

CHAPTER 1
CODE OF ORDINANCES

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

1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Winfield, Iowa, 2002.

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. ōAlleyö means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. ōCityö means the City of Winfield, Iowa.
3. ōClerkö means the city clerk of Winfield, Iowa.
4. ōCodeö 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. ōCode of Ordinancesö means the Code of Ordinances of the City of Winfield, Iowa, 2002.
6. ōCouncilö means the city council of Winfield, Iowa.
7. ōCountyö means Henry County, Iowa.
8. ōMayö confers a power.
9. ōMeasureö means an ordinance, amendment, resolution or motion.
10. ōMustö 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"Ordinances" means the ordinances of the City of Winfield, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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 preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

1.07 EXTENSION OF AUTHORITY. Whenever an officer or employee is required or authorized to do an act by a provision of this Code of Ordinances,

the provision shall be construed as authorizing performance by a regular assistant, subordinate or a duly authorized designee of said officer or employee.

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the

following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by 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])

(Ord. 288 – Sep. 10 Supp.)

[The next page is 9]

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties

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

2.01 TITLE. This chapter may be cited as the charter of the City of Winfield, Iowa.^Ä

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

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.
(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of four (4) 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)

^Ä**EDITOR'S NOTE:** Ordinance No. 98 adopting a charter for the City was passed and approved by the Council in 1973.

CHAPTER 2

CHARTER

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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 - \$50.00
 - B. Second Offense - \$100.00
 - C. Third Offense - \$300.00
 - D. Subsequent Offense - \$750.00 each

(Ord. 269 – Sep. 06 Supp.)

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

2. Special Civil Penalties.
 - A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.
 - B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
 - (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
 - (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
 - (3) The violation does not continue in existence for more than eight (8) hours.

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.

(Ord. 289 – Sep. 10 Supp.)

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])

[The next page is 21]

CHAPTER 5
OPERATING PROCEDURES

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

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

5.01 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 Winfield as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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

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

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

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

1. **Required.** The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the

Mayor, Clerk, Treasurer and such other officers and employees as may be necessary and advisable.

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

(Code of Iowa, Sec. 362. Civil Penalties 5[2])

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

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

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

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

(Ord. 250 – Sep. 06 Supp.)

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 250 – Sep. 06 Supp.)

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)

[The next page is 29]

CHAPTER 6
CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

(Ord. 244 – Nov. 02 Supp.)

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

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

(Code of Iowa, Sec. 45.4)

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

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

[The next page is 35]

CHAPTER 7
FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Copies of Budget on File. Not less than twenty (20) days before the date that the budget must be certified to the County Auditor and not less than ten (10) days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

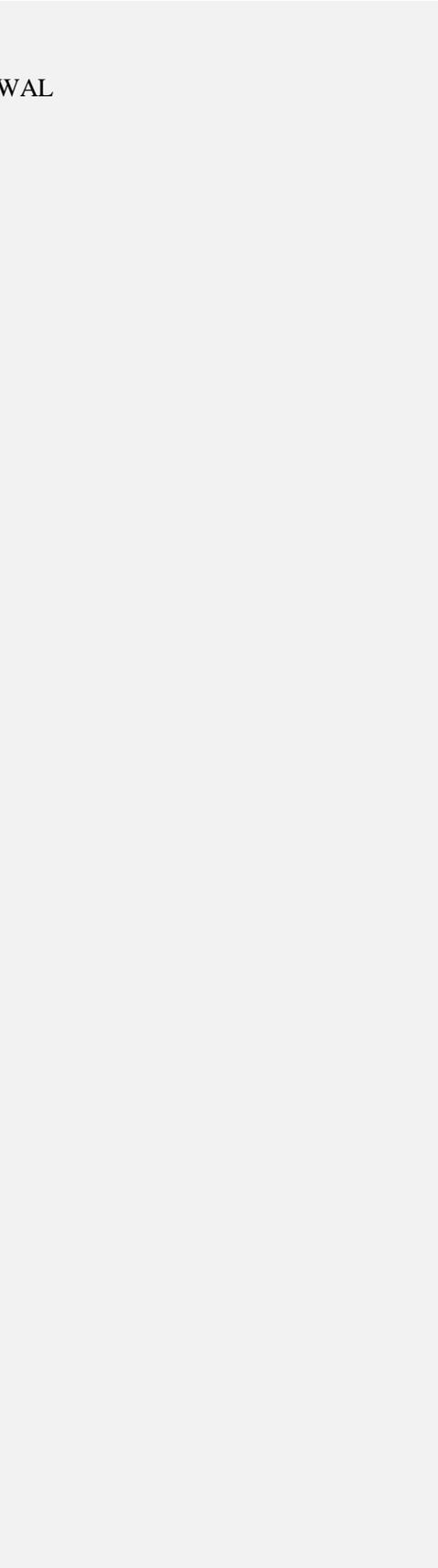
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CHAPTER 8
URBAN RENEWAL

EDITOR'S NOTE

Ordinance No. 200, adopted December 27, 1994, established the Winfield Urban Renewal Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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CHAPTER 9
URBAN REVITALIZATION

EDITOR'S NOTE

Ordinance No. 175, adopted December 6, 1988, designated the Urban Revitalization Area for the City. This ordinance, not codified herein, is specifically saved from repeal.

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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 four (4) years.

(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief
3. Library Board of Trustees
4. Health Officer
5. Zoning Administrator

15.04 COMPENSATION. The salary of the Mayor is fifteen hundred dollars (\$1500.00) per year plus thirty dollars (\$30.00) per Council meeting, but not to exceed two thousand dollars (\$2,000.00) per year.
(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 Pro Tem is vice president of the Council.

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

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

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

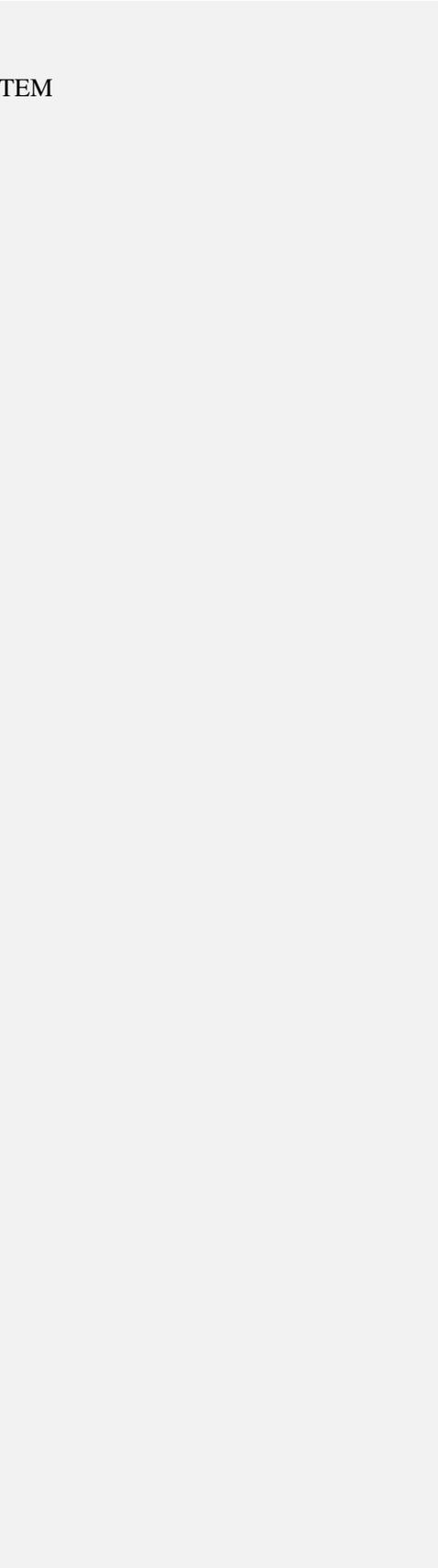
16.03 VOTING RIGHTS. The Mayor Pro Tem shall have the right to vote as a member of the Council.

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

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

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

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CHAPTER 17

COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of five (5) Council members elected at large for overlapping terms of four (4) years.

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

2. 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])

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

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

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

(Code of Iowa, Sec. 384.100)

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

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

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

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

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

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

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

(Ord. 277 – Dec. 07 Supp.)

(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])

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

(Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the Council submitted to the Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the Council. A record of the service of notice shall be maintained by the Clerk.

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

3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk
2. City Attorney
3. City Treasurer
4. Planning and Zoning Commission
5. Zoning Board of Adjustment

17.06 COMPENSATION. The salary of each Council member is five hundred dollars (\$500.00) per year plus thirty dollars (\$30.00) per Council meeting attended, not to exceed one thousand dollars (\$1,000.00) per year.

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

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CHAPTER 18
CITY CLERK

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

18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal
18.14 City Funds
18.15 Purchasing Agent

18.01 APPOINTMENT AND COMPENSATION. At its first meeting in January each year, the Council shall appoint by majority vote a City Clerk to serve for a term of one (1) year. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control

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

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

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

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

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

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

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

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

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

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

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

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election. *(Ord. 245 – Nov. 02 Supp.)*

(Code of Iowa, Sec. 376.6)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.

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

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

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

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

18.15 PURCHASING AGENT. The Clerk shall perform the duties of purchasing agent for the City and shall purchase all goods, materials and supplies needed by the City. The Clerk shall enter into consultations with department heads and the Council to determine needs for all departments of the City, formulate the technical and financial aspects of bids to be drawn up by the City Attorney, submit contracts for municipal needs to the Council for approval and authorization, advertise for bids on the basis of the contracts drawn up by the City Attorney and enforce quality standards for goods purchased.

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CHAPTER 19
CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The Council shall appoint by majority vote a City Treasurer to serve for a term of one (1) year.

