by the City; and

B. **Liability Insurance.** Liability insurance, showing the City as named insured and providing a minimum limit of liability in the amount of \$500,000.00 each accident, for accidents caused by maintenance of such obstruction. The insurance policy shall contain a provision whereby such insurance may be canceled or materially altered only after giving the City ten days' written notice of the change or cancellation.

3. Such surety bond and liability insurance shall be approved by the Building Official and the legal department and shall be conditioned to secure the performance of such agreement by the applicant.

4. No person shall, under any permit, occupy more area than is stated in the obstruction permit.

5. The fee for an obstruction permit shall be in the amount set forth in the Schedule of Fees as adopted by the Council.

155.12 PERMANENT OCCUPANCY OF PUBLIC PROPERTY.

1. No part of any structure or any appendage thereto, except signs, shall project beyond the property line of the building site, except as specified in this code; provided, however, a structure or appendage thereto may project beyond the property line of the building site when the applicant holds a property interest including but not limited to air rights, within the area of the project sufficient to establish a legal right to build therein or thereon.

2. Structures or appendages regulated by this section shall be constructed of materials as specified in Section 704 of the *International Building Code* and Section R302 of the *International Residential Code* for structures regulated by such code.

3. The projection of any structure or appendage shall be the distance measured per the definition of Fire Separation Distance as noted in the *International Building Code* and Section R302 of the *International Residential Code* for structures regulated by such code.

4. Nothing in this code shall prohibit the construction and use of a structure between buildings and over or under a public way provided the structure complies with all requirements of this code.

155.13 EXTERIOR BUILDING WALL CONSTRUCTION.

1. Notwithstanding anything contained in Sections 602 or 704 of the *International Building Code* and Section R302 of the *International Residential Code*,

an exterior wall may be constructed with openings without complying with the requirements of such sections related to opening protection; provided, before a building permit is issued which permits an exterior wall to be so constructed, the owner of the building shall furnish the Building Official with either:

A. A copy of an easement or covenant running with the land applicable throughout the existence of the proposed building in which those with interests in the property abutting the side of the property on which said exterior wall is to be constructed agree not to construct a wall set forth in said Sections 602, 704 or R302 which would require said exterior wall and said building on such abutting property to have the opening protection of said Sections 602, 704 or R302 which copy shall show the book and page where such document has been filed of record in the office of the Polk County Recorder; or

B. An agreement, in a form capable of being filed of record in the office of the Polk County Recorder, for the benefit of those with interest in the abutting property, by which the owner of the building and the owner of the property on which said building is to be built, jointly and severally agree, on behalf of themselves and their successors and assigns for so long as said building is in existence, that, in consideration for being permitted to building an exterior wall on said building without complying with said Sections 602, 704 or R302 at such time as a building is erected on the abutting property within the distances to said exterior wall contained in said Sections 602, 704 or R302 then they shall modify or rebuild said exterior wall to conform at least to the requirements of said Sections 602 and 704 applicable to the actual separations of the building; said agreement shall be recorded at the expense of the applicant for the building permit.

2. Notwithstanding anything contained in Section 602 or 704 of the *International Building Code* and Section R302 of the *International Residential Code*, an exterior wall may be constructed with openings adjacent to a public street or alley right-of-way without complying with the requirements of such sections related to opening protection, provided the following conditions are each satisfied:

A. The setback between the exterior wall and the far side of the adjoining public right-of-way must conform at least to the requirements of such Sections 602, 704 or R302 applicable to the actual separation of building.

B. The Council has by resolution declared an intent to permanently maintain the adjoining right-of-way as a public street or alley, and to never permit a structure to be constructed or placed upon the right-of-way within the required separation from the exterior wall. The resolution shall specifically describe the affected right-of-way and shall be in a form that can be recorded and indexed into the records of the County Recorder.

C. The owner of the building has furnished a copy of the Council resolution described above, which copy shall show the book and page where such document has been filed of record in the office of the County Recorder.

155.14 CERTIFICATES OF OCCUPANCY. Section 110.1 of the *International Building Code* and Section R110.1 of the *International Residential Code* is amended by adding the following:

On all new construction, all necessary drives and approaches are to be installed before a Permanent Certificate of Occupancy is issued. All public concrete sidewalks placed over sanitary sewer, storm sewer and water ditches shall have not less than two (2) number four (4) re-rods twenty feet (20) long. All public sidewalks shall also meet the requirements of the Statewide Urban Design and Specifications and Chapter 170 of the Municipal Code as adopted by the City.

155.15 CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA. For the purposes of this chapter, climatic and geographic design criteria shall be as follows:

Ground Snow Load	Wind Speed MPH	Seismic Design Category	Subject to Damage From			Winter Design Temp	Ice Barrier Underlayment Required	Flood Hazards NFIP Acceptance Zone C	Air Freezing Index	Mean Annual Temp
			Weathering	Frost Line Depth	Termite					
30 PSF	90	A	Severe	42"	Moderate-Heavy	-5° F	Yes	10-Nov-82 – No local amendments	1833	48.6

155.16 PREMISES IDENTIFICATION. Section 501.2 IBC shall be amended by deleting the number 4 inches to 6 inches for other than Group R-3 occupancies and individual dwelling units in an R-2 occupancy.

155.17 HANDRAILS. The following shall be added at the end of exception #1 of Section 1012.4 of the *International Building Code* and Section R311.5.6.2 of the *International Residential Code*.

Handrails within a dwelling unit or serving a an individual dwelling unit of groups R-2 and R-3 or one- and two-family dwellings shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

155.18 REQUIREMENTS FOR EGRESS WINDOW LANDINGS. Section 1026.3 of the *International Building Code* and Section R310.1 of the *International Residential Code* shall be added to the end of the section to state as follows:

Where a landing is provided for egress windows in new and existing construction of Group R occupancies/One and Two family Dwellings only when the maximum height requirement cannot be met as stated in Section 1026.3 or Section R310.1 shall have a minimum width of 36 inches, a minimum depth of 18 inches and a maximum height of 24 inches. The landing shall be permanently affixed to the floor under the window it serves.

155.19 SNOW LOADS. For purposes of determining snow loads as required in Section 1608 of the *International Building Code* and Section R301.6 of the *International Residential Code*, the minimum ground snow load for design purposes shall be 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in this code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.

155.20 MINIMUM DEPTH FROST PROTECTION FOOTINGS. Section 1805.2.1 #1 of the *International Building Code* shall be amended by deleting: “extending below the frost line of the locality” and replacing with “extending to a depth of 42 inches below grade.”

155.21 FROST PROTECTION FOR ACCESSORY STRUCTURES. Section 1805.2.1 of the *International Building Code* and Section R403.1.4.1 of the *International Residential Code* shall be amended by adding the following:

Exception #4. The Building Official may approve slab-on-grade foundation designs for wood or metal frame residential accessory structures over 600 square feet to not exceeding 1,000 square feet, without additional engineering, providing the design meets all of the following:

- A. Foundations supporting wood shall extend at least six inches above the adjacent finish grade. The grade shall be removed to a depth sufficient enough for all vegetation to be absent and soils to be stable enough to support the slab load, 3,000# concrete mix shall be used.
- B. The entire perimeter of the foundation shall be provided with a thickened portion of slab with cross section dimensions of 10 inches minimum width and 16 inches minimum thickness.
- C. The slab floor shall be a minimum of 4 inches thick concrete with 6" x 6" reinforcing mesh or #4 reinforcing bars 24" on center front-to-back and side-to-side. The thickened portion of the slab shall also contain two #4 rebar, one near the top and one near the bottom continuously with ends of rebar overlapping each other at least 15 inches.
- D. Slab floor and thickened edge shall be one continuous pour, interconnected with reinforcing.
- E. Vertical distance from the top of the foundation floor to the lowest point of the footing base shall not be more than 24 inches.

155.22 FOUNDATIONS FOR STUD BEARING WALLS. The following table is substituted for Table 1805.4.2 of the *International Building Code* and Table R403.1 of the *International Residential Code*:

Table 1805.4.2/Table R40301 Foundations For Stud Bearing Walls

Number of Stories	Thickness of Foundation Walls		Minimum Width of Footings (inches)*	Thickness of Footings (inches)	Minimum Depth of Foundation Below Natural Surface of Ground and Finish Grade (inches)
	Unit				
	Concrete	Masonry			
1	8	8	16	8	42
2	8	8	16	8	42
3	10	10	18	12	42

*See Section 155.18 for reinforcing requirements for one and two family dwelling units. All notes to the table still apply except for footnote g.

155.23 FOUNDATION RETAINING WALLS FOR GROUP R OCCUPANCIES.

1. Scope. Notwithstanding other design requirements of Chapters 18, 19 and 21 of the *International Building Code* and Sections R404.1 – R404.1.5.1 of the *International Residential Code*, foundation retaining walls for group R occupancies of type V construction may be constructed in accordance with this section, provided

that use or building site conditions affecting such walls are within the limitations specified in this section.

Height of Foundation Wall (Net measured from top of basement slab to top of foundation wall)*		Thickness of Foundation Walls		Reinforcement Type and Placement within Foundation Wall**	Reinforcement Type and Placement within Foundation Wall** (12' span between corners and supporting cross walls)	Type of Mortar
		Concrete	Masonry			
Gross	Net	Concrete	Masonry	Concrete	Masonry	Masonry
8	7' 8"	7½"	8"	3 – ½" diameter bars with placement in the top, middle, and bottom	0.075 square inch bar 8' o.c. vertically in fully grouted cells. If block is 12" nominal thickness, may be unreinforced	Type M or S. Grout & Mortar shall meet provisions of Chapter 21
9	8' 9"	8"	See Chapter 18	½" bars 2' o.c. horizontally & 20" vertically o.c.	See Chapter 18	Same as above
10	9' 8"	8"	See Chapter 18	(5/8" bars 2' o.c. horizontally & 30" vertically o.c.)	See Chapter 18	Same as above
* Concrete floor slab to be minimum 4". If such floor slab is not provided, a specially designed means of providing lateral support at the bottom of the wall shall be required.						
** All reinforcement bars shall meet ASTM A615 grade 40 and be deformed. Placement of bars shall be in center of wall and meet the provisions of 18, 19, and 21 of the International Building Code.						
NOTE: Cast in place concrete shall have a compressive strength of 3,000 lbs @ 28 days. Footings shall contain continuous reinforcement of 2 – ½" diameter rebar throughout. Placement of reinforcement and concrete shall meet the requirements of Chapter 19 of the International Building Code.						
NOTE: Material used for backfilling shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section 1807.4 of the International Building Code. Where soils containing a high percentage of clay, fine silt or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.						

155.24 RETAINING WALLS. Section R404.5 of the *International Residential Code* shall be amended by amending the number “24 inches” to “48 inches.”

155.25 RESIDENTIAL WOOD FLOOR CANTILEVERS. Notwithstanding the provisions of Chapter 23 of the *International Building Code* and Chapter 5 of the *International Residential Code*, the maximum floor cantilevers of dimensional wood floor systems serving uses regulated by the *International Building Code* for group R occupancies and residential occupancies regulated by the *International Residential Code* shall not exceed a projecting dimension equal to twice the depth of the floor joist for bearing cantilevers and

three times the depth of the joist for non-bearing cantilevers. This provision shall not apply to engineered wood products or cantilevers designed by a registered design professional for a specific application.

155.26 EXISTING STRUCTURES. Section 3410.2 of the *International Building Code* and Section 1301.2 of the *International Existing Building Code* shall be amended by deleting in the first sentence, “Date to be inserted by the jurisdiction,” and replacing with “1978.”

155.27 SECONDARY STORM SEWER. The provisions for secondary storm sewers shall comply with Chapter 157 of the City of Mitchellville, Code of Ordinances, for all structures with habitable and/or useable space below grade.

155.28 DEPTH OF WATER SERVICE. Section P2603.6 of the *International Residential Code* shall be amended by deleting “Water service pipe shall be installed not less than 12 inches deep and not less than 6 inches below the frost line” and replacing with “Water service piping shall, whenever feasible, be no less than five feet below the surface of the ground.”

155.29 FLOOR DRAINS. Section P2719.1 shall be amended by adding the following section:

Unless otherwise approved by the inspector, at least one floor drain shall be provided in each room where an automatic water heater is, or will be installed, and in each mechanical room. When installed in a basement floor, such floor drain shall be at least three inches in diameter.

155.30 WATER HEATER FLOOR DRAIN. Section P2803.6.1 shall be amended by adding the following item number:

14. Every water heater shall be located in close proximity to a floor drain meeting the requirements of Section 155.29 of the City’s Code of Ordinances.”

155.31 MINIMUM WATER SERVICE SIZE. Section P2903.7 shall be amended by deleting “ minimum size of water service pipe shall be $\frac{3}{4}$ inch” and replacing with “minimum size of water service pipe shall be 1 inch for mains over 6 inches in diameter and $\frac{3}{4}$ inch minimum size of water service pipe for mains 6 inches or less in diameter.”

155.32 BUILDING SEWER. Section P3005.4.2 shall be amended by adding the following sentence at the end of the section:

The minimum diameter for a building sewer shall be four (4) inches.

155.33 DRAINAGE BACKWATER VALVE. Section P3008.1 shall be amended by adding the following sentences at the end of the paragraph:

The requirement for the installation of a backwater valve shall apply only when it is determined necessary by the Building Official based on local conditions. When a valve is required by the Building Official, it shall be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed, but is not required.

155.34 VENTS NOT REQUIRED. Subsection P3101.2.1 shall be amended by adding the following sections at the end of the paragraph:

No vents will be required on a downspout or rain leader trap, a backwater valve, a subsoil catch basin trap, a three inch basement floor drain, or a water closet provided its drain branches into the house drain on the sewer side at a distance of five feet or more from the base of the stack and the branch line to such a floor drain or water closet is not more than 15 feet in length. In single- and two-family dwellings no vent will be required on a two inch basement P trap, provided the drain branches into a properly vented house drain or branch, three inches or larger, on the sewer side a distance of five feet or more from the base of the stack and the branch to such P trap is not more than eight feet in length.”

155.35 PROHIBITED LOCATIONS OF GAS PIPE. Section G2415.1 of the *International Residential Code* shall be amended by deleting the last sentence in the paragraph stating “Piping installed downstream of the point of delivery shall not extend through any townhouse unit other than the unit served by such piping.”

155.36 SIGNS AND BILLBOARDS; DEFINITIONS. This section and the following sections in this chapter are intended to regulate the construction, erection, alteration, repair, and maintenance of all signs and sign structures in the City. For the purpose of this section and the following sections of this chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this section or as specified in the *International Building Code* and Chapter 165 of this Code of Ordinances. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. *Webster’s Third New International Dictionary of the English Language, Unabridged*, copyright 1993, shall be considered as providing ordinary accepted meanings.

1. “Approved plastic materials” means those which are defined in Section 2606.4 of the *International Building Code*.
2. “Billboard” means any structure, regardless of the material used in the construction of the same, that is erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
3. “Curb line” means the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the “curb line” shall be established by the City Engineer.
4. “Legal setback line” means a line established by ordinance beyond which no building may be built. A “legal setback line” may be a property line.
5. “Noncombustible” means, when applied to building construction material, a material which, in the form in which it is used, is either one of the following:
 - A. Material of which no part will ignite and burn when subjected to fire. Any material conforming to the *International Building Code* shall be considered noncombustible within the meaning of this section.
 - B. Material having a structural base of noncombustible material as defined in paragraph A above, with a surfacing material not over 1/8 inch thick which has a flame-spread rating of 50 or less.

Noncombustible does not apply to surface finish materials. Material required to be noncombustible for reduced clearances to flues, heating appliances, or other sources

of high temperature shall refer to material conforming to paragraph A above. No material shall be classed as noncombustible which is subject to increase in combustibility or flame spread rating beyond the limits herein established, through effects of age, moisture or other atmospheric condition. "Flame-spread rating," as used herein, refers to rating obtained according to test conducted as specified in the *International Building Code*.

6. "Nonstructural trim" means the molding, battens, caps, nailing strips, latticing, cutouts or letters and walkways which are attached to the sign structure.
7. "Projection" means the distance by which a sign extends over public property or beyond the building line.
8. "Sign, illuminated" means any sign that is artificially lighted by any direct, indirect, or internal light source.
9. "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

155.37 INSPECTIONS OF SIGNS.

1. The City has the right to inspect and reinspect any sign or sign structure, and it shall be within the sole discretion of the City to determine whether or not to exercise its right of inspection with regard to any such sign or sign structure.
2. In case any sign or sign structure is constructed, erected, altered, repaired or maintained in violation of the requirements of this section, the City, in addition to other remedies, shall be authorized to institute any proper action or proceedings to prevent, restrain, correct, enjoin or abate such violation.

155.38 BILLBOARD LICENSE AND BOND REQUIRED. Any person or any agent thereof, before erecting, constructing or maintaining any billboard in the City, must procure a billboard license and furnish a bond when so required by Section 155.40 of this chapter. The billboard license shall be \$200.00 per year, payable in advance.

155.39 SIGN ERECTOR'S LICENSE.

1. Every person, erecting or installing signs for which permits are required by this chapter shall obtain a license to conduct such operations, except that the occupant of a premises may obtain a permit to erect or install a sign on the premises without a license if the sign is not electrical, does not exceed 15 square feet, does not exceed 50 pounds, and is attached flat against the side of a building or parapet wall.
2. The license to erect signs shall be known as a sign erector's license, of which there shall be three classes, as hereinafter set out, and shall be issued only to those persons who show sufficient knowledge and experience to satisfy the Building Official as to their ability to erect signs of a size and weight allowed by the class of license for which they are applying in a safe and substantial manner in accordance with the provisions of this chapter. The three classes of license and the allowable size and weight of signs that may be erected thereunder shall be as follows:
 - A. A Class "A" license shall entitle the holder thereof to erect any sign or billboard that may be erected in accordance with provisions of this chapter.

- B. A Class “B” license shall entitle the holder thereof to erect any sign, but not a billboard, which does not exceed 75 square feet in area or 400 pounds in weight.
 - C. A Class “C” license shall entitle the holder thereof to erect any sign, but not a billboard or roof sign, which does not exceed 20 square feet in area or 150 pounds in weight.
3. All licenses shall expire on December 31 of each even numbered year. Any expired license may be renewed without examination within 30 days after the expiration date and upon payment of the renewal fee plus \$100.00. When more than 30 days have passed, no expired license shall be renewed except upon the recommendations of the zoning enforcement officer and payment of the renewal fee plus \$10.00.
4. The license fee for each class of license shall be as follows:
- A. Class “A”: \$80.00 biennially.
 - B. Class “B”: \$40.00 biennially.
 - C. Class “C”: \$20.00 biennially.

The initial fee shall be prorated in accordance with the following schedule:

Number of Months Until First Renewal Date	Initial Fee Reduction (%)
18-24	0
12-18	25
0-12	50

5. An application for a sign erector’s license shall be made to the Department of Building and shall contain the name and address of the proprietor, president or other senior officer in charge of applicant’s business and such other pertinent information as the department may request. The Building Official shall examine the qualifications of each applicant and shall cause license to be issued to all those properly qualified after their bonds have been filed and approved by the legal department and license fees have been paid.

155.40 SIGN ERECTOR’S BOND.

1. Prior to the issuance of a sign erector’s license, the person desiring such a license shall file with the Department of Building a good and sufficient bond running to the City, the penal sum of which shall be \$10,000.00 for a Class “A” license, \$5,000.00 for a Class “B” license, \$2,500.00 for a Class “C” license, to indemnify, save and keep harmless the City from any and all costs, damages, or expenses of any kind whatsoever which may be suffered by the City or which it may be put to, or which may accrue against it by charging to or recovering from the City from or by reason of the granting of permission to erect such signs, or by reason of any acts or things done under or by authority of permission granted by the Department of Building to erect such signs in the City or by reason of the negligence, failure or refusal of any person to comply with all the provisions of this chapter applicable to such signs.

2. At any time the bond of any sign erector is permitted to lapse, said person's license shall be automatically suspended and shall remain suspended until such sign erector again files a bond as required in this section.

155.41 SHELTER FOR THE HOMELESS.

1. Definition. A shelter for the homeless is a building used to provide primarily short-term lodging and meals and which may also provide other services, including counseling, with or without compensation, to transient individuals or individuals who have no access to traditional or permanent housing.

2. No building or portion thereof that is used as a shelter for the homeless shall be occupied as such unless an inspection certificate for such use has been issued by the Building Department. Such certificate shall be valid for no more than one year from the date of issuance and no new certificate shall be issued until the premises have been reinspected for compliance with applicable building code and fire safety requirements.

3. No fee shall be charged for the annual inspection or certificate of compliance issued under this section; provided, however, that this fee exemption shall not apply to permit fees, when required.

155.42 VIOLATIONS. See Chapter 3 of this Code of Ordinances.

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CHAPTER 156

MECHANICAL CODE

156.01 Adoption of International Code	156.08 Permit Fees
156.02 Deletions	156.09 Expiration
156.03 Amendments and Additions	156.10 Stop Work Orders
156.04 Electrical	156.11 Prohibited Locations of Gas Pipe
156.05 Department of Mechanical Inspection	156.12 Board of Appeals
156.06 Permits Not Required	156.13 Violations
156.07 Permit Issuance	

156.01 ADOPTION OF INTERNATIONAL CODE. This chapter shall consist of the *International Mechanical Code*, 2006 Edition, and the *International Fuel Gas Code*, 2006 Edition, as published by the International Code Council, which volumes are incorporated herein by this reference as fully as though set forth herein in its entirety excepting only such portions as are herein stated to be deleted therefrom and such additional provisions as are hereinafter set forth. This chapter and all provisions incorporated herein by reference or otherwise, shall be known as the Mechanical Code, may be cited as such, and will be referred to herein as such and as “this code.”

156.02 DELETIONS. The following are hereby deleted from the *International Mechanical Code* and *International Fuel Gas Code*, and are of no force or effect herein:

1. Section 106.4.3 & 106.4.4
2. Section 106.5
3. Section 108.4
4. Section 109

156.03 AMENDMENTS AND ADDITIONS. The remaining sections in this subchapter are and represent amendments and additions to the requirements contained in the *International Mechanical Code* and *International Fuel Gas Code*, and where they conflict with those of the *International Mechanical Code* and *International Fuel Gas Code*, the requirements of this chapter shall prevail.

1. Section 156.05 - Section 103.1 – (Department of Mechanical Inspection)
2. Section 156.06 - Section 106.2 (Work Exempt from Permit)
3. Section 156.07 – Section 106.4 (Permit Issuance)
4. Section 156.10 – Section 108.5 (Stop Work Orders)
5. Section 156.11 – Section 404.1 IFGC (Prohibited locations for Gas Pipe)

156.04 ELECTRICAL. Any reference in the *International Mechanical Code* and *International Fuel Gas Code* to the “ICC Electrical Code” shall be replaced with “the *National Electrical Code* as adopted per Chapter 158 of the City of Mitchellville Code of Ordinances .”

156.05 DEPARTMENT OF MECHANICAL INSPECTION. Section 103.1 shall be amended by deleting the first paragraph and replacing with the following:

There is hereby established in the City the Department of Mechanical Inspections, which shall be under the direction and supervision of the Building Official. The Building Official shall be responsible to the City Administrator for the enforcement of the Building Codes, and such other ordinances as shall assign the Building Official that function, and shall perform such other duties as may be required by the City Administrator or by any classification plan adopted by the City. Additional responsibilities of the Building Official shall be assigned as required per Chapter 155 of the City of Mitchellville, Code of Ordinances.

156.06 PERMITS NOT REQUIRED. Section 106.2 #5 shall be amended by deleting said language and replacing with the following:

Minor repair, cleaning, adjustment, or replacement of any heating, ventilating, cooling, or refrigeration equipment where the total cost of the work does not exceed \$100.00. This exemption shall be deemed to include adjustments by a gas supplier in a gas piping system due to the exchange or relocation of a gas meter.

The term “portable” as set forth in Section 106.2 of the *International Mechanical Code* and the *International Fuel Gas Code* means that which may be easily and/or readily carried or transported by hand from place to place without tools or aid of devices.

156.07 PERMIT ISSUANCE. Section 106.4 shall be added to the end of the section to state as follows:

1. Permits are not transferable. Mechanical work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Iowa Code Chapter 105. A mechanical professional licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which they are employed only when said “Master” has provided proof of employment by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Building Official upon the violation of any provision of this code.
2. A State of Iowa licensed Mechanical contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed Mechanical contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Iowa Code Chapter 105 shall perform the work for which the permit was obtained.
3. For purposes of this section, an “employee” shall be one employed by the contractor, firm or corporation for a wage or salary. A contractor may be required by the Building Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.
4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefor shall be grounds for immediate revocation of any permit for the work in question.

Exception. The following criteria must be met in order to obtain a mechanical permit without being licensed by the State of Iowa Plumbing and Mechanical Systems Board as a licensed Mechanical contractor:

- a. The signatory of the permit must be an employee of a firm or business based within the community and approved by the Department of Building.
- b. An employee having received a “Master” license as issued by the State of Iowa Plumbing and Mechanical Systems Board must sign the permit. Exception: An employee tasked with performing mechanical work as indicated in their job description, which must be on file with the Department, may continue to obtain a mechanical permit until December 31, 2014, after which date the employee making application must have received a State issued Master license in order to obtain a mechanical permit.
- c. The firm or business must not provide mechanical work for any entity other than its own and the firm or business must not be registered with the Iowa Workforce Development, Labor Division, as a Mechanical contractor.
- d. Employees of the firm/business who have been issued a mechanical permit shall conduct the work performed for which the permit was obtained.
- e. The installation to be performed does not, in any way, involve the installation of a grease hood and duct system, hazardous exhaust systems, fire dampers, smoke dampers and ceiling radiation dampers.
- f. The scope of work shall be limited to alterations of existing interior space of 5,000 square feet or less and for any new or existing accessory structure(s) of not more than 1,000 square feet in floor area and meets #5 listed above and not defined as a hazardous location.

Until such time the State of Iowa implements rules and regulations regarding Contractor licensing as required per Iowa Code Section 105.10 said Mechanical contractor shall obtain and receive a Contractor’s license with the City of Mitchellville in order to obtain a mechanical permit upon providing the following items:

1. Photocopy of current State issued Master Mechanical card copy of which shall be on file.
2. Photocopy of current State issued Journeyman card copy of which shall be on file for each Journeyman employed by the Contractor.
3. Certificate of Insurance copy of which shall be on file.

Said cash bond shall be released to the Mechanical Contactor upon receipt of a written request submittal and upon having obtained a State-issued Contractor’s license, copy of which shall be provided.

156.08 PERMIT FEES.

1. Permit Fees:
 - A. A fee for each mechanical permit shall be paid to the Building Official in the amount set in the Schedule of Fees adopted by the Council. No mechanical permits shall be issued to any person who has fees outstanding as required by this code or any other laws or ordinances of the City.

B. If a permit is issued for a specific amount of work and, upon inspection, it is determined that more work was performed than was authorized by the permit, the permittee shall amend the permit or obtain another permit to include all additional work and shall pay a new base fee and any unit fees as described in paragraph A above.

2. Additional permit fees are as follows:

A. Double Fee. Except in emergency situations, as determined by the Building Official, where work for which a mechanical permit is required by this code is started or proceeded with by any person prior to obtaining a required permit, the fees specified as set forth in the amount set in the Schedule of Fees as adopted by the Council shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work or from any other penalties prescribed herein. No additional permits of any type shall be issued to any person who owes the City the double fee described in this subsection. However, no double fee shall be imposed upon any person who starts without a permit if:

(1) The work is started on a Saturday, Sunday, or holiday, or during any other day when the Building Department is not normally open for business; and

(2) The person secures the proper permit on the next Building Department working day.

(3) No Plan review is required prior to issuance of the permit.