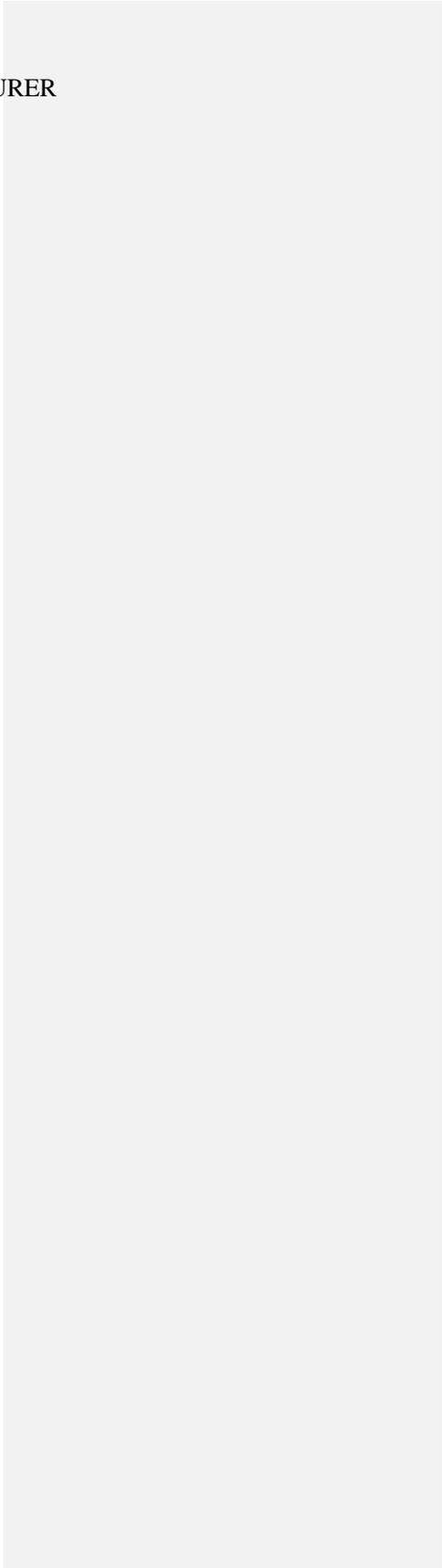
19.02 COMPENSATION. The Treasurer is paid such compensation as specified by resolution of the Council.

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

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

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

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment 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
20.09 Representation of City Employees

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for a term of one (1) year. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20.09 REPRESENTATION OF CITY EMPLOYEES. The City Attorney shall not appear on behalf of any City officer or employee before any court or tribunal for the purely private benefit of said officer or employee. The City Attorney shall, however, if directed by the Council, appear to defend any City officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

(Code of Iowa, Sec. 670.8)

CHAPTER 21

LIBRARY BOARD OF TRUSTEES

21.01 Public Library	21.07 Nonresident Use
21.02 Library Trustees	21.08 Expenditures
21.03 Qualifications of Trustees	21.09 Annual Report
21.04 Organization of the Board	21.10 Injury to Books or Property
21.05 Powers and Duties	21.11 Theft
21.06 Contracting with Other Libraries	21.12 Notice Posted

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, shall consist of a minimum of seven (7) members and a maximum of ten (10) members. All members are to be appointed by the Mayor with the approval of the Council.

(Ord. 296 – Sep. 10 Supp.)

21.03 QUALIFICATIONS OF TRUSTEES. All of the members of the Board, except for one member, shall reside within the boundaries of the Winfield-Mt. Union School District. The one member must reside outside of the boundaries of the Winfield-Mt. Union School District. All members of the Board shall be over the age of eighteen (18) years.

(Ord. 296 – Sep. 10 Supp.)

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

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

the new Trustee shall fill out the unexpired term for which the appointment is made.

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.

3. Charge of Affairs. To direct and control all affairs of the Library.

4. Hiring of Personnel. 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 on behalf of the Library.

(Code of Iowa, Ch. 661)

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

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

21.06 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 percent (5%) 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.

21.07 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.

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

(Code of Iowa, Sec. 384.20 & 392.5)

21.09 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.

21.10 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)

21.11 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)

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

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies

22.04 Compensation
22.05 Powers and Duties

22.01 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 five (5) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

22.02 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)

22.03 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)

22.04 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)

22.05 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, new roads 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)

[The next page is 145]

CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established	30.07 Police Chief: Duties
30.02 Organization	30.08 Departmental Rules
30.03 Peace Officer Qualifications	30.09 Summoning Aid
30.04 Required Training	30.10 Taking Weapons
30.05 Compensation	30.11 Contract Law Enforcement
30.06 Police Chief Appointed	

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 POLICE CHIEF APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.

(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.
11. Animal Control. Be responsible for animal control.

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)

[The next page is 151]

CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose	35.09 Constitution
35.02 Organization	35.10 Accidental Injury Insurance
35.03 Approved by Council	35.11 Liability Insurance
35.04 Training	35.12 Calls Outside Fire District
35.05 Compensation	35.13 Mutual Aid
35.06 Election of Officers	35.14 Authority to Cite Violations
35.07 Fire Chief: Duties	35.15 Emergency Medical Service
35.08 Obedience to Fire Chief	

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 thirty (30) volunteer fire fighters.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

Marshal's Division immediately. For all other 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 MEDICAL SERVICE. The department is authorized to provide emergency medical services and the accidental injury and liability insurance provided for herein shall include such operation.

[The next page is 185]

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.
(Ord. 276 – Dec. 07 Supp.)
7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.
(Code of Iowa, Sec. 723.4 [7])
8. Funeral or Memorial Service. Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

- A. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
- B. Direct abusive epithets or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.
- C. Disturb or disrupt the funeral, memorial service, funeral procession or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

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

(Code of Iowa, Sec. 723.5)

(Ord. 271 – Dec. 07 Supp.)

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)

CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 727.3)

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

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

41.07 BARBED WIRE AND ELECTRIC FENCES. It is unlawful for a person to use barbed wire or electric fences to enclose land within the City limits except as allowed in the Zoning Regulations.

41.08 DISCHARGING WEAPONS.

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

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

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

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

41.11 FIREWORKS The sale, use or exploding of fireworks within the City are subject to the following:

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

(Code of Iowa, Sec. 727.2)

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

A. Personal Injury: - \$250,000.00 per person.

B. Property Damage: - \$50,000.00.

C. Total Exposure: - \$1,000,000.

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

41.12 DRUG PARAPHERNALIA.

1. As used in this section "drug paraphernalia" means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

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

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

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

(Code of Iowa, Sec. 124.414)

41.13 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 fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, 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)

CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

[The next page is 225]

CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *(See Section 62.08 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. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

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

D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement 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. It is unlawful for any minor to remain in or upon any public place in the City between the hours of twelve o'clock (12:00) midnight and five o'clock (5:00) a.m. of the following day.
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.
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 law enforcement 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 law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement 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 law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a simple misdemeanor.

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement 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.

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

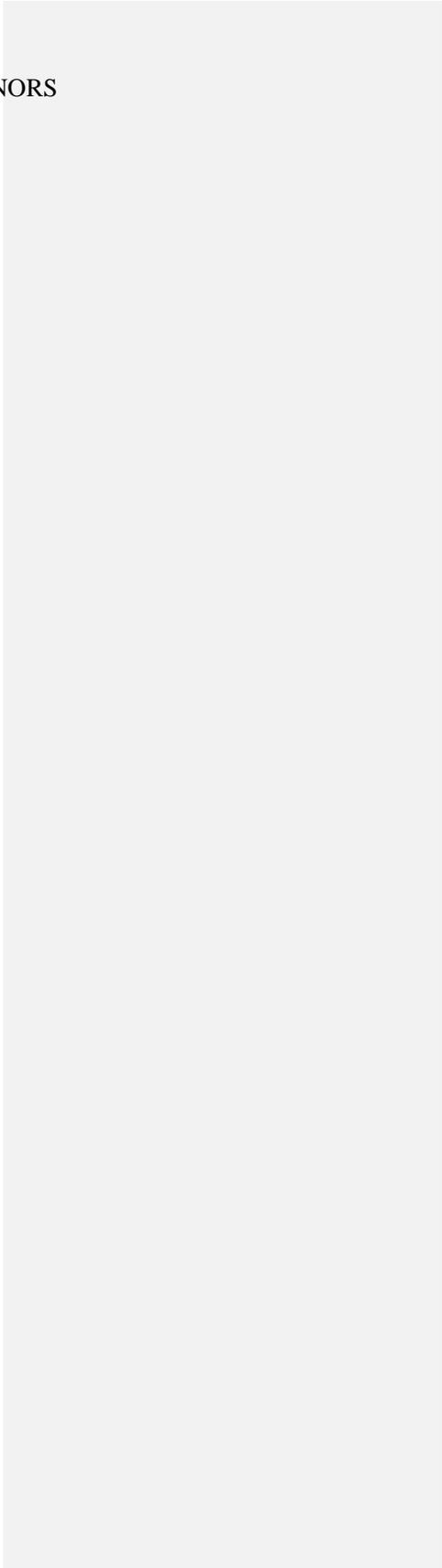
products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.

(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)

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CHAPTER 47
PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Littering
47.05 Camping

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 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.