B. Refunds. If, within 30 days of the date of issuance, the holder of a mechanical permit decides not to commence the work described in said permit, said person may, upon application to the Building Official, be refunded that portion of the permit fee which is in excess of the permit refund fee set in the Schedule of Fees adopted by Council.

C. Permit Renewals. Fees for permit renewals as stated in Section 156.09 shall be based on the amount of remaining work to be completed. If the plans are changed enough to warrant a review, then the permit fee shall be one-half the cost of the original fee (or the hourly cost to the jurisdiction, whichever is greater), plus any fees as set forth in subsection E of this code section. This cost shall include supervision, overhead, hourly wages, and fringe benefits of the employees involved.

D. Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official. To obtain a

reinspection, the applicant shall file an application therefor in writing on a form furnished for that purpose and pay the reinspection fee in accordance with the schedule of fees as adopted by Council. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

E. Other Inspections and Fees. See the Schedule of Fees as adopted by Council by resolution.

Persons performing work for the Federal Government, the State, the County, or City may obtain permits for such work without paying the permit fees described herein; provided, however, nothing in this section shall be construed to exempt payment of permit fees by persons performing work under the direction of the City in connection with the abatement of any public law. An expired permit may not be reissued without a permit fee except by resolution of the Council.

156.09 EXPIRATION. Every permit, issued by the Building Official under the provision of the Mechanical Code shall expire under any one of the following conditions:

1. Failure to begin work authorized within 180 days after issuance of the permit.
2. Suspension or abandonment of work for 120 days after commencement of the work. Time of occurrence of suspension or abandonment of work shall be computed from the date of the most recent inspection since which no progress has been made.
3. Failure to complete work on a structure designed for residential uses within one year after issuance of a permit.
4. Failure to complete work on a structure designed for commercial or industrial uses within two years after issuance of a permit. For permits with a building valuation exceeding \$10,000,000.00 work shall be completed within three years after issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence or continue work. The Building Official is authorized to grant, in writing, for periods not more than 180 days each, two extensions. The extension shall be requested in writing and justifiable cause demonstrated. Any of the extensions may be further extended by action of the city council. In all cases, when a renewal is granted the structure for which the permit is required shall comply with code requirements in effect at the time the permit is renewed.

156.10 STOP WORK ORDERS. Section 108.5 shall be amended by deleting the last sentence stated as follows: “Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.”

156.11 PROHIBITED LOCATIONS OF GAS PIPE. Section 404.1 of the *International Fuel Gas Code* shall be amended by deleting the last sentence in the paragraph stating “Piping installed downstream of the point of delivery shall not extend through any townhouse unit other than the unit served by such piping.”

156.12 BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and hereby created a Board of Appeals, consisting of five (5) members. Board members shall be chosen and appointed based on diversity and building construction knowledge, all of whom shall be residents of the City. One member of said Board of Appeals (at a minimum) shall be a private citizen. The Building Official or designated representative shall be an ex-officio member without a vote and shall act as secretary of the Board. The appointment of members shall be for three-year terms, expiring on December 31, with not more than two members' terms expiring any one year. The Building Board of Appeals shall be appointed by the Mayor, subject to Council approval, and shall serve without compensation. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall meet at will and when there are appeals or business on file for a hearing. Nominal appeal fee to the Building Board of Appeals shall be paid as set forth in Section 156.08 of this chapter. The appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

156.13 VIOLATIONS. See Chapter 3 of this Code of Ordinances.

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CHAPTER 157

PLUMBING CODE

157.01 Adoption of International Code	157.14 Water Heater Floor Drain
157.02 Deletions	157.15 Minimum Water Service Size
157.03 Amendments and Additions	157.16 Building Sewer
157.04 Electrical	157.17 Drainage Backwater Valve
157.05 Department of Plumbing Inspection	157.18 Vents Not Required
157.06 Alternate Materials, Methods and Equipment	157.19 Excavation Permits
157.07 Permit Issuance	157.20 Sewer Service Lines Maintenance
157.08 Permit Fees	157.21 Radon Removal
157.09 Expiration	157.22 Subsurface Drainage
157.10 Stop Work Orders	157.23 Secondary Storm Sewer
157.11 Board of Appeals	157.24 Grease Interceptors
157.12 Depth of Water Service	157.25 Violations
157.13 Floor Drains	

157.01 ADOPTION OF INTERNATIONAL CODE. This chapter shall consist of the *International Plumbing Code*, 2006 Edition, as published by the International Code Council, which volume is incorporated herein by this reference as fully as though set forth herein in its entirety excepting only such portions as are herein stated to be deleted therefrom and such additional provisions as are hereinafter set forth. This chapter and all provisions incorporated herein by reference or otherwise shall be known as the Plumbing Code may be cited as such, and will be referred to herein as such and as “this code.”

157.02 DELETIONS. The following are hereby deleted from the *International Plumbing Code* and are of no force or effect herein:

1. Section 106.5.3 and 106.5.4
2. Section 106.6
3. Section 108.4
4. Section 109

157.03 AMENDMENTS AND ADDITIONS. The remaining sections in this chapter are and represent amendments and additions to the requirements contained in the *International Plumbing Code* and where they conflict with those of the *International Plumbing Code*, the requirements of this chapter shall prevail.

1. Section 157.05 - Section 103.1 (Department of Plumbing Inspection)
2. Section 157.06 – Section 105.2 (Alternative materials, methods and Equipment)
3. Section 157.07 – Section 106.5 (Permit Issuance)
4. Section 157.10 – Section 108.5 (Stop Work Orders)
5. Section 157.12 – Section 305.6 (Water service Depth)
6. Section 157.13 – Section 412.3 (Floor Drains)
7. Section 157.14 – Section 504.6 (Water heater floor drain)

8. Section 157.15 – Section 603.1 (Minimum water service pipe)
9. Section 157.16 – Section 710.1 (Building Sewer)
10. Section 157.17 – Section 715.1 (Backwater Valves)
11. Section 157.18 – Section 910.1 (Vents Not Required)

157.04 ELECTRICAL. Any reference in the *International Plumbing Code* to the “ICC Electrical Code” shall be replaced with “the *National Electrical Code* as adopted per Chapter 158 of the City of Mitchellville Code of Ordinances.”

157.05 DEPARTMENT OF PLUMBING INSPECTION. Section 103.1 shall be amended by deleting the first paragraph and replacing with the following:

There is hereby established in the City the Department of Plumbing Inspections, which shall be under the direction and supervision of the Building Official. The Building Official shall be responsible to the City Administrator for the enforcement of the Building Codes, and such other ordinances as shall assign the Building Official that function, and shall perform such other duties as may be required by the City Administrator or by any classification plan adopted by the City. Additional responsibilities of the Building Official shall be assigned as required per Chapter 155 of the City of Mitchellville, Code of Ordinances.

157.06 ALTERNATE MATERIALS, METHODS AND EQUIPMENT. Section 105.2 shall be amended by adding a footnote at the end of the section to state the following:

NOTE: The Uniform Plumbing Code, 2000 Edition, Chapters 2 through 14, excluding table 4-1, as published by the International Association of Plumbing and Mechanical Officials, and as adopted by the Iowa Department of Public Health, IAC 135, is hereby approved as an alternate equivalent method for complete plumbing systems.

157.07 PERMIT ISSUANCE. Section 106.5 shall be added to the end of the section to state as follows:

1. Permits are not transferable. Plumbing work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the State of Iowa Plumbing and Mechanical Systems Board in accordance with Iowa Code Chapter 105. A plumber licensed by the State of Iowa Plumbing and Mechanical Systems Board as a “Master” may sign and obtain a permit for the contractor for which they are employed only when said “Master” has provided proof of employment by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Building Official upon the violation of any provision of this code.
2. A State of Iowa licensed plumbing contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed plumbing contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Iowa Code Chapter 105 shall perform the work for which the permit was obtained.
3. For purposes of this section, an “employee” is one employed by the contractor, firm or corporation for a wage or salary. A contractor may be required by the Building Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.

4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available such employee or contractual records within 24 hours from demand therefor shall be grounds for immediate revocation of any permit for the work in question.

Exception. The following criteria must be met in order to obtain a plumbing permit without being licensed by the State of Iowa Plumbing and Mechanical Systems Board as a licensed Plumbing contractor:

1. The signatory of the permit must be an employee of a firm or business based within the community and approved by the Department of Building.
2. An employee having received a "Master" license as issued by the State of Iowa Plumbing and Mechanical Systems Board must sign the permit. Exception: An employee tasked with performing plumbing work as indicated in their job description, which must be on file with the Department, may continue to obtain a plumbing permit until December 31, 2014, after which date the employee making application must have received a State issued Master license in order to obtain a plumbing permit.
3. The firm or business must not provide plumbing work for any entity other than its own and the firm or business must not be registered with the Iowa Workforce Development, Labor Division, as a Plumbing contractor.
4. Employees of the firm/business who have been issued a plumbing permit shall conduct the work performed for which the permit was obtained.
5. The installation to be performed does not, in any way, involve the placement of any plumbing outside the exterior footprint of the building or structure unless the nature of the work involves a repair.
6. The scope of work shall be limited to alterations of existing interior space of 5,000 square feet or less and for any new or existing accessory structure(s) of not more than 1,000 square feet in floor area and meets #5 listed above.

Until such time the State of Iowa implements rules and regulations regarding Contractor licensing as required per Section 105.10 of the *Code of Iowa*, said plumbing contractor shall obtain and receive a contractor's license with the City of Mitchellville in order to obtain a plumbing permit upon providing the following items:

1. Photocopy of current State issued Master Plumbing card copy of which shall be on file.
2. Photocopy of current State issued Journeyman card copy of which shall be on file for each Journeyman employed by the Contractor.
3. Certificate of Insurance copy of which shall be on file.

Said cash bond shall be released to the plumbing contractor upon receipt of a written request submittal and upon having obtained a State-issued contractor's license, a copy of which shall be provided.

157.08 PERMIT FEES.

1. Permit Fees.

- A. A fee for each plumbing permit shall be paid to the Building Official in the amount set in the Schedule of Fees adopted by the Council. No plumbing permits shall be issued to any person who has fees outstanding as required by this code or any other laws or ordinances of the City.
- B. If a permit is issued for a specific amount of work and, upon inspection, it is determined that more work was performed than was authorized by the permit, the permittee shall amend the permit or obtain another permit to include all additional work and shall pay a new base fee and any unit fees as described in paragraph A above.
2. Additional permit fees are as follows:
- A. Double Fee. Except in emergency situations, as determined by the Building Official, where work for which a plumbing permit is required by this code is started or proceeded with by any person prior to obtaining a required permit, the fees specified as set forth in the amount set in the Schedule of Fees as adopted by the Council shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work or from any other penalties prescribed herein. No additional permits of any type shall be issued to any person who owes the City the double fee described in this subsection. However, no double fee shall be imposed upon any person who starts without a permit if:
- (1) The work is started on a Saturday, Sunday, or holiday, or during any other day when the Building Department is not normally open for business.
 - (2) The person secures the proper permit on the next Building Department working day.
 - (3) No Plan review is required prior to issuance of the permit.
- B. Refunds. If, within 30 days of the date of issuance, the holder of a plumbing permit decides not to commence the work described in said permit, said person may, upon application to the Building Official, be refunded that portion of the permit fee which is in excess of the permit refund fee as set forth in the Schedule of Fees as adopted by the Council.
- C. Permit Renewals. Fees for permit renewals as stated in Section 157.09 shall be based on the amount of remaining work to be completed. If the plans are changed enough to warrant a review then the permit fee shall be one-half the cost of the original fee (or the hourly cost to the jurisdiction, whichever is greater), plus any fees as set forth in subsection E of this code section. This cost shall include supervision, overhead, hourly wages, and fringe benefits of the employees involved.
- D. Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for

such inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official. To obtain a reinspection, the applicant shall file an application therefore in writing on a form furnished for that purpose and pay the reinspection fee in accordance with the schedule of fees as set forth in the Schedule of Fees as adopted by the Council. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

E. Other Inspections and Fees. See the Schedule of Fees as adopted by Council.

Persons performing work for the Federal Government, the State, the County or City may obtain permits for such work without paying the permit fees described herein; provided, however, nothing in this section shall be construed to exempt payment of permit fees by persons performing work under the direction of the City in connection with the abatement of any public law. An expired permit may not be reissued without a permit fee except by resolution of the Council.

157.09 EXPIRATION. Every permit issued by the Building Official under the provisions of the plumbing code shall expire under any one of the following conditions:

1. Failure to begin work authorized within 180 days after issuance of the permit.
2. Suspension or abandonment of work for 120 days after commencement of the work. Time of occurrence of suspension or abandonment of work shall be computed from the date of the most recent inspection since which no progress has been made.
3. Failure to complete work on a structure designed for residential uses within one year after issuance of a permit.
4. Failure to complete work on a structure designed for commercial or industrial uses within two years after issuance of a permit. For permits with a building valuation exceeding \$10,000,000.00 work shall be completed within three years after issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence or continue work. The Building Official is authorized to grant, in writing, for periods not more than 180 days each, two extensions. The extension shall be requested in writing and justifiable cause demonstrated. Any of the extensions may be further extended by action of the Council. In all cases, when a renewal is granted the structure for which the permit is required shall comply with code requirements in effect at the time the permit is renewed.

157.10 STOP WORK ORDERS. Section 108.5 shall be amended by deleting the last sentence stated as follows: “Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars.”

157.11 BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and hereby created a Board of Appeals, consisting of five (5) members. Board members shall be chosen and appointed based on diversity and building construction knowledge, all of whom shall be residents of the City. One member of said Board of Appeals at a minimum shall be a private citizen. The Building Official or designated representative shall be an ex-officio member without a vote and shall act as secretary of the Board. The appointment of members shall be for three-year terms, expiring on December 31, with not more than two members' terms expiring any one year. The Building Board of Appeals shall be appointed by the Mayor, subject to Council approval, and shall serve without compensation. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the Council such new legislation as is consistent therewith. The Board shall meet at will and when there are appeals or business on file for a hearing. Nominal appeal fee to the Building Board of Appeals shall be paid as set forth in Section 157.08 of this chapter. The appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

157.12 DEPTH OF WATER SERVICE. Section 305.6 shall be amended by deleting "Water service pipe shall be installed not less than 12 inches deep and not less than 6 inches below the frost line" and replacing with "Water service piping shall, whenever feasible, be no less than five feet below the surface of the ground."