[The next page is 245]

CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance	50.08 Request for Hearing
50.02 Nuisances Enumerated	50.09 Abatement in Emergency
50.03 Other Conditions	50.10 Abatement by City
50.04 Nuisances Prohibited	50.11 Collection of Costs
50.05 Nuisance Abatement	50.12 Installment Payment of Cost of Abatement
50.06 Notice to Abate: Contents	50.13 Failure to Abate
50.07 Method of Service	

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places or burying grounds.
6. **Billboards.** Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue,

highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.09)**

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. **(See also Chapter 52)**

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

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

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

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Weeds and Grass **(See Chapter 52)**
3. Dangerous Buildings **(See Chapter 145)**
4. Storage and Disposal of Solid Waste **(See Chapter 105)**
5. 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 the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.^Å

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.
2. Location of Nuisance. The location of the nuisance.
3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
4. Reasonable Time. A reasonable time within which to complete the abatement.
5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

50.07 METHOD OF SERVICE. The notice to abate shall be served by U.S. certified mail or personal delivery. If the certified letter is returned to the City as undeliverable or personal delivery cannot reasonably be made, then service may be made by posting the notice in a conspicuous place upon the premises where the nuisance exists.

(Ord. 258 – Sep. 06 Supp.)

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

^Å **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.

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.

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

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

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

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

50.11 COLLECTION OF COSTS. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one (1) month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes.

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

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

(Code of Iowa, Sec. 364.13)

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

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 ten (10) 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, junk vehicle, tires or parts of vehicles.

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. A garage or other enclosed physical structure; or
2. The premises of a business enterprise operated in a district properly zoned therefor, when necessary to the operation of said business enterprise, as authorized under the Zoning Ordinance of the City; or
3. An appropriate storage space or depository maintained in a lawful place and lawful manner by the City for vehicles impounded by the City.

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

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

CHAPTER 52

WEEDS, GRASSES AND LEGUMES

52.01 Purpose
52.02 Noxious Weeds

52.03 Grass
52.04 Notice to Abate

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

52.02 NOXIOUS WEEDS. No person shall allow any of the following weeds to grow on any property in the City except in areas zoned Agricultural and M-1:

1. The following primary noxious weeds, which shall include quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), Canada thistle (*Cirsium arvense*), bull thistle (*Cirsium lanceolatum*), European morning glory or field bindweed (*Convolvulus arvensis*), horse nettle (*Solanum carolinense*), leafy spurge (*Euphorbia esula*), perennial pepper-grass (*Lepidium draba*), Russian knapweed (*Centaurea repens*), buckthorn (*Rhamnus*, not to include *Rhamnus frangula*, and all other species of thistles belonging in genera of *Cirsium* and *Carduus*.)
2. The following secondary noxious weeds, which shall include butterprint (*Abutilon theophrasti*) annual, cocklebur (*Xanthium commune*) annual, wild mustard (*Brassica arvensis*) annual, wild carrot (*Daucus carota*) biennial, buckhorn (*Plantago lanceolata*) perennial, sheep sorrel (*Rumex acetoseba*) perennial, sour dock (*Rumex crispus*) perennial, smooth dock (*Rumex altissimus*) perennial poison hemlock (*Conium maculatum*), multiflora rose (*Rosa multiflora*), wild sunflower (wild strain of *Helianthus annus L.*) annual, puncture vine (*Tribulus terrestris*) annual, teasel (*Dipsacus*) biennial, and shattercane (*Sorghum bicolor*) annual. The multiflora rose (*Rosa multiflora*) shall not be considered a secondary noxious weed when cultivated for or used as understock for cultivated roses or as ornamental shrubs in gardens.
3. Others, to include: Water hemp (*Cannabis*), marijuana weed (*Cannabis sativa*), Smartweeds ó Common smartweed (*Polygonum persicaria*), Pennsylvania smartweed (*Polygonum pennsylvanicum*), water hemp (*Acnida*) and nettles ó hemp, marijuana weed (*Cannabis sativa*),

Foxtail grasses (*Setaria*), Yellow Foxtail (*Setaria Lutescens*), Green Foxtail (*Setaria viridis*), Tall Foxtail (*Setaria faberii*), Bristly Foxtail (*Setaria verticillata*).

52.03 GRASS. No person shall allow grass in any residentially zoned area (specifically R-1 and R-2) and General Retail District (specifically C-2) to exceed six (6) inches in average height when measured in any three locations which are separated by at least ten (10) lineal feet. It is not a violation of this section to allow grass to exceed ten (10) inches in height if the lawn has been seeded or re-seeded within the previous two (2) months.

(Ord. 257 – Sep. 06 Supp.)

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

[The next page is 275]

CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.13 Riding Animals on Public Ways
55.02 Animal Neglect	55.14 Animal Traps
55.03 Livestock Neglect	55.15 Number of Animals Permitted
55.04 Abandonment of Cats and Dogs	55.16 Noisy Animals
55.05 Livestock	55.17 Annoyance or Disturbance
55.06 At Large Prohibited	55.18 Rabies Vaccination
55.07 Damage or Interference	55.19 Owner's Duty
55.08 Enabling Animals to Leave Premises of Owner	55.20 Confinement
55.09 Animals in Business Zones and Establishments	55.21 Impoundment
55.10 Motor Vehicle Striking an Animal	55.22 Reclaiming Impounded Animals
55.11 Poisonous Substances	55.23 Leashed Animals
55.12 Sanitation of Premises	

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

1. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
2. "Animal control center" means any facility designated by the Council to impound animals.
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. "Bite" means any puncture, laceration, abrasion, scratch or any other break in the skin of a human caused by an animal.
5. "Board of health" means the Henry County Board of Health or its representative.
6. "Dog" means any male or female animal of the family *Canis familiaris*, whether neutered or not.
7. "Hearing ear dog" means any dog which is owned by a deaf or partially deaf person and which has been properly trained to aid its owner.
8. "Humane officer" means any person designated by the Council, upon the recommendation of the Mayor, to supervise or enforce any laws or regulations governing the control, care or conservation of animals.
9. "Identification tag" means rabies vaccination tag for dogs or cats.

10. "Kennel" means any premises wherein any person engages in the business of boarding, breeding, buying, selling, letting for hire or the training of dogs, and is licensed by the State for such purpose.

11. "Kennel dog" means a dog which is kept or raised solely for the purpose of breeding or sale and which is kept in constant confinement in a kennel.

12. "Neutered" means any animal which, through a surgical procedure, has been rendered incapable of siring or bearing offspring.

13. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species; farm deer, as defined in Section 481A.1 of the Code of Iowa; ostriches, rheas, emus or poultry.

(Code of Iowa, Sec. 717.1)

14. "Owner" means any person owning, keeping, sheltering or harboring an animal. An animal is deemed to be harbored if it is fed or sheltered for seven (7) consecutive days or more.

15. "Seeing eye dog" means any dog which is owned by a legally declared blind or partially sighted person and which has been properly trained at a special school to guide its owner in going from place to place.

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.

1. Dogs which are properly identified are not deemed at large if:
 - A. The dog is on the premises of the owner, or a person given charge of the dog by the owner, and is either:
 - (1) Accompanied by and obedient to the commands of the owner or the person given such charge; or
 - (2) Confined on those premises by an adequate protective fence or by a leash, cord or chain that does not allow the dog to go beyond the owner's real property line.
 - B. The dog is off the premises of the owner, and it is:
 - (1) Accompanied by and obedient to the commands of the owner or a competent, responsible person; or
 - (2) On a leash, cord or chain, not more than six (6) feet in length, and under the control of a person competent to restrain and control the dog; or
 - (3) Confined within a motor vehicle.
 - C. It is properly housed in a veterinary hospital or kennel.
2. A dog is deemed to be at large if it does not have the necessary identification tags, or if it is not under restraint by one of the methods set forth in subsection 1 of this section.
3. Notwithstanding any other provision of this chapter, any animal is deemed to be at large at any time when attacking persons, attacking domestic animals or destroying property.
4. Any female dog in heat is deemed to be at large at any time, except:
 - A. When housed in a building which is completely enclosed; or
 - B. When housed in a veterinary hospital or kennel; or

C. When on the premises of the owner, provided that the area on which such animal is located is completely enclosed by a fence or other structure having a height of at least forty-two (42) inches.

Nothing in this subsection, however, shall be construed as prohibiting any owner of a female dog in heat from walking such animal with a leash, cord or chain, not more than six (6) feet in length, or from transporting such animal within a motor vehicle.

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 ENABLING ANIMALS TO LEAVE PREMISES OF OWNER. It is unlawful for any person, except the owner or owner's agent, to open any gate or door on any premises or otherwise to entice or enable any animal to leave said premises.

55.09 ANIMALS IN BUSINESS ZONES AND ESTABLISHMENTS.

1. No owner shall permit or allow his or her animal to be in the central business zone or any C2 Zone without meeting one of the following conditions: (a) under the direct and obedient command of a responsible person, (b) being connected to a leash, (c) enclosed in an animal carrier or (d) confined in a vehicle.

2. No owner shall permit or allow his or her animal to be on or in any building, store, restaurant or tavern where food or food products are sold, prepared or dispensed to people other than the owner thereof.

3. No owner shall permit or allow his or her animal to be tied by any person to a utility pole, parking meter, building, structure, fence, sign, tree, shrub, bush or other object on public property, or tied on private property without the consent of the owner or person in charge thereof.

The provisions of this section do not apply to seeing eye dogs and hearing ear dogs while such dogs are acting in such capacity.

55.10 MOTOR VEHICLE STRIKING AN ANIMAL. The operator of any motor vehicle which strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, such operator shall at once report the accident to the humane officer.

55.11 POISONOUS SUBSTANCES. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same is

subject to being eaten by any animal, provided that it is not unlawful for a person to expose on his or her own property common rat poison mixed only with vegetable substances. This section does not apply to licensed pest control operators, or registered sanitarians or representatives of the board of health.

55.12 SANITATION OF PREMISES. All structures, pens, coops or yards, wherein animals or fowl are confined, shall be maintained in a clean and sanitary condition at all times, devoid of vermin and free from offensive odors. The board of health may, at any time, inspect, or cause to be inspected, any structure or premises and issue any such order as may be necessary to enforce the provisions of this section and any other relevant or pertinent rule, regulation or ordinance. It is unlawful for any owner to fail to comply with such an order.

55.13 RIDING ANIMALS ON PUBLIC WAYS. No person may ride any animal on any City sidewalk. No person may ride any animal on any public ground, except on a public street, without first obtaining written consent from the Police Chief. No person may ride any animal on the private property of another without first obtaining written consent to do so from the property owner.

55.14 ANIMAL TRAPS. No person may set traps in the City for the purpose of apprehending wild or domesticated animals. This section does not prohibit:

1. Trapping mice, rats or other household vermin; or
2. The setting of traps to destroy moles and other underground pests, so long as the traps used may be triggered only by subsurface action; or
3. The setting of traps in the line of duty by the humane officer, or with written permission from and the supervision of the humane officer or licensed pest control operators.

55.15 NUMBER OF ANIMALS PERMITTED.

1. No person shall keep more than two (2) dogs or more than two (2) other animals housed outside of that person's residence, in such manner that the animals' or dogs' activities and presence disturb the peace and comfort of any neighborhood, or cause a menace or detriment to public health.
2. Any person with more than three (3) dogs or with more than three (3) animals housed outside of that person's residence, shall provide a secure fenced area with a shelter that provides protection from weather extremes (i.e., heat, cold, rain or snow) for said dogs or animals. Drinking water shall be provided for such dogs or animals at all times.

3. Said fenced area shall be constructed so as to have a surface that may be cleaned of all dog or animal feces and urine and the person in possession of the residence shall be responsible for having said fenced area cleaned daily. Said person shall be responsible for the legal disposal of animal waste that accumulates and shall not allow any discharge or runoff of animal waste onto the City street or City sanitary or storm sewer systems or adjoining land.

Two exceptions to the requirements of this section exist: (a) when the person has a visitor who is the owner of the animal or dog and has brought said dog or animal with said visitor; (b) when the person is keeping said dog or animal for another person for a period of not more than two (2) weeks.

55.16 NOISY ANIMALS. No owner or person in control of any animal shall permit said animal to annoy or disturb other persons in the area, without justification, by excessive barking, excessive howling or emitting other offensive loud noises. In order to be considered excessive or offensive, said barking, howling or other loud noise must at a minimum meet the following:

1. First, the barking, howling or other loud noise must be documented by the filing of written complaints by two (2) or more persons from different households. The written complaint shall include the date, location and the duration of said barking, howling or other loud noise.
2. Second, said barking, howling or other loud noise must be observed and verified by one of the following persons: a City employee, a City police officer, or any peace officer employed by any public entity in the State.

For the purpose of this section only, each occurrence for more than fifteen (15) minutes of said barking, howling or other loud noise shall be considered a separate occurrence for the purpose of determining whether a municipal infraction has occurred.

55.17 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to run after or chase persons, bicycles, automobiles or other vehicles.

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

(Code of Iowa, Sec. 351.33)

55.19 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 the humane officer or local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local humane officer or board of health the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

55.20 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)

55.21 IMPOUNDMENT.

1. Any dog or other animal at large in the City shall be taken by a humane officer and impounded at an animal control center, and shall be confined there in a humane manner.
2. If, by an identifying tag, the owner of such dog or other animal can be determined, the humane officer shall give written notice of the impoundment to such owner. If the animal does not have a rabies vaccination tag, then such written notice shall be given in not less than two (2) days to the owner.
3. All dogs found without a collar or similar identification shall be kept for not less than five (5) days unless sooner redeemed by the owner. Dogs with identification shall be kept not less than seven (7) days from the date of the written notice to the owner unless sooner redeemed by the owner. At the expiration of the required holding period, any animal not claimed or reclaimed shall become the property of the City and shall be humanely disposed of or given to an appropriate person or party for adoption.
4. All other animals found without a license, collar or similar identification shall be kept for not less than two (2) days unless sooner redeemed by the owner. Other animals found with identification shall be kept not less than seven (7) days from the date of the written notice to the owner unless sooner redeemed by the owner. At the expiration of the

required holding period, any animal not claimed or reclaimed shall become the property of the City and shall be humanely disposed of or given to an appropriate person or party for adoption.

5. It is lawful for any person who finds an animal at large on public or private property to seize and hold the animal. Any person so seizing and holding an animal may restrain the animal on said person's premises by an adequate protective fence or by a leash, cord or chain that does not allow the animal to go beyond the real property line. The person seizing and holding the animal shall immediately notify the humane officer and shall be responsible for the humane treatment of the animal while it is under that person's custody.

55.22 RECLAIMING IMPOUNDED ANIMALS.

1. With proper identification, the owner of an impounded animal shall be entitled to resume possession of such animal, before the disposal of such animal by the City on the following conditions:

A. The owner shall present proof of current identification tag, or he or she must obtain such identification tag for the animal; and

B. Said owner must pay all penalties, fines and all costs and charges incurred by the City for the impoundment and care of said animal.

2. Fees for the care of impounded animals shall be set by the Council and may be revised as necessary.

3. The owner of any impounded animal which has not been vaccinated, upon satisfactory proof of ownership, may redeem said animal by making a deposit of ten dollars (\$10.00) with the animal control center and be allowed twenty-four (24) hours to get such animal vaccinated against rabies and distemper. If the owner fails to procure a vaccination certification within twenty-four (24) hours, the deposit shall be forfeited and the animal shall be impounded again. Upon presentation within the 24-hour time period of a certificate of vaccination, the deposit shall be refunded.

55.23 LEASHED ANIMALS. Any animal placed on a chain or other means of confinement must be kept at least three (3) feet from the lot line, sidewalk, alley, street and City right-of-way. All animals must allow all utility readers free access to all utility meters. There must be at least five (5) feet distance from the center line of contact to the reader. *(Ord. 263 – Sep. 06 Supp.)*

[The next page is 287]

CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 Application
56.03 Fee

56.04 License Tags
56.05 Immunization

56.01 ANNUAL LICENSE REQUIRED. The owner of any dog six (6) months of age or older shall, on or before the fifteenth day of January of each year, apply to the Clerk for a license for such dog. Such application for license may be made after January 15 and at any time for a dog which has come into the possession or ownership of the person or which has reached the age of six months after said date. All licenses shall expire on January 15 of the year following the date of issuance.

56.02 APPLICATION. Such application shall be in writing on forms provided by the Clerk and shall state the breed, sex, age, color and name, if any, of the dog, and the address of the owner, and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination.

56.03 FEE. The annual license fee of five dollars (\$5.00) shall be paid at the time the application is completed and is due annually the first day of January. On February 1 the fee shall be ten dollars (\$10.00). If an unlicensed dog is picked up by the City, the license fee shall be thirty dollars (\$30.00) and must be paid before returned to the owner. *(Ord. 273 – Dec. 07 Supp.)*

56.04 LICENSE TAGS. The Clerk shall deliver to the applicant, at the time of the receipt of a completed application with fee paid in full, a metal tag with a serial number which shall be recorded in a record book maintained by the Clerk solely for the purpose of keeping a record of ownership and the date of license issue or renewal. The metal tag shall be attached by the owner to a substantial collar and during the term of the license shall be at all times kept on the dog for which the license is issued. The license tag for one dog shall not be transferable to another dog. Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of the actual cost of the tag to the Clerk. The Clerk shall amend the record book to reflect the new tag number.

56.05 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire

CHAPTER 56

DOG LICENSE REQUIRED

within six months from the effective date of the dog license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog, or the owner may have the thigh or ear tattooed to evidence such vaccination in lieu of the tag.

[The next page is 291]

CHAPTER 57

DANGEROUS ANIMALS

57.01 Definition

57.02 Keeping Prohibited

57.03 Seizure, Impoundment and Disposition

57.01 DEFINITION. "Dangerous animal" means:

1. A domestic animal which attacks or bites without provocation, or a domestic animal which has demonstrated a propensity to attack or bite, if such propensity is known to the owner or ought reasonably to be known to the owner, or a domestic animal which has known tendencies as a species to attack or bite.
2. The following animals, which are deemed to be dangerous animals per se:
 - A. Badgers, wolverines, weasels and skunk;
 - B. Raccoons;
 - C. Scorpions;
 - D. Piranha and sharks;
 - E. Staffordshire bull terrier, more commonly referred to as a pit bull terrier. An owner may be required to provide evidence, in the form of a veterinarian's statement or by DNA, that the animal is not a member of such breed;
 - F. Any crossbreed of such animals which has similar characteristics to the animals specified above.

57.02 KEEPING PROHIBITED. No person shall keep, shelter or harbor, for any purpose, within the City a dangerous animal.

57.03 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, public waterway, lagoon or public sewer system, or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Police Chief, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, nor shall it have a duty to notify the owner of such animal

prior to its destruction. In the event that an animal is subject to an action under subsection 2 of this section, the humane officer shall be authorized to impound said animal immediately. All impoundment fees shall be at the expense of the losing party, which fees shall include the actual cost of feeding and care of the animal.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal, the humane officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal in the City, the humane officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three (3) days of the receipt of such an order. The order described herein shall be contained in a notice to the owner or party in possession, and such order may be effective immediately where such dangerous animal has previously caused serious physical harm or death to any person, in which case the humane officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

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

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

5. If the Council affirms the action of the humane officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the humane officer is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within

three (3) days of its issuance, the humane officer or the Police Chief is authorized to seize and impound such dangerous animal. Any animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the decision and order of the humane officer or Council was issued has not petitioned the County District Court for a review of the order, the humane officer shall cause the animal to be disposed of by sale or destroy such animal in a humane manner. All impoundment fees shall be at the expense of the owner of the dangerous animal, which fee shall be the actual cost of the feeding and care of the animal.

(Ch. 57 - Ord. 278 – Dec. 07 Supp.)