157.13 FLOOR DRAINS. Section 412.3 shall be amended by adding the following section:

Unless otherwise approved by the inspector, at least one floor drain shall be provided in each room where an automatic water heater is, or will be installed, and in each mechanical room. When installed in a basement floor, such floor drain shall be at least three inches in diameter.

157.14 WATER HEATER FLOOR DRAIN. Section 504.6 shall be amended by adding the following item number:

14. Every water heater shall be located in close proximity to a floor drain meeting the provisions of Section 157.13 of the City's Code of Ordinances.

157.15 MINIMUM WATER SERVICE SIZE. Section 603.1 shall be amended by deleting "minimum size of water service pipe shall be 3/4 inch" and replacing with "minimum size of water service pipe shall be 1 inch for mains over 6 inches in diameter and 3/4 inch minimum size of water service pipe for mains 6 inches or less in diameter."

157.16 BUILDING SEWER. Section 710.1 shall be amended by adding the following sentence at the end of the section:

The minimum diameter for a building sewer shall be four (4) inches.

157.17 DRAINAGE BACKWATER VALVE. Section 715.1 shall be amended by adding the following sentences at the end of the paragraph:

The requirement for the installation of a backwater valve shall apply only when it is determined necessary by the Building Official based on local conditions. When a

valve is required by the Building Official, it shall be a manually operated gate valve or fullway ball valve. An automatic backwater valve may also be installed, but is not required.

157.18 VENTS NOT REQUIRED. Subsection 910.1 shall be amended by adding the following sections at the end of the paragraph:

No vents will be required on a downspout or rail leader trap, a backwater valve, a subsoil catch basin trap, a three inch basement floor drain, or a water closet provided its drain branches into the house drain on the sewer side at a distance of five feet or more from the base of the stack and the branch line to such a floor drain or water closet is not more than 15 feet in length. In single and two- family dwellings no vent will be required on a two inch basement P trap, provided the drain branches into a properly vented house drain or branch, three inches or larger, on the sewer side a distance of five feet or more from the base of the stack and the branch to such P trap is not more than eight feet in length.

157.19 EXCAVATION PERMITS. Excavation permits issued by the Department of Building to open streets, parking or other public property for the purpose of installation or repair shall be issued only after plumbing permits for the work have been obtained in accordance with this code. Each excavation permit shall contain the plumbing permit number.

157.20 SEWER SERVICE LINES MAINTENANCE. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the property owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of the building sewer.

157.21 RADON REMOVAL. All new below-grade construction may be provided with a means for radon removal. Any system used for the removal of the radon gas shall be in accordance with accepted industry standards. At a minimum, an airtight lid should be provided on the sump basket. The sump basket is tied to the footing tiles. The material used for fill beneath the below-grade level floor shall be pea gravel or larger in order to accommodate air and gas flow for removal.

157.22 SUBSURFACE DRAINAGE. The provisions of Section 157.23 of this chapter, which relate to subsurface drainage, shall apply to all subsurface drainage from buildings whether new or existing. In the event such drainage would discharge to a point upon or so adjacent to a public sidewalk or street as to permit the water so discharged to drain upon a public sidewalk or street during periods of community emergency generated by extraordinarily high levels of precipitation is permissible upon approval.

157.23 SECONDARY STORM SEWER. No building permits shall be issued for any structure in the City until provisions have been made to provide for secondary storm sewers to drain all subsurface and foundation drains in compliance with the following:

1. Sanitary Sewers – Prohibited Discharge. No person shall discharge or cause to be discharged any storm water runoff, surface or ground water, roof runoff, or subsurface drainage by a direct or indirect connection into the sanitary sewer system for any new construction within the area served by the City. Prohibited subsurface drainage shall include both interior and exterior foundation drains into the sanitary sewer system.

2. Foundation Drain Discharge – Alternative Methods. All foundation drains shall be disposed of in one of the two following alternative methods:

A. Sump Pump. A sump pump shall meet the provisions of the *International Residential Code*, when applicable, or the *International Plumbing Code*. Notwithstanding the provisions of Section 901.2.1 of the *International Plumbing Code*, in single-family dwellings, sumps of approved construction to which no fixtures except one floor drain are connected, and which receive only laundry wastes or basement drainage, need not be vented.

B. Alternative Method. Upon submission of plans and specifications to the City Engineer and/or Building Official by any developer for an alternate method of disposing of said waters which can be shown to be as effective as the above, then said proposed method shall be allowed by the City Engineer and/or Building Official.

3. Secondary Storm Sewer Details. Secondary storm sewers shall be constructed in accordance with the following:

A. Design and Materials. Discharge from footing drains and sump pumps must be discharged into a secondary storm sewer system or alternative drainage way as approved by the City Engineer and/or the Building Official. Piping for secondary storm sewer system shall be PVC pipe with thickness of SDR Series 35, or thicker, with joints capable of pressure loadings for periods when all sump pumps may be operating simultaneously. The secondary storm sewer system shall be located in the same manner as the normal storm sewer location unless it can otherwise be shown that a different location is advantageous and acceptable. It shall be equipped with an approved flap valve at the discharge end and shall have a sealed lid manhole at the upper terminus.

B. Capacity. The line shall be so designed as to accommodate the required flows based upon the assumption that:

(1) With one-half of the sump pumps pumping at 20 gpm (average 10 gpm per residence) the secondary storm sewer will handle all flows by gravity with pipe flowing full with velocity of minimum 2 fps;

(2) With all sump pumps pumping (each at 20 gpm) the velocity in the secondary storm sewer system shall not exceed 10 feet per second and the friction loss shall not exceed 5 feet per 100 feet of pipe; and

(3) That the minimum size shall not be less than 4";

(4) House connections shall be a minimum 1½" Schedule 40 PVC water pipe.

C. Flow Design Standards. The conditions of flow design for both gravity flow and pressurized flow shall be as per the following chart entitled "Friction Loss Characteristics of Water Flow Through Rigid Plastic Pipe." Typical results are as follows:

FRICTION LOSS CHARACTERISTICS OF WATER FLOW THROUGH RIGID PLASTIC PIPE							
Pipe	Min. Velocity Flowing Full-ups	Min. Slope at/100	Q at Min. Slope gpm	H1 Controls at 5' per 100p	Q at H1 Controlling gpm	V Controls at 10 fps	Q at V Controlling gpm
1½" Sch. 40	2	1.2	12	Yes	28	No	----
2" Sch. 40	2	0.85	19	Yes	53	No	----
4" DR 25	2	0.37	82	Yes	350	No	----
6" DR 25	2	0.23	178	No	----	Yes	910
8" DR 25	2	0.18	295	No	----	Yes	1490
10" DR 25	2	0.14	470	No	----	Yes	2400

Sump pump should deliver 20 gpm against operating head of 35 feet (or 15 psi) based upon a 50- foot long discharge line and 450 feet of secondary sanitary sewer, figuring 25 feet of line loss, 5 feet of lift, and 5 feet of loss through valves and fittings.

4. Elevation and Material to be Used for Footing Drains. Drain materials and elevation of piping shall meet the provisions of the *International Residential Code*, when applicable, or the *International Plumbing Code*. Such piping shall be placed with two (2) inches of bedding underneath and six (6) inches of acceptable material over, and shall be acceptable to the Building Official and subject to review by the Building Official.

5. Method of Installing Secondary Storm Sewers and Service Lines. With respect to installation of PVC SDR 35, or thicker, secondary storm sewer systems, all regulations that apply to the laying of PVC water main and service lines shall also apply to the laying of PVC secondary storm sewer and service lines, including depth and cover.

6. Installation of Footing Drain Service Lines Into Standard Storm Sewer. In instances where standard storm sewer is available for the connection of 1½" PVC Schedule 40 service lines, the Schedule 40 service lines shall be connected to the storm sewer by drilling a hole in the concrete storm sewer pipe of a diameter only slightly larger than the outside diameter of the service pipe, then place the service pipe through the storm sewer extending the end of the service pipe to, but not past, the interior wall of the storm sewer. The storm sewer shall be entered in its midpoint or above with these footing drain service lines. The ditch shall be filled under, around and over the PVC storm service pipe with stone or gravel to form a firm base under the PVC in the open ditch between where the PVC pipe comes out of unexcavated natural ground and the wall of the storm sewer pipe; all in a manner acceptable to the engineer.

7. Occupancy Permit. No occupancy permit shall be issued for any building or structure within the City that is not in compliance with this section.

8. Site Plan Detail. All site plans must provide details showing compliance with this section for the proposed system of Secondary Storm Sewer.

9. Illegal Acts. It is unlawful for any person to cause a violation of this section. A person who is the owner of any building or structure shall be responsible to cause

that building or structure to be in compliance with this section. Any inhabitant or occupant of any building or structure shall be responsible to cause that building or structure to be in compliance with this section.

10. Continuing Violation. Each day that a violation of this section occurs shall be deemed to be a separate violation.

11. Mandatory Connection. At such time as the Public Works Director decides there is adequate storm sewer or secondary storm sewer capacity available for the property owner to connect to, the Public Works Director shall inform the property owner in writing and allow said property owner ninety (90) days to install and connect a sump pump to the lines. If the property owner fails to comply, the Public Works Director shall hire a qualified plumber to complete the job and the costs shall be assessed to the property. Secondary storm service lines shall be installed in compliance with Section 157.20 of this code.

157.24 GREASE INTERCEPTORS. Notwithstanding the provisions of section 1003.3 of the *International Plumbing Code*, all food service establishments shall meet the requirements of Sections 97.04(2) and 97.05(2) of this Code of Ordinances in regard to grease interceptors.

157.25 VIOLATIONS. See Chapter 3 of this Code of Ordinances.

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CHAPTER 158

ELECTRICAL CODE

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158.09 Permit Fees	158.20 Temporary Electrical Work
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158.01 ADOPTION OF NATIONAL CODE. This chapter shall consist of the *National Electrical Code*, 2008 Edition, as published by the National Fire Protection Association, which volume is incorporated herein by reference as fully as though set forth herein in its entirety excepting only such portions as are herein stated to be deleted therefrom and such additional provisions as are hereinafter set forth. This chapter and all provisions incorporated herein by reference or otherwise shall be known as the "Electrical Code" may be cited as such, and will be referred to herein as such and as "this code."

158.02 AMENDMENTS AND ADDITIONS. The remaining sections in this chapter are and represent amendments and additions to the requirements contained in the *National Electrical Code* and where they conflict with those of the *National Electrical Code*, the requirements of this chapter shall prevail.

158.03 MOVED BUILDINGS, CHANGES OF USE OR OCCUPANCY, AND ALTERATIONS OR REPAIRS.

1. Buildings or structures moved into or within the City shall comply with the provisions of this code for new buildings or structures.
2. If the classification of a building has been changed due to a change in occupancy, the wiring in the entire building shall comply with all the electrical standards applicable to the new classification. If the occupancy of a building has been changed to a mixed occupancy, with the required fire separation between the mixed occupancy, each occupancy shall comply with its own particular classification and shall be wired in compliance with the electrical standards of its particular classification.
3. Additions to, alterations of, and repairs to existing electrical equipment shall comply with the electrical code. Furthermore, existing electrical equipment that is temporarily exposed or made accessible because of any remodeling or repair of an existing structure, shall be made to comply with the electrical code. In any event, the Building Official may, when any additions, alterations, or repairs are made, order other reasonable additions or alterations in the electrical equipment of a structure or

on any premises when a danger to life or property may result if such other additions or alterations were not made.

158.04 DEPARTMENT OF ELECTRICAL INSPECTION. There is hereby established in the City the Department of Electrical Inspections, which shall be under the direction and supervision of the Building Official. The Building Official shall be responsible to the City Administrator for the enforcement of the Building Codes, and such other ordinances as shall assign the Building Official that function, and shall perform such other duties as may be required by the City Administrator or by any classification plan adopted by the City. Additional responsibilities of the Building Official shall be assigned as required pursuant to Chapter 155 of this Code of Ordinances.

158.05 POWERS AND DUTIES OF ELECTRICAL INSPECTORS.

1. The Building Official shall have the authority to cause the disconnection of any wiring or equipment if it is dangerous to life or property or may interfere with the work of the Fire Department. He or she shall perform other duties as may be required by the City Administrator or by any classification plan adopted by the City.
2. If the Building Official or designated appointee has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the structure or premises unsafe, dangerous or hazardous, such official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this code; provided, if such structure or premises is occupied, credentials shall be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Building Official shall make reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Building Official shall have recourse to the remedies provided by law to secure entry.
3. The Building Official or designated appointee is hereby authorized, directed, and empowered to inspect all electrical installations within the City, to condemn and order removed or remodeled and put in proper and safe condition for the prevention of fire and the safety of life, all electrical heating and lighting apparatus, power generators, motors, machinery, fixtures and connections, electrical equipment used in the supply, distribution, or utilization of electrical current for light heat, or power purposes and to control the disposition and arrangements of the same so that persons and property shall not be in danger therefrom.
4. The Building Official shall administer and enforce the provisions of this chapter. He or she shall keep records of each ruling or determination made under its provisions, and notify in writing all persons involved. He or she shall keep complete records of all permits issued, inspections made, and other official work performed in accordance with the provisions of this chapter.
5. The Building Official and his or her assistants shall not engage in the business of the sale, installation, or maintenance of electrical equipment either directly or indirectly, and they shall have no financial interest in any firm engaged in such business in the City at any time while holding office.

158.06 LIABILITY FOR DAMAGES.

1. The City or any employee of the City is not liable for damages to a person or property as a result of any act or failure to act in the enforcement of this code, unless the act of enforcement constitutes false arrest.
2. This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any equipment or structure regulated herein for damages to a person or property caused by its defects nor shall the City or any City employee be held as assuming any such liability by reason of the inspections authorized by this code or any approvals issued under this code.