[The next page is 315]

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 "Winfield 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)

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Funeral Processions

62.07 Tampering with Vehicle
62.08 Open Containers in Motor Vehicles
62.09 Obstructing View at Intersections
62.10 Reckless Driving
62.11 Careless Driving

62.01 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 ó Misdemeanor to violate registration provisions.
2. Section 321.20B ó Proof of security against liability.
3. Section 321.32 ó Registration card, carried and exhibited.
4. Section 321.37 ó Display of plates.
5. Section 321.38 ó Plates, method of attaching, imitations prohibited.
6. Section 321.79 ó Intent to injure.
7. Section 321.91 ó Penalty for abandonment.
8. Section 321.98 ó Operation without registration.
9. Section 321.99 ó Fraudulent use of registration.
10. Section 321.174 ó Operators licensed.
11. Section 321.174A ó Operation of motor vehicles with expired license.
12. Section 321.180 ó Instruction permits.
13. Section 321.180B ó Graduated driver's licenses for persons aged fourteen through seventeen.
14. Section 321.193 ó Restricted licenses.
15. Section 321.194 ó Special minor's licenses.
16. Section 321.216 ó Unlawful use of license and nonoperator's identification card.

17. Section 321.216B ó Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.
18. Section 321.216C ó Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.
19. Section 321.219 ó Permitting unauthorized minor to drive.
20. Section 321.220 ó Permitting unauthorized person to drive.
21. Section 321.221 ó Employing unlicensed chauffeur.
22. Section 321.222 ó Renting motor vehicle to another.
23. Section 321.223 ó License inspected.
24. Section 321.224 ó Record kept.
25. Section 321.232 ó Radar jamming devices; penalty.
26. Section 321.234A ó All-terrain vehicles.
27. Section 321.235A ó Electric personal assistive mobility devices.
28. Section 321.247 ó Golf cart operation on City streets.
29. Section 321.257 ó Official traffic control signal.
30. Section 321.259 ó Unauthorized signs, signals or markings.
31. Section 321.260 ó Interference with devices, signs or signals ó unlawful possession
32. Section 321.262 ó Damage to vehicle.
33. Section 321.263 ó Information and aid.
34. Section 321.264 ó Striking unattended vehicle.
35. Section 321.265 ó Striking fixtures upon a highway.
36. Section 321.275 ó Operation of motorcycles and motorized bicycles.
37. Section 321.278 ó Drag racing prohibited.
38. Section 321.288 ó Control of vehicle; reduced speed.
39. Section 321.295 ó Limitation on bridge or elevated structures.
40. Section 321.297 ó Driving on right-hand side of roadways; exceptions.
41. Section 321.298 ó Meeting and turning to right.
42. Section 321.299 ó Overtaking a vehicle.

43. Section 321.302 ó Overtaking on the right.
44. Section 321.303 ó Limitations on overtaking on the left.
45. Section 321.304 ó Prohibited passing.
46. Section 321.306 ó Roadways laned for traffic.
47. Section 321.307 ó Following too closely.
48. Section 321.308 ó Motor trucks and towed vehicles; distance requirements.
49. Section 321.309 ó Towing; convoys; drawbars.
50. Section 321.310 ó Towing four-wheel trailers.
51. Section 321.312 ó Turning on curve or crest of grade.
52. Section 321.313 ó Starting parked vehicle.
53. Section 321.314 ó When signal required.
54. Section 321.315 ó Signal continuous.
55. Section 321.316 ó Stopping.
56. Section 321.317 ó Signals by hand and arm or signal device.
57. Section 321.319 ó Entering intersections from different highways.
58. Section 321.320 ó Left turns; yielding.
59. Section 321.321 ó Entering through highways.
60. Section 321.322 ó Vehicles entering stop or yield intersection.
61. Section 321.323 ó Moving vehicle backward on highway.
62. Section 321.323A ó Approaching certain stationary vehicles.
63. Section 321.324 ó Operation on approach of emergency vehicles.
64. Section 321.329 ó Duty of driver ó pedestrians crossing or working on highways.
65. Section 321.330 ó Use of crosswalks.
66. Section 321.332 ó White canes restricted to blind persons.
67. Section 321.333 ó Duty of drivers.
68. Section 321.340 ó Driving through safety zone.
69. Section 321.341 ó Obedience to signal of train.
70. Section 321.342 ó Stop at certain railroad crossings; posting warning.

71. Section 321.343 ó Certain vehicles must stop.
72. Section 321.344 ó Heavy equipment at crossing.
73. Section 321.344B ó Immediate safety threat ó penalty.
74. Section 321.354 ó Stopping on traveled way.
75. Section 321.359 ó Moving other vehicle.
76. Section 321.362 ó Unattended motor vehicle.
77. Section 321.363 ó Obstruction to driver's view.
78. Section 321.364 ó Preventing contamination of food by hazardous material.
79. Section 321.365 ó Coasting prohibited.
80. Section 321.367 ó Following fire apparatus.
81. Section 321.368 ó Crossing fire hose.
82. Section 321.369 ó Putting debris on highway.
83. Section 321.370 ó Removing injurious material.
84. Section 321.371 ó Clearing up wrecks.
85. Section 321.372 ó School buses.
86. Section 321.381 ó Movement of unsafe or improperly equipped vehicles.
87. Section 321.381A ó Operation of low-speed vehicles.
88. Section 321.382 ó Upgrade pulls; minimum speed.
89. Section 321.383 ó Exceptions; slow vehicles identified.
90. Section 321.384 ó When lighted lamps required.
91. Section 321.385 ó Head lamps on motor vehicles.
92. Section 321.386 ó Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 ó Rear lamps.
94. Section 321.388 ó Illuminating plates.
95. Section 321.389 ó Reflector requirement.
96. Section 321.390 ó Reflector requirements.
97. Section 321.392 ó Clearance and identification lights.
98. Section 321.393 ó Color and mounting.

99. Section 321.394 ó Lamp or flag on projecting load.
100. Section 321.395 ó Lamps on parked vehicles.
101. Section 321.398 ó Lamps on other vehicles and equipment.
102. Section 321.402 ó Spot lamps.
103. Section 321.403 ó Auxiliary driving lamps.
104. Section 321.404 ó Signal lamps and signal devices.
105. Section 321.404A ó Light-restricting devices prohibited.
106. Section 321.405 ó Self-illumination.
107. Section 321.406 ó Cowl lamps.
108. Section 321.408 ó Back-up lamps.
109. Section 321.409 ó Mandatory lighting equipment.
110. Section 321.415 ó Required usage of lighting devices.
111. Section 321.417 ó Single-beam road-lighting equipment.
112. Section 321.418 ó Alternate road-lighting equipment.
113. Section 321.419 ó Number of driving lamps required or permitted.
114. Section 321.420 ó Number of lamps lighted.
115. Section 321.421 ó Special restrictions on lamps.
116. Section 321.422 ó Red light in front.
117. Section 321.423 ó Flashing lights.
118. Section 321.430 ó Brake, hitch and control requirements.
119. Section 321.431 ó Performance ability.
120. Section 321.432 ó Horns and warning devices.
121. Section 321.433 ó Sirens, whistles and bells prohibited.
122. Section 321.434 ó Bicycle sirens or whistles.
123. Section 321.436 ó Mufflers, prevention of noise.
124. Section 321.437 ó Mirrors.
125. Section 321.438 ó Windshields and windows.
126. Section 321.439 ó Windshield wipers.
127. Section 321.440 ó Restrictions as to tire equipment.
128. Section 321.441 ó Metal tires prohibited.
129. Section 321.442 ó Projections on wheels.

130. Section 321.444 ó Safety glass.
131. Section 321.445 ó Safety belts and safety harnesses ó use required.
132. Section 321.446 ó Child restraint devices.
133. Section 321.449 ó Motor carrier safety regulations.
134. Section 321.450 ó Hazardous materials transportation.
135. Section 321.454 ó Width of vehicles.
136. Section 321.455 ó Projecting loads on passenger vehicles.
137. Section 321.456 ó Height of vehicles; permits.
138. Section 321.457 ó Maximum length.
139. Section 321.458 ó Loading beyond front.
140. Section 321.460 ó Spilling loads on highways.
141. Section 321.461 ó Trailers and towed vehicles.
142. Section 321.462 ó Drawbars and safety chains.
143. Section 321.463 ó Maximum gross weight.
144. Section 321.465 ó Weighing vehicles and removal of excess.
145. Section 321.466 ó Increased loading capacity ó reregistration.

(Ord. 247 – Nov. 02 Supp.)

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

(Code of Iowa, Sec. 321.255)

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

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

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

62.06 FUNERAL PROCESSIONS. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

(Code of Iowa, Sec. 321.324A)

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

62.08 OPEN CONTAINERS IN MOTOR VEHICLES.

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

(Code of Iowa, Sec. 321.284)

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

(Code of Iowa, Sec. 321.284A)

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

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

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

(Code of Iowa, Sec. 321.277)

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

(Code of Iowa, Sec. 321.277A)

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

[The next page is 335]

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 ó twenty (20) miles per hour.
2. Residence or School District ó twenty-five (25) miles per hour.
3. Suburban District ó 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 State Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit listed in Section 63.02 is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location. The following special speed zones have been established:

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On the alley in Block Four of Clark's First Addition, from Haigler Street to 120th Street.
2. 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 Pine Street from Olive Street to Clark Street;
 - B. On Clark Street from Pine Street to West Central;
 - C. On West Central from Clark Street to Olive Street;
 - D. On Olive Street from Pine Street to West Central.
 - E. On Locust Street from Pine Street to Ash Street.
3. 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 Locust Street from 700 Block of S. Locust to Pine Street.
(Ord. 253 – Sep. 06 Supp.)
4. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Locust Street from south corporate line to 700 Block of S. Locust.
(Ord. 253 – Sep. 06 Supp.)
5. 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. Nebraska Avenue from West Central to Hwy. 78.
 - B. Arrow sign at intersection of West Central/Nebraska Avenue with speed limit of 10 MPH posted 300 feet before the intersection.
(Ord. 283 – Sep. 08 Supp.)

63.05 MINIMUM SPEED. A person shall not drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, Sec. 321.294)

CHAPTER 64
TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns

64.03 Left Turn for Parking

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 Elm Street and Locust Street.

64.03 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets – Stop

65.02 Stop Required

65.03 Four-Way Stop Intersections

65.04 Yield Required

65.05 School Stops

65.06 Stop Before Crossing Sidewalk

65.07 Stop When Traffic Is Obstructed

65.08 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Locust Street from Lincoln Street to 120th Street.

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

(Code of Iowa, Sec. 321.345)

1. Huntsberry Street. Vehicles traveling south on Huntsberry Street shall stop at West Central;
2. Bashford Street. Vehicles traveling south on Bashford Street shall stop at West Central;
3. Clark Street. Vehicles traveling south on Clark Street shall stop at West Central;
4. Clark Street. Vehicles traveling north on Clark Street shall stop at 130th Street;
5. Clark Street. Vehicles entering Clark Street from Winfield Area Recreation Center shall stop;
6. Elm Street. Vehicles traveling on Elm Street shall stop at Olive Street;
7. Olive Street. Vehicles traveling on Olive Street shall stop at Pearl Street;
8. Olive Street. Vehicles traveling on Olive Street shall stop at 120th Street;
9. Walnut Street. Vehicles traveling south on Walnut Street shall stop at 130th Street;
10. Walnut Street. Vehicles traveling on Walnut Street shall stop at Pine Street;

11. Walnut Street. Vehicles traveling on Walnut Street shall stop at Pearl Street;
12. Chestnut Street. Vehicles traveling on Chestnut Street shall stop at Pine Street;
13. Chestnut Street. Vehicles traveling south on Chestnut Street shall stop at Wallace Street;
14. Maple Street. Vehicles traveling south on Maple Street shall stop at 130th Street;
15. Center Street. Vehicles traveling on Center Street shall stop at Maple Street;
16. Pine Street. Vehicles traveling on Pine Street shall stop at Maple Street;
17. Elm Street. Vehicles traveling on Elm Street shall stop at Maple Street;
18. Maple Street. Vehicles traveling north on Maple Street shall stop at 120th Street;
19. Oak Street. Vehicles traveling north on Oak Street shall stop at 120th Street;
20. Ash Street. Vehicles traveling on Ash Street shall stop at Olive Street;
21. At the intersection of Chestnut Street and East Center going northbound and southbound; *(Ord. 295 – Sep. 10 Supp.)*
22. At the intersection of Bashford Street and West Pine going northbound and southbound. *(Ord. 295 – Sep. 10 Supp.)*

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Pine Street and Clark Street;
2. Intersection of Ash Street and Clark Street;
3. Intersection of Haigler Street and Clark Street;
4. Intersection of Pine Street and Olive Street;
5. Intersection of Walnut Street and Wallace Street;
6. Intersection of Walnut Street and Haigler Street;
7. Intersection of Wallace Street and Maple Street;

8. Intersection of Olive Street and West Central.

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

(Code of Iowa, Sec. 321.345)

1. Olive Street. Vehicles traveling on Olive Street shall yield at Haigler Street;
2. Walnut Street. Vehicles traveling on Walnut Street shall yield at Ash Street;
3. Walnut Street. Vehicles traveling on Walnut Street shall yield at Elm Street;
4. Chestnut Street. Vehicles traveling on Chestnut Street shall yield at Elm Street;
5. At the intersection of Ash Street and North Chestnut going eastbound and westbound around the City park. *(Ord. 295 – Sep. 10 Supp.)*

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 five (5) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

1. Intersection of Pine Street and Locust Street;
2. Intersection of West Central Street and Locust Street.

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)

[The next page is 355]

CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

- NONE -

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)

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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])

1. The alley in Block Four of Clark's First Addition shall be northbound only from Haigler Street to the north end of the alley.
2. The 200 Block of South Olive shall be designated as a one way south for all vehicular traffic on South Olive between Pine and West Central. *(Ord. 242 – Sep. 02 Supp.)*

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CHAPTER 69

PARKING REGULATIONS

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

69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 Truck Parking Limited
69.10 Parking Limited to Two Hours
69.11 Snow Removal

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. Locust Street, on both sides, from Pine Street to Ash Street;
2. Elm Street, on the north side, from the alley between Walnut Street and Locust Street to the alley between Locust Street and Olive Street;
3. Ash Street, on the south side, from the alley between Walnut Street and Locust Street to the east line of Locust Street;
4. North half of Olive Street, on the west side, from Central Avenue to Pine Street.

69.04 ANGLE PARKING - MANNER. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway

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

(Code of Iowa, Sec. 321.361)

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

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

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

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

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

7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358 [4])
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358 [6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358 [8])
10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358 [9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358 [10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358 [11])
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358 [13])
14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
(Code of Iowa, Sec. 321.360)

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

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

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

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

17. Area Between Lot Line and Curb Line. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.

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.

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

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

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

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

A. Use by an operator of a 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 which is properly placed under the provisions of Section 321L.2A (1) of the Code of Iowa.
4. Spaces Designated. The following parking spaces within the City limits shall be designated as persons with disabilities parking:
- A. Winfield Vets Building ó 116 N. Locust
- B. Winfield City Parking Lot ó 115 N. Locust
- C. Winfield Mt. Union School ó 208 S. Olive
- D. Rodgers Apartments ó 109 E. Elm
- E. Open Bible Church ó 3 spots ó 203 N. Walnut
(Ord. 280 – Sep. 08 Supp.)
- F. The north side of Pine Street at the corner of Olive and Pine Streets
(Ord. 281 – Sep. 08 Supp.)

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

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

1. Locust Street on both sides from Pine Street to the south corporate limits.

69.09 TRUCK PARKING.

1. It is unlawful for a person to park or leave any semi-trailer, tractor and/or trailer or vehicle, as defined below, on any street within any area of the City that is zoned residential.
2. For this section, "vehicle" is defined to include any type of vehicle that exceeds all of the following dimensions: seven (7) feet in height, eight (8) feet in width and thirty (30) feet in length. Such vehicle may park for the purpose of loading or unloading or making deliveries, but in no instance shall such activity exceed twenty-four (24) hours.

Motor homes or camper trailer units, when attached to the towing vehicle, shall not be included in this definition of vehicle.

3. Commercial vehicles which transport detonable materials or flammable solids, liquids and/or gases, radioactive materials or hazardous materials as defined by the National Traffic and Safety Board (NTSB) shall not be parked on any street in a residential district except for the purpose of making local deliveries.

4. Commercial vehicles or trailers of any size, with operating refrigeration units, shall not be parked in such proximity to any residence as to constitute a nuisance. This section does not prohibit the making of deliveries.

69.10 PARKING LIMITED TO TWO HOURS. It is unlawful to park any vehicle for a continuous period of more than two (2) hours between the hours of eight o'clock (8:00) a.m. and five o'clock (5:00) p.m. on any day except Sundays and holidays upon the following designated streets:

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

1. Locust Street from Pine Street to the mid-point between Elm Street and Ash Street.

69.11 SNOW REMOVAL. It is unlawful to park any vehicle on any public street in the City at any time within twelve (12) hours after a snowfall of three (3) inches or more unless the streets have been cleared.

(Code of Iowa, 321.236[1])

[The next page is 375]

CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

(Code of Iowa, Sec. 805. & 805.8)

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 of five dollars (\$5.00) payable at the office of the City Clerk.

(Ord. 290 – Sep. 10 Supp.)

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

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

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

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

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

CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles
75.06 Negligence
75.07 Accident Reports

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

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle, with not less than three (3) and not more than six (6) low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

3. "Off-road utility vehicle" means a motorized flotation-tire vehicle, with not less than four and not more than 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. *(Ord. 293 – Sep. 10 Supp.)*

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

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

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

(Ord. 275 – Dec. 07 Supp.)

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.

(Ord. 275 – Dec. 07 Supp.)

(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.
 - A. Unplowed. Snowmobiles may be operated upon streets which have not been plowed during the snow season.
 - B. Other. The operation of a snowmobile is prohibited except on the following routes in the City: along Highway 78 to Locust Street and then north along Locust Street to 130th Street, then east along 130th Street to Oak Street; and then north along Oak Street to Wallace Street; along Pine Street from Locust Street east to the end of Pine Street; north along Oak Street from Pine Street to 120th Street; along 120th Street for the full length of the north corporate boundary of the City; along the alley between Olive Street and Locust Street from 120th Street to Ash Street; and along Nebraska Avenue from Highway 78 north to West Central Avenue.
2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

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

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

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

(1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile is brought to a complete stop before crossing the street;

(3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

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

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

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

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

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

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

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

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

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1& 2A])

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

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

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

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

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

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

75.06 NEGLIGENCE. The owner and operator of an ATV or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV or snowmobile. The owner of an ATV or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV or snowmobile at the time the injury or damage occurred.

(Code of Iowa, Sec. 321G.18 & 321I.19)

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)

(Ch. 75 - Ord. 259 – Sep. 06 Supp.)

CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Carrying Articles
76.02 Traffic Code Applies	76.09 Riding on Sidewalks
76.03 Double Riding Restricted	76.10 Towing
76.04 Two Abreast Limit	76.11 Improper Riding
76.05 Bicycle Paths	76.12 Parking
76.06 Speed	76.13 Equipment Requirements
76.07 Emerging from Alley or Driveway	76.14 Special Penalty

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(Code of Iowa, Sec. 321.236 [10])

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

(Code of Iowa, Sec. 321.236 [10])

76.05 BICYCLE PATHS. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(Code of Iowa, Sec. 321.236 [10])

76.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code of Iowa, Sec. 321.236 [10])

76.07 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Code of Iowa, Sec. 321.236 [10])

76.08 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

(Code of Iowa, Sec. 321.236 [10])

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

(Code of Iowa, Sec. 321.236 [10])

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

(Code of Iowa, Sec. 321.236 [10])

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

(Code of Iowa, Sec. 321.236 [10])

76.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

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 from sunset to sunrise 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.