158.07 PERMITS NOT REQUIRED. The following items do not require a permit:

1. Replacement of lighting fixtures, receptacles, switches, over-current protection devices of the same volt and amperage.
2. The repair or replacement of flexible cords of same volt and amperage.
3. The process of manufacturing, testing, servicing, or repairing of electrical equipment or apparatus.
4. Minor repair and adjustment where the total cost of the work does not exceed \$100.00.
5. No permit or inspections are required for electrical wiring of 50 volts or less.

158.08 PERMIT ISSUANCE.

1. Permits are not transferable. Electrical work performed under the provisions of this chapter must be done by a contractor meeting the licensing provisions as set forth by the Iowa Electrical Examining Board in accordance with Chapter 103 of the *Code of Iowa* unless the provisions of Section 158.13 of this Code of Ordinances Code are met. An electrician licensed by the State of Iowa Electrical Examining Board as a “Master A or B” may sign and obtain a permit for the contractor for which they are employed only when said “Master A or B” has provided proof of employment by said licensed contractor. Any permit required by the provisions of this code may be revoked by the Building Official upon the violation of any provision of this code.
2. A State of Iowa licensed electrical contractor shall be allowed only to secure permits for himself or herself, or for a single firm or corporation. When a State of Iowa licensed electrical contractor has secured such a permit, only the employees of such contractor when meeting the provisions of Chapter 103 of the *Code of Iowa* shall perform the work for which the permit was obtained.
3. For purposes of this section, an “employee” shall be one employed by the contractor, firm, or corporation for a wage or salary. A contractor may be required by the Building Official to show positive evidence as to the employee status of workers on the job. Such evidence shall be in the form of payroll and time records, canceled checks, or other such documents.
4. The contractor may also be required to show the agreement or contract pertaining to the work being questioned as evidence that said contractor is, in fact, the actual contractor for such work. Failure or refusal by the contractor to make available

such employee or contractual records within 24 hours from demand therefor shall be grounds for immediate revocation of any permit for the work in question.

158.09 PERMIT FEES.

1. Permit Fees.

A. A fee for each electrical permit shall be paid to the Building Official in the amount set in the Schedule of Fees adopted by the Council. No electrical permits shall be issued to any person who has fees outstanding as required by this code or any other laws or ordinances of the City. Fees for repairs to items listed shall be the same as for new construction. Any permit required by the provisions of this code may be revoked by the Building Official upon the violation of any provision of this code.

B. If a permit is issued for a specific amount of work and, upon inspection, it is determined that more work was performed than was authorized by the permit, the permittee shall amend the permit or obtain another permit to include all additional work and shall pay a new base fee and any unit fees as described in paragraph A above.

2. Additional permit fees are as follows:

A. Double Fee. Except in emergency situations, as determined by the Building Official, where work for which a electrical permit is required by this code is started or proceeded with by any person prior to obtaining a required permit, the fees specified as set forth in the amount set in the Schedule of Fees as adopted by the Council shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work or from any other penalties prescribed herein. No additional permits of any type shall be issued to any person who owes the City the double fee described in this subsection. However, no double fee shall be imposed upon any person who starts without a permit if:

(1) The work is started on a Saturday, Sunday, or holiday, or during any other day when the Building Department is not normally open for business; and

(2) The person secures the proper permit on the next Building Department working day.

(3) No plan review is required prior to issuance of the permit.

B. Refunds. If, within 30 days of the date of issuance, the holder of a electrical permit decides not to commence the work described in said permit, said person may, upon application to the Building Official, be refunded that portion of the permit fee which is in excess of the permit refund fee set in the schedule of fees adopted by Council.

C. Permit Renewals. Fees for permit renewals as stated in Section 158.10 shall be based on the amount of remaining work to be completed. If the plans are changed enough to warrant a review then the permit fee shall be one-half the cost of the original fee (or the hourly cost to the jurisdiction, whichever is greater), plus any fees as set forth in subsection E of this code

section. This cost shall include supervision, overhead, hourly wages, and fringe benefits of the employees involved.

D. Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official. To obtain a reinspection, the applicant shall file an application therefor in writing on a form furnished for that purpose and pay the reinspection fee in accordance with the schedule of fees as adopted by Council. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

E. Other Inspections and Fees. See the Schedule of Fees as adopted by Council.

Persons performing work for the Federal Government, the State, the County or City may obtain permits for such work without paying the permit fees described herein; provided, however, nothing in this section shall be construed to exempt payment of permit fees by persons performing work under the direction of the City in connection with the abatement of any public law. An expired permit may not be reissued without a permit fee except by resolution of the Council.

158.10 EXPIRATION. Every permit issued by the Building Official under the provision of the electrical code shall expire under any one of the following conditions:

1. Failure to begin work authorized within 180 days after issuance of the permit.
2. Suspension or abandonment of work for 120 days after commencement of the work. Time of occurrence of suspension or abandonment of work shall be computed from the date of the most recent inspection since which no progress has been made.
3. Failure to complete work on a structure designed for residential uses within one year after issuance of a permit.
4. Failure to complete work on a structure designed for commercial or industrial uses within two years after issuance of a permit. For permits with a building valuation exceeding \$10,000,000.00 work shall be completed within three years after issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence or continue work. The Building Official is authorized to grant, in writing, for periods not more than 180 days each, two extensions. The extension shall be requested in writing and justifiable cause demonstrated. Any of the extensions may be further extended by action of the Council. In all cases, when a renewal is granted, the structure for which the permit is required shall comply with code requirements in effect at the time the permit is renewed.

158.11 BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this code, there shall be and hereby created a Board of Appeals, consisting of five (5) members. Board members shall be chosen and appointed based on diversity and building construction knowledge, all of whom shall be residents of the City. One member of said Board of Appeals (at a minimum) shall be a private citizen. The Building Official or designated representative shall be an ex-officio member without a vote and shall act as secretary of the Board. The appointment of members shall be for three-year terms, expiring on December 31, with not more than two members' terms expiring any one year. The Building Board of Appeals shall be appointed by the Mayor, subject to Council approval, and shall serve without compensation. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the Building Official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall meet at will and when there are appeals or business on file for a hearing. Nominal appeal fee to the Building Board of Appeals shall be paid as set forth in Section 158.09. The appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

158.12 CONSTRUCTION DOCUMENTS. The Building Official shall require construction documents, computations and specifications to be prepared by a registered design professional licensed by the State to practice such.

1. Construction documents, engineering calculations, diagrams and other data shall be submitted in two or more sets with each application for a permit.
2. Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that the work conforms to the provisions of this code.
3. Construction documents shall indicate location and clear space of electrical equipment, and the material and methods for maintaining required structural safety, fire-resistance rating and fire blocking.
4. Exceptions.
 - A. The Building Official shall have the authority to waive the submission of construction documents, calculations or other data if the nature of the work applied for is such that reviewing of construction documents is not necessary to determine compliance with this code.
 - B. In the case of one- and two-family dwellings.
 - C. In the case of minor construction and repair.
 - D. In the case of accessory buildings when related to one- and two-family dwellings.

158.13 EXEMPTION TO REQUIREMENT OF STATE CONTRACTOR'S LICENSE. In accordance with Section 103.22 of the *Code of Iowa*, a subdivision may provide licensure for those who perform business within the corporate limits of the subdivision. The following criteria must be met in order to obtain an electrical permit without being licensed by the State of Iowa Electrical Examining Board as a licensed electrical contractor:

1. An employee having received a “Masters A or B” license as issued by the State of Iowa Electrical Examining Board must sign the permit. Exception: An employee tasked with performing electrical work as indicated in their job description, which must be on file with the Department, may continue to obtain an electrical permit until December 31, 2014, after which said employee must have received a State-issued Master license or one be employed by the firm/business.
2. The signatory of the permit must be an employee of a firm or business based within the community and approved by the Department of Building.
3. The firm or business must not provide electrical work for any other entity other than its own and the firm or business must not be registered with the Iowa Workforce Development, Labor Division, as an electrical contractor.
4. Employees of the firm/business who have been issued an electrical permit shall conduct the work performed for which the permit was obtained.
5. The installation to be performed does not, in any way, involve work within a new switchboard or panel board with a voltage in excess of 480 volt.
6. The scope of work shall be limited to alterations of existing interior space of 5,000 square feet or less, not defined as a hazardous location pursuant to the adopted electrical code, and for any new or existing accessory structure(s) of not more than 1,000 square feet in floor area, that meet #5 listed above and not defined as a hazardous location.

158.14 TAMPER RESISTANT RECEPTACLES. Section 406.12 shall be added to Article 406 of the 2008 *National Electrical Code* as follows:

406.12 TAMPER RESISTANT RECEPTACLES IN DAY CARE FACILITIES. In all buildings, structures, rooms or spaces having a use for educational, supervision, or personal care services for more than five children older than 2½ years of age but less than 6 years of age or as defined by either sections 308.3.1 or 308.5.2 of the 2006 International Building Code shall have listed tamper resistant receptacles installed on all 125 – Volt, 15 and 20 ampere receptacles in areas specified in section 210.8 (B) (1, 2, 4, and 5) and section 210.50 (B) of the 2008 National Electrical Code.

158.15 INSPECTIONS.

1. The person doing electrical work, for which a permit is required, shall notify the Building Official that the work is ready for inspection. The Building Official shall, without undue delay, perform the required inspection and, if the work complies with the provision of this code the Building Official shall issue a notice of approval. If the work does not comply with the provisions of this code, the Building Official shall post a notice in a conspicuous place on or near the work. The notice shall contain the date and results of the inspection, and when requested, note specific violations. Work that has no notice attached shall be considered unapproved. No notices shall be removed by any person other than the Building Official.
2. When the electrical work is completed, the person doing it shall notify the Building Official that the work is ready for final inspection.
3. Whenever it shall be ascertained by inspection that any electrical installation or part thereof in any building is so defective as to render the same dangerous to person or property, the Building Official shall at once cause notice to be served upon

the owner or person in charge, or the occupant of the same, to remedy the defects within a reasonable time, to be stated in the notice. If defects are not remedied within the time fixed by the notice, the Building Official may cause the electric current to be disconnected from the building. The electric current shall not again be turned on until all defects or improper conditions have been removed, or repaired in conformance with the provisions of this code.

158.16 COVERING OR CONCEALING WORK. No electrical work for which a permit is required shall be concealed in any manner from access or sight until the work has been inspected and approved by the Building Official.

158.17 REMOVAL OF COVERING. The Building Official shall have the authority to remove or cause the removal of lath, plaster, boarding, or other obstruction which may prevent the proper inspection of wires or electrical equipment.

158.18 CORRECTING DEFECTIVE WORK. When any person is notified that defects exist in his or her electrical work, he or she shall make corrections within 30 days after notification. If not so made, such person shall not be issued any other permits until defects are corrected, and approval given by the Building Official.

158.19 CONFORMITY WITH STANDARDS. Conformity with the standards of the Underwriter's Laboratories Incorporated as approved by the United States of American Standards Institute shall be evidence of conformity with approved standards for electrical equipment.

158.20 TEMPORARY ELECTRICAL WORK. "Temporary electrical work" means that work which is obviously installed for the convenience of a person during construction. This work shall be the complete responsibility of the person who installs it and shall not require the inspector's approval prior to being used, provided that the inspector may require corrections in the wiring to eliminate any hazardous or unsafe conditions. All such work shall be removed before final approval of permanent electrical work. Temporary electrical work shall not be permitted to remain in use in excess of six months except by written permission of the electrical inspector.

158.21 FURNISHING CURRENT PRIOR TO APPROVAL OF WIRING. No person or corporation generating current for electric light, heat or power in the City shall connect its system or furnish current for electrical purposes to any building or premises which has not been inspected and approved by the Building Official. Any person or corporation shall, upon written notice from the Building Official to do so, immediately disconnect such building or premises from its source of current.

158.22 VIOLATIONS. See Chapter 3 of this Code of Ordinances.

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CHAPTER 159

HOUSING CODE

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159.14 Notice on Sale of Dwelling	159.29 Civil Liability
159.15 Name and Address of Agent Filed	159.30 Additional Liability

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

1. “Certificate” means the certificate issued within fourteen (14) days after written application therefor if the dwelling at the date of such application shall be entitled thereto. Such certificate shall hereafter be known as an occupancy certificate.
2. “Dwelling” means any house or building or portion thereof which is occupied in whole or in part as a home or residence of one or more human beings, either permanently or transiently on a rental basis. No part of a building hereafter constructed as or altered into a dwelling as described may be occupied in whole or in part for human habitation until the issuance of a certificate by the Building Inspector that such part of the dwelling conforms to code requirements. A single family unit that is not being rented on a permanent or transient basis or a portion of such single family unit shall be exempt from this chapter.

159.02 HOUSING CODE. This chapter shall be known as the Mitchellville, Iowa, Housing Code, and may be cited as such, and will be referred to herein as “this chapter.”

159.03 PURPOSE. The purpose of this Code is to ensure that rental housing facilities and conditions are of sufficient quality to protect and promote the health, safety and welfare of those persons utilizing such housing and also the general public.

159.04 SCOPE. The provisions of this chapter shall be deemed to apply to all dwellings as defined in this chapter or portions thereof used or designed or intended to be used for human habitation. All occupancies in existing buildings may be continued except such structures as are found to be substandard as defined in this Code. Where any building or portion thereof is used or intended to be used as a combination apartment house-hotel, the provisions of this Code shall apply to the separate portions as if they were separate buildings. Every rooming house or lodging house shall comply with all of the requirements of this Code applicable to dwellings.

159.05 ADOPTION OF HOUSING CODE. In accordance with the requirements of Section 364.17 of the *Code of Iowa*, the City hereby adopts the *Uniform Housing Code*, 1994 Edition, published by the International Conference of Building Officials and the *Recommended Minimum Housing Standards*, 1986 Edition, as published by the American Public Health Association.