[The next page is 389]

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 92.02, 92.04 this chapter the following terms are defined:

(Code of Iowa, Sec. 321.89[1])

1. "Abandoned vehicle" means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. "Demolisher" means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity which is a garage keeper (any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles) 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.

(Ord. 291 – Sep. 10 Supp.)

(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.

(Ord. 291 – Sep. 10 Supp.)

(Code of Iowa, Sec. 321.89[3a])

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

(Code of Iowa, Sec. 321.89[3b])

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

(Code of Iowa, Sec. 321.89[3a])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any

abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

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

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

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

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

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

(Ch. 80 - Ord. 267 - Sep. 06 Supp.)

[The next page is 397]

CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.11 Installation of Water Service Pipe
90.02 Public Works Director'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 Fee for Permit and Connection Charge	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. "Water main" means a water supply pipe provided for public or community use.
4. "Water service pipe" means the pipe from the water main to the building served.
5. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 PUBLIC WORKS DIRECTOR'S DUTIES. The Public Works Director, or the Director's designated person, 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 Public Works Director 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 Public Works Director 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. The owners of any houses, buildings or structures used for human occupancy, employment or use, situated within the City and abutting on any street, alley or right-of-way in which there is located a public water main are hereby required to connect such facilities to the City's public water system in accordance with the provisions of these Water Service chapters within sixty (60) days after the date of official notice to do so, provided that said public water main is located within one hundred (100) feet of the property line of such owner.

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. The permit may be revoked at any time for any violation of these chapters.

90.06 CONNECTION CHARGE. If the connection to the water main is on a street which has been paved or surfaced with blacktop and connection is made approximately one-half the distance across the street or less, a fee of twenty-five dollars (\$25.00) must be paid to the Clerk in advance of cutting into such street by the person requesting such connection. If more than half the distance across the street, a fee of thirty-five dollars (\$35.00) must be paid.

(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 Division 4, Plumbing Rules and Regulations, of the State Building Code.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Public Works Director shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Public Works Director shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Public Works Director shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

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 Public Works Director and in accord with the following:

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

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 Public Works Director and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Public Works

Director shall order. All taps in the mains shall be made in the top half 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 Public Works Director, 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 Public Works Director in such form as the Public Works Director shall require.

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 Public Works Director. 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 curb valve 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 Public Works Director. 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 Public Works Director before they are covered, and the Public Works Director shall keep a record of such approvals. If the Public Works Director 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 Public Works Director 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 City 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, and the plumber's bond or cash deposit shall be security for the assessment. 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 Public Works Director 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 Public Works Director has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Public Works Director 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.

[The next page is 407]

CHAPTER 91

WATER METERS

91.01 Purpose	91.06 Meter Repairs
91.02 Water Use Metered	91.07 Right of Entry
91.03 Fire Sprinkler Systems- Exception	91.08 Meter Testing
91.04 Location of Meters	91.09 Meter Pits
91.05 Meter Setting	

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

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

91.06 METER REPAIRS. Whenever a water meter is found to be out of order the Public Works Director 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. In the case of a frozen meter, any damage to the bottom plate on the meter will be replaced once at City expense. Any other expense for replacement of a frozen meter shall be the customer's responsibility.

91.07 RIGHT OF ENTRY. The Public Works Director shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.08 METER TESTING. The Public Works Director or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than 5% of the total water bill and not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay a testing charge of \$25.00.

91.09 METER PITS. Water meter pits will be furnished by the City when deemed necessary by the Public Works Director for the protection of the water meter.

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 Utility Deposit
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. There shall be and there are hereby established charges for the water supplied by the municipal water utility based upon the rates as follows:

(Code of Iowa, Sec. 384.84)

AMOUNT	WATER CHARGE
First 1,000 gals	\$15.50 per 1000 gals
Over 1,000 gallons	\$4.50 per 1,000 gallons
Minimum charge per month	\$15.50

The City reserves the right to make such reasonable changes in rates and in conditions herein established and to establish further rules and regulations from time to time as may be found necessary. *(Ord. 254 – Sep. 06 Supp.)*

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at the same 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. Bills for the rates and charges as herein established shall be sent monthly. All bills shall be payable on the first day of the month following the period of service and shall be paid at the office of the Utility. If any charge for the services of the system shall not be paid by the 20th day of the month in which it shall become due and payable, a charge of one and one half percent (1½ %) of the amount of bill shall be added thereto and collected therewith. If any bills remain unpaid 30 days following the due date, the water supply for the lot, parcel of land or premises affected may, after a notice, be cut off and may not be restored except upon satisfactory payment of the delinquent charges. *(Ord. 254 – Sep. 06 Supp.)*

(Code of Iowa, Sec. 384.84)

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 Utility Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. 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. A \$15.00 administrative fee shall be charged to the delinquent customer when the delinquency notice is processed.

(Ord. 284 – Oct. 08 Supp.)

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.

(Ord. 294 – Sep. 10 Supp.)

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Mayor, Clerk and Utility Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of thirty-five dollars (\$35.00) 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.

(Ord. 284 – Oct. 08

Supp.)

(Code of Iowa, Sec. 384.84)

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Ord. 294 – Sep. 10 Supp.)

(Code of Iowa, Sec. 384.84)

92.09 UTILITY DEPOSIT. There shall be required from every customer not the owner of the premises served a twenty dollar (\$20.00) deposit intended to guarantee the payment of bills for utility 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. There shall be a twelve and one-half dollars (\$12.50) fee collected for shutting the water off at the curb valve and a twelve and one-half dollars (\$12.50) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

CHAPTER 93

WATER CONSERVATION

93.01 Water Shortages	93.08 Water Appeal Board
93.02 Conditions	93.09 Appeal and Adjustment of the Base Allocation
93.03 Water Watch	93.10 Premium Rate for Imprudent Consumption
93.04 Water Warning — Tier I	93.11 Adjustment of Premium Rate Charges
93.05 Water Warning — Tier II	93.12 Penalties
93.06 Water Emergency	93.13 Municipal Infraction
93.07 Base Allocation	93.14 Reduction in Flow of Water to Any Person

93.01 WATER SHORTAGES. From time to time, the City water supply or capacity to treat water or wastewater may become significantly constrained that customary and usual demands cannot be met. Under these conditions, the Council may find, and declare by resolution, a public Water Watch, Water Warning or Water Emergency, during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction of water consumption until, by resolution, the Council finds and declares the constraint conditions to be ended.

93.02 CONDITIONS.

1. **Water Watch.** A Water Watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the water or wastewater system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a Water Watch include: system operating at seventy-five percent (75%) of pumping capacity; moderate decrease in the pumping water level of wells or moderate decrease in recovery rate of water level in wells; moderate decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.
2. **Water Warning.** A Tier I or Tier II Water Warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water or wastewater system to meet the needs of its customers currently and in the foreseeable future. Indicators of the need to impose a Tier I Water Warning include: system operating at eighty-five percent (85%) of pumping capacity; significant decrease in the pumping water level of wells or significant decrease in recovery rate of water level in wells; significant decrease in reservoir levels measured in number of feet below spillway or number of feet above intake. Indicators of the need to impose a Tier II Water Warning include severe system emergencies such as a chemical spill or major system failure.

3. **Water Emergency.** A Water Emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a Water Emergency include: system operating at ninety-five percent (95%) of pumping capacity; serious decrease in the pumping water level of wells or serious decrease in recovery rate of water level in wells; serious decrease in reservoir levels measured in number of feet below spillway or number of feet above intake.

93.03 WATER WATCH. Under a Water Watch, all customers of the water utility are encouraged to limit or curtail all nonessential uses of water in order to conserve water resources during the time of shortage or equipment failure. Customers may be encouraged to comply with the following voluntary standards:

1. No watering of lawns, shrubs or gardens between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m.
2. No water should be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
3. No water should be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
4. No water should be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
5. Water should be served at restaurants only upon the request of the customer.

93.04 WATER WARNING — TIER I. Under a Tier I Water Warning, no person shall use potable processed water of the municipal water service in any manner contrary to the following:

1. Outdoor watering or irrigation of lawn is prohibited.
2. Outdoor watering of any kind is prohibited between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m. daily.
3. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than four (4) years old and new seeding or sod is permitted once per week with an application not to exceed one (1) inch.
4. Car washing is prohibited except in commercial establishments that provide that service.

5. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.
6. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors.
7. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.
8. Water shall be served in restaurants only upon the request of the customer.
9. Use of water-consuming comfort air conditioning equipment which consumes in excess of five percent (5%) of the water circulating in such equipment is prohibited.
10. Tankload water sales may be curtailed or eliminated.

Water reclaimed or recycled after some other primary use, such as water that has been used for washing or cooling, may be used without restriction. Additionally, water derived from other sources than the City water utility, such as water condensed from the atmosphere by air conditioners or collected from rain or snow, may be used without restriction.

93.05 WATER WARNING — TIER II. Under a Tier II Water Warning, no person shall use potable processed water of the municipal water system in any manner contrary to the following:

1. All outside water use, except for domestic, sanitation and fire, is prohibited.
2. All commercial and industrial uses of water not essential in providing products or services is prohibited.
3. Irrigation of agricultural crops is prohibited.
4. Recreational and leisure water use, including lawn and golf course watering and other incidental or recreational uses, is prohibited.
5. Water use not necessary for the preservation of life or the general welfare of the community is prohibited.