159.06 REGULAR INSPECTIONS. Regular inspections of rental dwelling units shall be required every two years.

159.07 APPLICATION FOR A CERTIFICATE. Every person that offers for rent a dwelling unit within the City shall submit to the City Building Department, on forms provided, an application requesting an inspection certificate. Such application shall be accompanied by an inspection fee in an amount established by Council resolution. Upon receipt of such application, the City shall conduct an inspection of the premises, and if the same complies with the provisions of this chapter, issue an inspection certificate. If the premises fails to comply, the inspector shall notify the applicant in writing, stating the reasons for such noncompliance.

159.08 ADDITIONAL INSPECTIONS. In addition to the inspections required under 159.06, the Building Inspector is also empowered to make similar inspections of all rental units as frequently as may be necessary and may make inspection at any reasonable time on a written complaint submitted by the owner, tenant, or other person concerned.

159.09 INSPECTION FEES FOR ADDITIONAL INSPECTIONS. When an inspection is made at the request of the owner, an inspection fee as provided in Section 159.07 shall be charged. If an inspection is made at the written request of a tenant and the dwelling is found to be in noncompliance due to an omission of the owner, such owner shall be responsible for the reinspection fee. No inspection shall be conducted at the request of a tenant unless the tenant has first submitted the complaint in writing to the landlord no less than seven (7) days before making such complaint to the City. If, after a written complaint by the tenant, the dwelling is found to comply or if such noncompliance is due to conduct on the part of the tenant, the tenant shall be liable for the cost of such inspection. If such costs are not paid by the tenant within thirty (30) days from the date of billing, the City may initiate an action in law or in equity to recover the same, in which event the tenant shall be liable for reasonable attorney fees. No fee shall be charged to the owner for such inspection. In the event an inspection is initiated by the City or at the request of a person other than the owner or tenant, and if the building is found to be in noncompliance, the owner shall be liable for such inspection fees. In the event that on the date of the inspection the building complies with the provisions of the Housing Code, no fee shall be charged. In the event that on the date of inspection a dwelling fails to comply with the provisions of the Housing Code which necessitates additional inspections, the owner shall be liable for the cost of such reinspection. All fees required under this Code shall be paid prior to the issuance or renewal of the inspection certificate.

159.10 ENTRANCE AND SURVEY OF BUILDINGS. The Building Inspector and any such other persons as may be authorized by the City Administrator may, without fee except as provided in Section 159.07, enter, examine, make necessary records, and survey all rental dwellings within the City. If entry into the interior portion of a dwelling unit is required, seventy-two (72) hours' notice shall be given by the City to the tenant. The owner or agent or representative of the owner and the lessee and occupant of every rental dwelling and every

person having the care and management of the same shall, at all reasonable times when required by such officers or persons, give them free access to such rental dwellings and premises. The owner of a rental dwelling and any agents and employees shall have right of access to such dwellings at reasonable times for the purpose of bringing about compliance with the provisions of this Code or any order issued thereunder.

159.11 INSPECTION CERTIFICATE REQUIRED. A temporary occupancy permit will be issued to all previously existing dwellings and shall expire on March 1, 1997. From and after the first of March, 1997, no person shall rent, lease, operate, or otherwise allow the occupancy of any dwelling unless such person holds a valid inspection certificate as is required by this chapter.

159.12 ISSUANCE DURATION; VALIDATION. If the dwelling and premises are found to comply with the requirements of this chapter upon reinspection, the Building Inspector shall issue temporary inspection certificate. This certificate shall be valid for a period of thirty (30) days from the date of inspection. Upon payment of the appropriate fees the Building Inspector shall validate it.

159.13 CERTIFICATE DISPLAYED; TRANSFERABILITY. Inspection certificates shall be transferable to succeeding owners. They shall be displayed by the owner for the tenant to examine before the dwelling may be rented, leased, or otherwise occupied.

159.14 NOTICE ON SALE OF DWELLING. Every person holding an inspection certificate under this chapter shall give notice in writing to the Building Inspector within ninety-six (96) hours after having sold, transferred, conveyed or otherwise disposed of the ownership, interest in or control of any dwelling. This notice shall include the name and address of the person succeeding to the ownership or control thereof.

159.15 NAME AND ADDRESS OF AGENT FILED. Every owner, agent or lessee of a dwelling may file with the Clerk a notice containing the name and address of an agent of such dwelling for the purpose of receiving service of all notices required by this chapter.

159.16 EMERGENCY ORDER. Whenever the Building Inspector finds that an emergency exists which threatens immediately the public health, the Building Inspector may issue an order reciting the existence of such an emergency and requiring that such action be taken as the Building Inspector deems necessary to meet the emergency. Notwithstanding the other provisions of this Code, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately.

159.17 DESIGNATION OF UNFIT DWELLING; CONDEMNATION. No person shall let to another for occupancy any rental dwelling for the purpose of living, inhabiting, sleeping, cooking, or eating therein which does not comply with the following requirements: Any dwelling which shall be found to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the Building Inspector.

1. One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin infested that it creates a serious hazard to the health or safety of the occupants or the public.

2. One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public.
3. One which, because of its general condition or location is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.

159.18 VACATED IMMEDIATELY. Any dwelling or any portion thereof condemned as unfit for human habitation and so designed and placarded by the Building Inspector shall be vacated immediately as ordered by the Building Inspector. The Building Inspector shall notify the City of such action prior to placarding the dwelling.

159.19 ELIMINATION OF DEFECTS. No dwelling or any portion thereof which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

159.20 DEFACE OR REMOVE PLACARD. No person shall deface or remove the placard from any dwelling which has been condemned as unfit for human habitation and placarded as such, except as provided in this Code.

159.21 AUTHORITY TO EXECUTE. In case any notice or order issued by the Building Inspector or City is not complied with, the Building Inspector may recommend that the City apply to the District Court for an order authorizing the City to execute and carry out the provisions of the notice or order to correct any violation specified in the notice or order or to abate any nuisance in or about dwelling.

159.22 ACTION TO ENJOIN. In case any dwelling, building or structure is constructed, altered, converted or maintained in violation of any provisions of this chapter or of any order or notice of the Building Inspector, or in case a nuisance exists in any such dwelling, building or structure or upon the lot on which it is situated, the Building Inspector may cause the institution of any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation, nuisance, to prevent the occupation of the dwelling, building or structure, or to prevent any illegal act, conduct business in or about such dwelling or lot.

159.23 INJUNCTION. In any such action or proceeding, the Building Inspector may by a petition duly verified setting forth the facts request that the City apply to the District Court for an order granting the relief for which the action or proceeding is brought, or for an order enjoining any persons from doing or permitting to be done any work in or upon such dwelling, building, structure or lot, or from occupying or using the same for any purpose until the entry of final judgment or order.

159.24 EVICTION – LEASE TERMINATION. If the occupant of a dwelling fails to comply with the provisions of this chapter after due and proper notice from the Building Inspector or from the owner, such failure to comply shall be deemed sufficient cause for the eviction of such occupant by the owner and for cancellation of such person's lease.

159.25 DUTIES OF OCCUPANT. It is unlawful for any tenant to deliberately or recklessly destroy, deface, damage or remove a part of the premises or to knowingly permit

any other person to do so, or to remove without permission of the landlord any furniture or other items of personal property belonging to the land or to cause damage resulting in noncompliance with the Building Code.

159.26 NOTICE OF ACTIONS. In any action brought by the City in relation to a dwelling or injunction, vacation of the premises, or abatement of nuisance or to establish a lien thereon, or to recover a civil penalty, service of notice shall be in the manner provided by law for the service of original notices.

159.27 RENT COLLECTIONS. Rent shall not be recoverable by the owner or lessee of any dwelling unit which does not comply with the provisions of this Code for any period of occupancy which commences on or after the date that the City gives notice to the owner and tenant of the provisions of this section. Rent shall not thereupon be recoverable by the owner of such dwelling unit until the City gives written notice to the owner and occupant that such dwelling unit has been issued a valid inspection certificate as required by this Code.

159.28 CITY LIABILITY. The City or any employee is not liable to damages to a person or property as a result of any act or failure to act in the enforcement of this Code. This Code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any equipment or structure regulated herein for damages to a person or property caused by its defects, nor shall the City or any City employee be held as assuming any such liability by reason of the inspections authorized by this Code or any approvals issued under this Code.

159.29 CIVIL LIABILITY. The owner of any dwelling or of any building or structure upon the same lot with a dwelling, or of the lot, or any violation of this chapter or where a nuisance as defined in this Code of Ordinances exists, who has been guilty of such violation or of creating or knowingly permitting the existence of such violation, or any occupant who shall violate or assist in violating any provisions of this chapter, shall also jointly and severally for each such violation and each such nuisance be subject to a civil penalty to be recovered for the use of the Building Department in a civil action brought in the name of City by the Building Inspector. Such person or persons and also the premises shall be liable in such case for all costs, expenses and disbursements paid or incurred by the Building Department, including attorneys' fees, paid or incurred by the City, by any of the officers, agents or employees thereof, in the removal of any such nuisance or violation.

159.30 ADDITIONAL LIABILITY. Any person who, having been served with a notice or order to remove any such nuisance or violation, fails to proceed in good faith to comply with the notice or order within five (5) days after such service, or continues to violate any provisions or requirements of this Code of Ordinances shall also be subject to a civil penalty. For the recovery of such penalties, costs, expenses or disbursements, an action may be brought in a court of competent civil jurisdiction.

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CHAPTER 160

COMMUNICATIONS TOWERS AND ANTENNAS

160.01 Purpose and General Policy	160.09 Special Use Permit Not Required
160.02 Definitions	160.10 Special Use Permit Is Required
160.03 Local Regulation and Compliance with the Telecommunications Act of 1996	160.11 Standards for Special Use Permit
160.04 Priorities and Placement Requirements	160.12 Cell Sites on Private Property
160.05 Lease Required	160.13 Noise and Emission Standards
160.06 Fee Required	160.14 Abandonment
160.07 Limit on Term of Lease	160.15 Termination
160.08 Application Process	160.16 Home Rule
	160.17 New Technologies

160.01 PURPOSE AND GENERAL POLICY. It is necessary for the City to establish uniform rules and policies in order to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize wireless communication technologies, and in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the City to a return on its investment on public property.

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

1. “Antenna height” means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades of the cell site shall be used in calculating the antenna height.
2. “Antenna support structure” means any tower or any other structure which supports a device used in transmitting or receiving telecommunications signals.
3. “Cell site” means a tract or parcel of land that contains the wireless communication antenna, its support structure, accessory buildings and parking, and may include other uses associated with and necessary for wireless communication transmission.
4. “Communications tower” means a tower, pole, or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.
5. “Telecommunications” means the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

160.03 LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996. The Telecommunications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following objectives shall be applied consistently to all telecommunications providers that request a location on City property for their communications towers and antennas.

1. To reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communications companies, local law enforcement, fire and ambulance services.
2. To ensure that new towers will be safe and blend into their environment, a full site plan shall be required for all cell sites, showing the antenna, antenna support structure, building, landscaping, fencing, buffering and access.
3. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort. Monopoles shall be required with respect to any cell site other than industrial zoning districts. All lattice or guyed towers are prohibited in all zoning districts except industrial zoning districts.
4. To assure revenues from site leases of City-owned and controlled land and structures reflect fair compensation for use of City property and administration of this chapter.

160.04 PRIORITIES AND PLACEMENT REQUIREMENTS.

1. Priority. Priority of the use of City-owned land for communications antennas and towers will be given to the following entities in descending order of priority:
 - A. All functions of the City.
 - B. Public safety agencies that are not a part of the City, including but not limited to law enforcement, fire and ambulance services.
 - C. Other governmental agencies for uses which are not related to public safety.
 - D. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.
2. Placement. The placement of communications antennas or towers on City-owned property must comply with the following requirements:
 - A. The antenna or tower will not interfere with the purpose for which the City-owned property is intended.
 - B. The antenna or tower will have no adverse impact on surrounding private property.
 - C. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to City property and facilities. Applicant will also submit a letter of credit, performance bond or other security acceptable to the City to cover the cost of antenna or tower removal.
 - D. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.
 - E. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antenna or tower.

160.05 LEASE REQUIRED. No person or other entity shall use any public property without first obtaining a lease from the City.

160.06 FEE REQUIRED. No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

160.07 LIMIT ON TERM OF LEASE. No lease for the use of public property shall be granted for a term of more than 5 years.

160.08 APPLICATION PROCESS. All applicants who wish to locate a communications antenna or tower on City-owned or private property must submit to the City Administrator a completed application accompanied by a fee of two hundred dollars (\$200.00) and the following documents:

1. Identification of the owners of all antenna and equipment to be located on the site.
2. Written authorization from the owners of the site for the application.
3. Proof shall be provided that the applicant is licensed by the Federal Communications Commission.
4. A copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.
5. A current map showing locations of any existing antennas, facilities, existing towers and proposed towers currently serving any property within the City.
6. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EI4/TI4 222, latest revision, standards.
7. Applicant must provide the names, addresses and telephone numbers of all owners of other towers or usable antenna support structures within a one-half mile radius of the proposed new tower site, including City-owned property, and written documentation that the applicant (1) made diligent but unsuccessful efforts for a minimum of forty (40) days prior to the submission of the application to install or co-locate the applicant's tele-communications facilities on towers or useable antenna support structures owned by the City and other persons located within a one-half mile radius of the proposed tower site, or (2) written technical evidence from an engineer that the proposed tower or facilities cannot be installed or co-located on another person's tower or support structure.
8. Applicant must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.
9. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
10. Applicant must provide a written indemnification of the City and proof of liability insurance and financial ability to respond to claims up to \$1,000,000.00 in the aggregate which may arise from operation of the facility during its life at no cost to the City.

11. A written agreement to remove the tower and/or antenna within 180 days after cessation of use.

160.09 SPECIAL USE PERMIT NOT REQUIRED. A cell site with antenna that is attached to an existing communications tower, smoke stack, water tower, or other structure of sufficient height, is permitted in all zoning districts. The height of the antenna shall not exceed the height of the existing structure by more than twenty (20) feet. If the antenna is to be mounted on an existing structure, a site plan shall not be required but the following conditions must be met where applicable:

1. Water Tower Sites. The City's water towers represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of prime importance. As access to the City's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on water towers will be allowed only when the following requirements are met:

- A. The applicant must have approval from the Public Works Director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.
- B. It is determined by the Public Works Director that there is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.
- C. It is determined that the presence of the facility will not increase the water tower maintenance cost to the City.
- D. It is determined that the presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower.
- E. A lease fee of \$500.00 per month will be charged for the placement of antenna/tower on a City water tower.

2. All Other Existing Structures Other than Water Tower Sites. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to (a) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City, or (b) camouflaged antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches from the side of such an antenna support structure.

160.10 SPECIAL USE PERMIT IS REQUIRED. A cell site with antenna that is either not mounted on an existing structure or is more than 20 feet higher than the structure on which it is to be mounted shall not be permitted except pursuant to a special use permit issued by the Board of Adjustment.

160.11 STANDARDS FOR SPECIAL USE PERMIT. The following standards and procedures shall apply to the issuance of a special use permit for a cell site with antenna:

1. Necessity. The wireless communications company shall demonstrate, using technological evidence, that the antenna must be located where it is proposed in order to satisfy the antenna's function in the company's grid system.
2. Co-location Effort. If the wireless communications company proposes to build a tower as opposed to mounting the antenna on an existing structure, it shall demonstrate that it has contacted the owners of structures with adequate height within a one-quarter mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reason other than failure to agree on compensation. The Board of Adjustment may deny a request for a special use permit if it concludes that the applicant has not made a good faith effort to mount the antenna on an existing structure.
3. Antenna Height. The applicant must demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.
4. Antenna Support Structure Safety. The applicant shall demonstrate, to the reasonable satisfaction of the Board of Adjustment, that the proposed structures are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, or radio frequency interference. All support structures shall be fitted with anti-climbing devices.
5. Co-location. In order to reduce the number of antenna support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including other wireless communications companies, local law enforcement, fire and ambulance services.
6. Parks. Communications antennas or towers will only be considered in any of the parks of the City in the following situations:
 - A. In a public park of sufficient size, scale and character that is adjacent to an existing commercial or industrial use.
 - B. Commercial recreational areas and major ball fields.
 - C. Park maintenance facilities.
 - D. A lease fee of \$1,000.00 per month will be charged for antenna/towers located in park areas.
7. Painting. Antenna support structures shall be painted in such a manner as to reduce the visual impact and create a harmonious appearance with its surroundings.
8. Site Plan. A full site plan shall be required for all cell sites, not on an existing structure, showing the antenna, antenna support structure, building, fencing, landscaping, buffering and access and shall include the following information:
 - A. Plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structure.
 - B. Parking Spaces. If a cell site is fully automated, adequate parking shall be required for maintenance personnel. If a cell site is not automated,

the number of parking spaces shall be equal to the number of personnel on the largest work shift.

C. Fencing. An opaque fence shall be installed around the antenna support structure and other equipment unless the antenna is mounted on an existing structure. The fence shall be a maximum of six (6) feet in height and serve to screen the base of the structure and to ensure safety.

D. Setbacks From Base of Antenna Support Structure. The minimum distance between the base of the support structure and guy anchors and any property line shall be the largest of the following:

- (1) Fifty percent (50%) of the antenna height;
- (2) The minimum setback in the underlying zoning code.
- (3) Sixty (60) feet.

9. Air Safety. Support structures 200 feet in height or taller shall meet all Federal Aviation Administration regulations.

160.12 CELL SITES ON PRIVATE PROPERTY. Prior to a special use permit being issued by the Board of Adjustment for the location of antenna or towers on private property, the applicant must show that available publicly owned sites and available privately owned sites occupied by compatible use, are unsuitable for operation of the facility.

160.13 NOISE AND EMISSION STANDARDS.

1. Noise. No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a back-up generator, where the noise standards may be exceeded temporarily.

2. Emissions. The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets the FCC standards.

160.14 ABANDONMENT. In the event the use of any communications tower has been discontinued for a period of 180 consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the City Administrator who shall have the right to request documentation and/or affidavits from the communications tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator shall have an additional 180 days within which to: (1) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (2) dismantle and remove the tower. At the earliest, 181 days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception, variance and/or special use permit for the tower shall automatically expire.

160.15 TERMINATION. The Council may terminate any lease if it is determined that any one of the following conditions exist.

1. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
2. A user violates any of the standards in this chapter or the conditions attached to the City's lease agreement.

Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for a hearing before the Council regarding the proposed action. This procedure need not be followed in emergency situations.

160.16 HOME RULE. This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the City contained herein is to be strictly construed and the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforced against the holders of any lease.

160.17 NEW TECHNOLOGIES. Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient and economical through the use of a substance or material other than those for which the lease was originally made, the holder of the lease may petition the Council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.

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CHAPTER 161

FIRE CODE

161.01 Adoption of Fire Code	161.13 Key Boxes
161.02 Deletions	161.14 Fire Department Connections
161.03 Amendments and Additions	161.15 Handrails
161.04 Electrical	161.16 Requirements for Egress Window Landings
161.05 Permit Fees	161.17 Registration of Flammable and Combustible Storage Tanks
161.06 Types of Permits	161.18 Fireworks
161.07 Expiration	161.19 Fireworks Bond for Display and Disposal
161.08 Board of Appeals	161.20 Hazardous Substances, Notification and Cleanup
161.09 Open Burning and Recreational Fires	161.21 False Fire Alarms
161.10 Liquefied Petroleum Gas Fueled Cooking Devices	161.22 Violations
161.11 Fire Lane Identification	
161.12 Premises Identification	

161.01 ADOPTION OF FIRE CODE. This chapter shall consist of the *International Fire Code*, 2006 Edition, as published by the International Code Council, which volume is incorporated herein by this reference as fully as though set forth herein in its entirety, excepting only such portions as are hereinafter stated to be deleted therefrom and such additional provisions as are hereinafter set forth. This chapter and all provisions incorporated herein by reference or otherwise shall be known as the “Fire Code,” may be cited as such, and will be referred to herein as such and as “this code.”

161.02 DELETIONS. The following are hereby deleted from this code and are of no force or effect herein:

1. Subsection 105.3.1 and Subsection 105.3.2
2. Section 108
3. Section 307.1

161.03 AMENDMENTS AND ADDITIONS. The remaining sections in this chapter are and represent amendments and additions to the requirements contained in the Fire Code, and where their requirements conflict with those of the Fire Code, the requirements of this chapter shall prevail. The sections listed below shall be construed in the context of the enumerated chapter or chapters of the Fire Code.

1. Section 161.03 - Section 202 IFC (Definition of Bedroom)
2. Section 161.04 - IFC (Electrical Code)
3. Section 161.05 – Section 105.1.1 (Permit Fees)
4. Section 161.06 - Section 105.1.2 (Types of Permits)
5. Section 161.09 – Section 307.1 (Open Burning)
6. Section 161.10 - Section 308.3.1.1 (Liquefied-petroleum-gas-fueled-cooking-devices)
7. Section 161.11 - Section 503.3 (Fire Lane Identification)
8. Section 161.12 - Section 505.1 (Premises Identification)

9. Section 161.13 - Section 506.1 (Key Boxes)
10. Section 161.14 - Section 912.1 (Fire Department Connections)
11. Section 161.15 - Section 1012.4 (Handrails)
12. Section 161.16 - Section 1026.3 (Egress Window Landings)
13. Section 161.17 - Section 3401.4 (Registration of flammable and combustible container/tanks)

For the purposes of this code, the word “bedroom” means any room with a permanently built-in closet, designed for and potentially used for sleeping purposes at the present time and/or in the future. Bedrooms shall meet all the minimum provisions of this code to include a minimum of 70 square feet of floor area with the least horizontal dimension of 7 feet, glazing for natural light to be not less than 8 percent of floor area, heat provided in the room to maintain a minimum of 68 degrees, 3 feet from the floor and 2 feet from the exterior walls, a height of 7 feet in the room shall be maintained, shall meet the minimum emergency escape and rescue opening, shall have a permanently powered smoke alarm device with battery backup. Bedrooms include dens, offices, playrooms, family rooms, storage areas, and other rooms with built-in closets. For the purpose of this chapter “bedroom” and “sleeping room” shall be synonymous with each other.

161.04 ELECTRICAL. Any reference in the *International Fire Code* to the “ICC Electrical Code” shall be replaced with “the National Electrical Code as adopted per chapter 158 of the City of Mitchellville Code of Ordinances.”

161.05 PERMIT FEES. Section 105.1.1 shall be amended by adding the following sentence to the end of the paragraph:

A fee for each construction permit shall be paid to the fire official in the amount set forth in the Schedule of Fees as adopted by the Council.

1. A fee for each construction permit shall be paid to the Fire Chief in the amount set forth in the Schedule of Fees as adopted by the Council.
2. If a permit is issued for a specific amount of work and, upon inspection, it is determined that more work was performed than was authorized by the permit, the permittee shall amend the permit or obtain another permit to include all additional work and shall pay a new base fee and any unit fees as described in subsection 1 above.
3. Permits and fees for mechanical, plumbing, and electrical work shall meet the requirements of Chapters 156, 157, and/or 158 respectively.
4. Plan Check Fees. Plan Check Fees shall be in the amount set forth in the Schedule of Fees as adopted by the Council.
 - A. Double Fee. Except in emergency situations, as determined by the Fire Chief, where work for which a building permit is required by this code is started or proceeded with by any person prior to obtaining a required permit, the fees in the amount set forth in the Schedule of Fees as adopted by the Council shall be doubled. The payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work or from any other penalties prescribed herein. No additional permits of any type shall be issued to any person who owes the

City the double fee described in this subsection. However, no double fee shall be imposed upon any person who starts without a permit if:

- (1) The work is started on a Saturday, Sunday, or holiday, or during any other day when the Building Department is not normally open for business; and
- (2) The person secures the proper permit on the next Fire Department working day.
- (3) No Plan review is required prior to issuance of the permit.

B. Refunds. If, within 30 days of the date of issuance, the holder of a construction permit decides not to commence the work described in said permit, said person may, upon application to the Fire Chief, be refunded that portion of the permit fee which is in excess of the permit refund fee in as set forth in the Schedule of Fees as adopted by the Council.

C. Permit Renewals. Fees for permit renewals as stated in Section 161.07 shall be based on the percentage of valuation of remaining work to be performed provided the plans are not changed. If the plans are changed enough to warrant a review, then the permit fee shall be one-half the cost of the original fee (or the hourly cost to the jurisdiction, whichever is greater), plus any fees as set forth in subsection E of this code section. This cost shall include supervision, overhead, hourly wages, and fringe benefits of the employees involved.

D. Reinspections. A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Building Official. To obtain a reinspection, the applicant shall file an application therefor in writing on a form furnished for that purpose and pay the reinspection fee as set forth in the Schedule of Fees as adopted by the Council. In instances where reinspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

E. Other Inspections and Fees. See the Schedule of Fees as adopted by Council.

Persons performing work for the Federal Government, the State, the County or City may obtain permits for such work without paying the permit fees described herein; provided, however, nothing in this section shall be construed to exempt payment of permit fees by persons performing work under the direction of the City in connection with the abatement of any public law. An expired permit may not be reissued without a permit fee except by resolution of the Council.

161.06 TYPES OF PERMITS. Section 105.1.2 shall be amended by the deletion of item number 1, including sub-numbers, and replaced with the following:

Operational Permit. A certificate of occupancy issued pursuant to the provisions of Chapter 155 of the City of Mitchellville, Code of Ordinances shall be assumed to meet the provisions of this section except for sections 105.6.30, 105.6.31, 105.6.32, and 105.6.43.

161.07 EXPIRATION. Every permit issued by the fire official under the provision of the fire code shall expire under any one of the following conditions:

1. Failure to begin work authorized within 180 days after issuance of the permit.
2. Suspension or abandonment of work for 120 days after commencement of the work. Time of occurrence of suspension or abandonment of work shall be computed from the date of the most recent inspection since which no progress has been made.
3. Failure to complete work on a structure designed for residential uses within one year after issuance of a permit.
4. Failure to complete work on a structure designed for commercial or industrial uses within two years after issuance of a permit. For permits with a valuation exceeding \$10,000,000.00, work shall be completed within three years after issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence or continue work. The fire official is authorized to grant, in writing, for periods not more than 180 days each, two extensions. The extension shall be requested in writing and justifiable cause demonstrated. Any of the extensions may be further extended by action of the Council. In all cases, when a renewal is granted the structure for which the permit is required shall comply with code requirements in effect at the time the permit is renewed.

161.08 BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the fire official relative to the application and interpretation of this code, there shall be and hereby created a Board of Appeals, consisting of five (5) members. Board members shall be chosen and appointed based on diversity and building construction knowledge, all of whom shall be residents of the City. One member of said Board of Appeals (at a minimum) shall be a private citizen. The fire official or designated representative shall be an ex-officio member without a vote and shall act as secretary of the Board. The appointment of members shall be for three-year terms, expiring on December 31, with not more than two members' terms expiring any one year. The Fire Board of Appeals shall be appointed by the Mayor, subject to Council approval, and shall serve without compensation. The Fire Board of Appeals and the Building Board of Appeals shall be one in the same. The Board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the fire official with a duplicate copy to the appellant, and may recommend to the City Council such new legislation as is consistent therewith. The Board shall meet at will and when there are appeals or business on file for a hearing. Nominal appeal fee to the Fire/Building Board of Appeals shall be paid as set forth in Section 161.05. The appeal shall be valid for one year from the date of the Board approval to the commencement of work and to the completion of work undertaken pursuant to the approval.

161.09 OPEN BURNING AND RECREATIONAL FIRES. The provisions of Section 105.05 of this Code of Ordinances shall be followed.

161.10 LIQUEFIED PETROLEUM GAS FUELED COOKING DEVICES. Section 308.3.1.1 of the *International Fire Code* shall be amended by deleting the section and replacing with the following:

LP-gas burners having an LP-gas container with a water capacity greater than 47.7 pounds (nominal 20 pound LP gas capacity) shall not be located on combustible balconies and decks or within 10 feet of combustible construction. Exception: one- and two-family dwellings.

161.11 FIRE LANE IDENTIFICATION. Section 503.3 of the *International Fire Code* shall be amended by deleting the section and replacing with the following:

When required by the Fire Code Official, fire lanes shall be painted traffic red. Signs shall be permanently mounted with a center height not exceeding 60" above adjacent grade. The beginning sign shall be set at 45 degrees to the designated area with a red arrow pointing forward toward the fire lane. The intermediate signs shall be set every 100 feet in the fire lane. The end sign shall be set at 45 degrees to the designated area with a red arrow pointing backward to the fire lane. Signs shall be eighteen (18) inches tall by twelve (12) inches wide, with red letters on a white background to read *No Parking - Fire Lane*.

161.12 PREMISES IDENTIFICATION. Section 505.1 of the IFC shall be amended by amending the number *4 inches* to *6 inches* for other than Group R-3 occupancies and individual dwelling units in an R-2 occupancy.

161.13 KEY BOXES. Section 506.1 of the International Fire code shall be amended by adding the following to the end of the section:

Key boxes shall be located at the front of the building typically adjacent to the main front door(s) at a height of 5 feet above grade or at a location as directed by the fire code official.

161.14 FIRE DEPARTMENT CONNECTIONS. Section 912.1 of the *International Fire Code* shall be amended by adding the following to the end of the section:

The fire department connection shall be a 5 inch Storz type connector(s) compatible with the hose couplings currently in use by the fire department and connected to the riser by means of a 5 inch or larger piping system. A fire department connection having the standard internal threaded swivel fittings of 2½ inches NST may be substituted for the 5 inch Storz connection with the approval of the fire code official where system pressures may exceed hose test pressure or where the water supply locations could require an extensive hose lay to the structure.

161.15 HANDRAILS. The following shall be added at the end of exception #1 of Section 1012.4 of the *International Fire Code*.

Handrails within a dwelling unit or serving an individual dwelling unit of groups R-2 and R-3 or One and Two family dwellings shall be permitted to be interrupted at one location in a straight stair when the rail terminates into a wall or ledge and is offset and immediately continues.

161.16 REQUIREMENTS FOR EGRESS WINDOW LANDINGS. Section 1026.3 of the *International Fire Code* shall be added to the end of the section to state as follows:

Where a landing is provided for egress windows in new and existing construction of Group R occupancies/one- and two-family dwellings only when the maximum height requirement cannot be met as stated in Section 1026.3 shall have a minimum width of 36 inches, a minimum depth of 18 inches and a maximum height of 24 inches. The landing shall be permanently affixed to the floor under the window it serves.

161.17 REGISTRATION OF FLAMMABLE AND COMBUSTIBLE STORAGE TANKS. Section 3401.4 of the IFC shall be amended by deleting the section and replacing with the following:

Owners or owners' agents shall register the placement of Flammable and Combustible containers/tanks located on their property as follows with the fire department:

1. Storage, handling, or use of class I liquids in excess of 5 gallons inside a building or in excess of ten gallons outside a building, except registration is not required for the storage or use of:
 - A. Flammable liquids in the fuel tank of a motor vehicle, aircraft, motorboat, mobile power plant, or mobile heating plant, unless storage in the opinion of the fire chief would cause an unsafe condition.
 - B. Paints, oils, varnishes, or similar flammable mixtures when such liquids are stored for a period of not more than 30 days.
2. Retailing of class I, II, or IIIA liquids at a service station or other locations.
3. Storage, handling or use of class II or IIIA liquids in excess of 25 gallons in a building or in excess of 60 gallons outside of a building, except storage of 550 gallons or less of fuel oil when connected with oil burning equipment.
4. The manufacture, processing, blending, or refining of Class I, II, or IIIA liquids or where liquids are used in the manufacturing, processing or finishing of articles.
5. Storage of flammable or combustible liquids in stationary tanks or placement tanks temporarily out of service, when the total storage capacity is 1,000 gallons or more.
6. Installation or major repair of tanks either aboveground or below ground containing class I and II liquids, and class IIIA liquids in excess of one 275 gallon tank outside a building or two 275 gallon tanks in a building.
7. Major repair, replacement or addition of piping either aboveground or below ground, used with class I, II, or IIIA liquids on existing tanks.

Registration shall be submitted with forms furnished by the Fire Department. The registration of containers/tanks does not waive any requirements of the code.

161.18 FIREWORKS.

1. General. It is unlawful to manufacture fireworks within the corporate limits of the City.

2. The Fire Chief or duly appointed representative is authorized to seize, take, remove or cause to be removed at the expense of the owner all stocks of illegal fireworks (not State approved), offered or exposed for sale, stored and held to be in violation of State Law.
3. It is unlawful for any person to possess, store, offer for sale, expose for sale, sell at retail, or use or explode any fireworks within the corporate limits of the City.

Exception: The use of fireworks for display is allowed per Section 161.19 of this chapter and Council approval.

161.19 FIREWORKS BOND FOR DISPLAY AND DISPOSAL.

1. The applicant shall, at the time he or she makes his or her application for a permit, attach thereto a bond or certificate of insurance naming the applicant and the City as insured, in the sum of not less than \$1,000,000.00, provided that the Chief of the Fire Department and/or the City Council require a greater amount. Said bond and insurance shall insure the use and benefit of the City and/or any person who suffers damage either to person or property by reason of said display of fireworks.
2. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining.

161.20 HAZARDOUS SUBSTANCES, NOTIFICATION AND CLEANUP.

1. Scope. This section shall apply to the release of hazardous substances and the notification, cleanup and recovery of costs associated with the mitigation of hazardous conditions.
2. Definitions. For the purposes of the section, these words have the following meaning:
 - A. "Cleanup" means the removal, by approved personnel, of the hazardous substances to a place where the waste will not cause any danger to persons or the environment, in accordance with the State statutes, rules and regulations therefor, or the treatment of the material as defined herein to eliminate the hazardous condition, including the restoration of the area to general good appearance without noticeable odor as far as practicable. Cleanup includes all actions necessary to contain, collect, identify, analyze, treat, disperse, remove or dispose of a hazardous substance and to restore the sites from which such hazardous substance was cleaned up.
 - B. "Hazardous condition" means any situation involving the actual, imminent or probable spillage, leakage, or release of a hazardous substance within the City or onto City property located outside the City which, because of the quantity, strength and toxicity of the hazardous substance, its mobility in the environment and its persistence creates an immediate potential danger to the public health or safety; or onto land, into the waters within the State of Iowa or into the atmosphere, but outside the City which because of the quantity, strength and toxicity of the hazardous substance, its mobility in the environment and its persistence, creates an immediate potential danger to the public health or safety of persons or property within the City. Hazardous conditions include involving hazardous materials required to be reported under Section 321.266 (4) of the *Code of Iowa*.

C. "Hazardous substance" means any substance or mixture of substances that presents a danger to public health or safety or environment and includes (but is not limited to) a substance that is toxic, corrosive or flammable, or that is an irritant, or that, in confinement, generates pressure through decomposition, heat or other means. The following are examples of substances that, in sufficient quantity, may be hazardous: acids; alkalis; explosives; fertilizers; heavy metals such as chromium, arsenic, mercury, lead and cadmium; industrial chemicals; paint thinners; paints; pesticides; petroleum products; poisons; radioactive materials; sludges; and organic solvents. "Hazardous substance" includes 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 of 1976, as amended to January 1, 1977, or any hazardous materials designated under Section 311 of the Federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous materials designated by the Secretary of Transportation under the Hazardous Materials Transportation Act, or any hazardous substance listed under the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

D. "Person" means a natural person, said person's heirs, executors, administrators or assigns and also includes a firm, partnership or corporation, its successors or assigns, or any other similar legal entity or the agent of any of the aforesaid.

E. "Responsible person" means the person, whether the owner, agent, lessor or tenant, in charge of the hazardous substance being stored, processed or handled, or the owner or bailee transporting hazardous wastes or substances whether on public ways or grounds or on private property where the spill would cause danger to the public or to any persons or to the environment.

F. "Treatment" means a method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous substance so as to neutralize it or render the substance non-hazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of a hazardous substance to render it non-hazardous.

3. Notification. When a hazardous condition is created, the responsible person shall notify the Mitchellville Fire Department immediately upon discovery of the condition but in no instance later than 6 hours after the discovery of the hazardous condition.

4. 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 discharge into any waters, including ground waters, the Fire Chief may remove or provide for removal and the disposal of the hazardous substance at any time, unless the Fire Chief determines such removal

will be properly and promptly accomplished by the responsible person. If the responsible party does not initiate and complete cleanup within the time designated by the Fire Department, the City may proceed to remedy the hazardous condition by performing necessary cleanup devices.

5. Loss, Burden or Costs. A responsible person shall be liable to the City for all cleanup costs incurred by the City, including (but not limited to) chemical damage, contamination of equipment, and the use of consumable materials, personnel, but shall not be liable for those losses, burdens or costs normally associated with response to fire emergencies which do not involve hazardous conditions. If charges for such cleanup costs are not paid within thirty days after invoice, the City shall proceed to obtain payment by all legal means.

6. Compliance with Chapter 36. The provisions of Chapter 36 of this Code of Ordinances shall be followed.

161.21 FALSE FIRE ALARMS.

1. Definitions. For the purposes of this section, these words have the following meaning:

A. "False alarm" means the activation of a fire alarm system through mechanical failure, malfunction, improper installation, improper maintenances, or the negligence of the owner or lessee of the fire alarm system or his or her employees or agents. This does not include alarms caused by unauthorized tampering with a fire alarm system by anyone other than the fire alarm user or his or her agent.

B. "Fire alarm system" means any assembly of equipment, mechanical or electrical, installed by a fire alarm business, arranged to signal the occurrence of a fire, smoke, water flow or other condition to which the fire department may be expected to respond.

C. "Fire alarm user" means a person, firm, partnership, association, corporation, company, or organization of any kind that is in control of any building, structure, or facility where a fire alarm system is present.

D. "Testing and maintenance" means when an alarm service technician or alarm company conducts fire alarm system testing.

2. Fire Alarm Activation and User Fee.

A. Whenever Fire Department personnel respond to an activated fire alarm system, the Fire Chief or authorized fire official in charge of the incident shall determine if the response was caused by a false alarm and shall indicate that fact upon the incident report.

B. The Fire Department shall regularly review incident reports to monitor the accumulation of false alarms at any one location. Whenever two false alarms have occurred at the same location within one calendar year, and the location is within the response jurisdiction area of the City, the Fire Department shall notify the fire alarm user by letter, citing the location and date of each alarm activation. The letter shall recommend that appropriate action be taken on the part of the fire alarm user to alleviate the causes of such false alarms and shall include a statement than an accumulation of more

than three false alarm activations within a year shall result in a charge for services. Another similar letter shall be sent when three false alarms have occurred at the same location within the year.

C. When four false alarms have occurred at one location within a calendar year, a user fee for service for false alarm response shall be invoiced to the property owner. Each additional false fire alarm activation within the same calendar year shall be invoiced an additional fee. In the event that payment of the fee is not made within 30 days of billing, an administrative charge for collection shall be assessed. All fees shall be established by resolution of the Council, as adopted. The fee hereby established affords only partial recovery of the expenses incurred in responding to the false alarms.

D. Whenever Fire Department personnel respond to a fire alarm that has been activated due to testing and maintenance, the fire official in charge of the incident shall determine if the response resulted from failure to make the proper notification to the alarm system monitor center and the Polk County Communication Dispatch Center and shall so indicate on the incident report. Notwithstanding anything contained in any other section of this chapter, if a fire alarm is activated due to testing and maintenance and the Polk County Communication Dispatch Center was not given proper notification, a user fee established by resolution will be imposed upon each false alarm. The responsible party will be the agency, testing or maintenance company representative, or individual that initiated the alarm testing or maintenance.

3. Evidence of Repair Accepted in Lieu of Fee. An alarm user may submit evidence that a malfunctioning system has been repaired in lieu of paying a user fee within ten days of the date of notification of the fee. Evidence such as a receipt from a licensed alarm business with a statement of repairs made to the system is acceptable.

4. Review of False Alarm Fee. Any person may appeal the imposition of the fee to the Council. A false alarm activation user or his/her designee shall appeal in writing and such appeal shall be made to the Fire Chief within ten days of the date of notification of the fee.

5. False Alarm Fees. A fee for each false alarm shall be paid to the Fire Chief in the amount set forth in the Schedule of Fees as adopted by the Council.

6. False Alarm Effective Date. False fire alarm activation fees will begin at the time of Council resolution.

161.22 VIOLATIONS. See Chapter 3 of this Code of Ordinances.

[The next page is 1021]

CHAPTER 165

ZONING REGULATIONS

EDITOR'S NOTE		
<p>Zoning regulations, adopted by Ordinance No. 2028 on August 4, 2003, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Zoning Regulations of the City.</p>		
ORDINANCE	ADOPTED	SUBJECT
2033	October 18, 2004	Rezoning from C-4 to R-1
2034	October 18, 2004	Commercial-Industrial Multi-Use District
2036	January 3, 2005	Rezoning from M-2 to R-1
2039	March 21, 2005	Permitted Uses in M-1 District in a CIMU District
2040	March 21, 2005	Rezoning from A-1 to CIMU
2041	July 5, 2005	Rezoning from C-4 to R-4
2042	July 18, 2005	Accessory Buildings in Residential Zones
2047		
2058		
2060	May 5, 2007	Rezoning from M-2 to R-1
2062		
2068		
2069	October 20, 2008	Permitted Accessory Uses
2083	June 7, 2010	Rezoning from A-1 to R-1
2085	October 4, 2010	Political Campaign Signs

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CODE OF ORDINANCES

CITY OF MITCHELLVILLE, IOWA

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