93.06 WATER EMERGENCY. Under a Water Emergency, Tier I Water Warning use restrictions shall be in effect and, in addition, each customer will be afforded a monthly base allocation of water.

93.07 BASE ALLOCATION. The base allocation of water for residential use shall be 3,000 gallons per household per billing period. For commercial, industrial or institutional use, the base allocation shall be established by

resolution as a percentage of the average water used during the previous winter (November through April).

93.08 WATER APPEAL BOARD. A Water Appeal Board shall be appointed during any Water Warning or Water Emergency. The Water Appeal Board shall consist of the Mayor, the Superintendent of the water system and three representatives of the community who shall be appointed by the Mayor with the approval of the Council. The Water Appeal Board shall hear appeals of any action taken pursuant to a Water Warning or Water Emergency, except that, if a customer is charged with a municipal infraction relating to this chapter, that proceeding shall be conducted pursuant to Section 364.22 of the Code of Iowa.

93.09 APPEAL AND ADJUSTMENT OF THE BASE ALLOCATION. Any person may file an appeal with the Water Appeal Board to adjust the base allocation amount. The Water Appeal Board may grant an adjustment to the appellant based upon the following criteria:

1. For single-family residential use, the base allocation may be increased by 1,000 gallons per person per billing period for all individuals residing at the appellant's residence for a period of more than thirty (30) days.
2. For commercial, industrial, institutional or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer; such as usage, production, service and occupancy data provided by the customer.

93.10 PREMIUM RATE FOR IMPRUDENT CONSUMPTION. In addition to the water rates duly enacted by the Council, all persons shall pay a premium rate of \$1.00 per 100 gallons of water consumed in excess of the base allocation.

93.11 ADJUSTMENT OF PREMIUM RATE CHARGES. Any person may file for adjustment of the premium rate charges for imprudent water consumption with the Water Appeal Board. The Water Appeal Board may grant an adjustment of the premium rate charges in accordance with the following criteria:

1. Adjustments may be granted for overconsumption due to mechanical failures such as broken or leaky pipes or fixtures but not for overconsumption due to human carelessness.
2. The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a licensed plumber's invoice or statement or a materials receipt.

3. The adjustment shall be granted only for the billing period prior to the correction of the failure.
4. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be forty percent (40%) of the actual bill which shall include the premium rate charges and sales tax.

93.12 PENALTIES. The following penalties shall apply for violation of Water Warning use restrictions imposed under this chapter.

1. **First Violation.** For a first violation, the utility shall issue a written notice of violation to the water user violating the water use restrictions imposed during a Water Warning or Water Emergency.
2. **Second Violation.** For a second violation within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill.
3. **Subsequent Violations.** For any subsequent violations within a 12-month period, a one-month surcharge shall be imposed in an amount equal to 50 percent of the previous month's water bill, and in addition, the utility shall interrupt water service to that customer at the premises at which the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violations of Water Warning or Water Emergency use restrictions will not occur.

Any customer charged with a violation of the Water Warning or Water Emergency use restrictions may request a hearing before the Water Appeal Board. The Water Appeal Board may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

93.13 MUNICIPAL INFRACTION. A second or subsequent violation of the Water Warning or Water Emergency use restrictions by any person within a 12-month period constitutes a municipal infraction. Any person who, in making application to the Water Appeal Board for adjustment of the base allocation or premium charges, intentionally provides false or incorrect statements or information commits a municipal infraction.

93.14 REDUCTION IN FLOW OF WATER TO ANY PERSON. The Water Superintendent is authorized, after giving notice and opportunity for hearing before the Water Appeal Board, to reduce the flow of water to any person determined to be using water in any manner not in accordance with this chapter during a Water Warning or Water Emergency.

(Ch. 93 – Ord. 243 – Nov. 02 Supp.)

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CHAPTER 95
SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Director of Public Works
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.

Comment [ST1]: Page: 30
optional end subsection here.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow

exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "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.

23. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 PUBLIC WORKS DIRECTOR. The Public Works Director 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 Public Works Director.
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 Public Works Director 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 Public Works Director 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 Public Works Director 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	96.06 Interceptors Required
96.02 Permit Fee and Connection Charge	96.07 Sewer Tap
96.03 Plumber Required	96.08 Inspection Required
96.04 Excavations	96.09 Property Owner's Responsibility
96.05 Connection Requirements	96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. 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 to the Clerk in the amount of \$35.00 for residential/commercial connections or \$100.00 for industrial connections 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 \$35.00 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 plumber approved by the City. The Public Works Director shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Public Works Director shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Public Works Director shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the minimum sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections

with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Public Works Director, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Public Works Director before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.

5. **Size.** Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. **Alignment and Grade.** All building sewers shall be laid to a straight line to meet the following:
 - A. Recommended grade at one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Minimum grade of one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity of 2.00 feet per second with the sewer half full.
 - D. Any deviation in alignment or grade shall be made only with the written approval of the Public Works Director and shall be made only with approved fittings.
7. **Depth.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. **Sewage Lifts.** In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.
9. **Pipe Specifications.** Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in Division 4 of the State Building Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:
 - A. Clay sewer pipe - A.S.T.M. C-700 (extra strength).
 - B. Extra heavy cast iron soil pipe - A.S.T.M. A-74.
 - C. Ductile iron water pipe - A.W.W.A. C-151.
 - D. P.V.C. - SDR26 - A.S.T.M. D-3034.
10. **Bearing Walls.** No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
11. **Jointing.** Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Public Works Director. Solvent-welded joints are not permitted.
12. **Unstable Soil.** No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse

must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Public Works Director. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

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

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Public Works Director, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the  Y  branch, if such branch is available at a suitable location. If no properly located  Y  branch is available, a saddle  Y  shall be installed at the location specified by the Public Works Director. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Public Works Director and in accordance with the Public Works Director's direction if such connection is approved.

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

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

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

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

[The next page is 435]

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 Public Works Director. Industrial cooling water or unpolluted process waters may be discharged on approval of the Public Works Director, 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 Public Works Director 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 percent (2%) of the average sewage flow of the City, shall be subject to the review of the Public Works Director. Where necessary in the opinion of the Public Works Director, 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 öslugsö as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director 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 Public Works Director, 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 Public Works Director. 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).

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions

98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage
98.09 Minimum Lot Area

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

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

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 50,000 square feet.

CHAPTER 99
SEWER SERVICE CHARGES

99.01 Rates
99.02 Application Process

99.03 Billing Process
99.04 Accounting Process

99.01 RATES. There shall be and there are hereby established sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount and rate of water consumed as follows:

AMOUNT	SEWER SERVICE CHARGE
First 3,000 gals. or less per month	\$20.00 per month (minimum monthly billing)
Over 3,000 gals. per month	\$4.50 per 1,000 gallons

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

99.02 APPLICATION PROCESS. Applications for sewer service shall be filed with the Utility upon a form to be supplied by the City. The application shall state the name of the applicant and the premises to be served. All applications filed after the commencement of the operation of the system shall be accompanied by a fee of \$35.00, payable to the City for the connection charge.

99.03 BILLING PROCESS.

1. Bills for the rates and charges as herein established shall be sent monthly. All bills shall be payable on the first day of the month following the period of service and shall be paid at the office of the Utility. If any charge for the services of the system shall not be paid by the 20th of the month in which it shall become due and payable, a charge of one and one half percent (1½%) of the amount of the bill shall be added thereto and collected therewith. If any bills remain unpaid 30 days following the due date, the water supply for the lot, parcel of land or premises affected may, after proper notification and hearing, be cut off and may not be restored except upon satisfactory payment of the delinquent charges.

2. The service charges for sanitary sewer service to customers not being supplied water by a municipal water system will be due and payable on the first day of each month.
3. The owner of the premises served and the occupant thereof and the user of the sanitary sewer service shall be jointly and severally liable for the sewer service provided said premises. A deposit of \$100.00 shall be required from all tenants to be included with and payable as part of the deposit for connection to the City Water System. The deposit shall be applied to any bill for sewer service delinquent more than 30 days. Upon disconnection of the sewer service, any balance of such deposit shall be returned to the applicant without interest.
4. It is hereby made the duty of the City Official designated by the Council to render bills for sewer service and all other charges in connection therewith and to collect all money due. The City will notify each user at least annually in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to operation and maintenance and replacement of the treatment works.
5. All sewer charges levied pursuant to this chapter constitute a lien upon the premises served and if not paid within sixty days after due date, the charges shall be certified to the County Auditor and shall be collectible in the same manner as taxes.

99.04 ACCOUNTING PROCESS.

1. All revenues and moneys derived from the operation of the sewer system shall be paid to and held by the City separate and apart from all other funds of the City, and all of said sums and all other funds and moneys incident to the operation of said system, as may be delivered to the City, shall be deposited in a separate fund designated the "Sewer Revenue Fund," and the Council shall administer said fund in the manner provided by the Code of Iowa and all other laws pertaining thereto.
2. The City shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system and at regular annual intervals the Council shall cause to be made an audit by an independent auditing concern or the State of the books to show the receipts and disbursements of the sewer system. The City shall be required annually to prepare a budget of the Sanitary Sewer System to show the required revenues and expenses. If necessary, sewer service charges will be adjusted to produce adequate income to retire the indebtedness, meet operation, maintenance and replacement needs, and establish required reserves.

CHAPTER 99

SEWER SERVICE CHARGES

(Ch. 99 - Ord. 274 – Dec. 07 Supp.)

[The next page is 449]

CHAPTER 105
SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required

105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices
105.12 Sanitary Disposal Project Designated
105.13 Recycling Program

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

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

1. "Collector" means any person authorized to gather solid waste from public and private places.
2. "Director" means the director of the State Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.101[2b])

3. "Discard" means to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, Sec. 455B.361[2])

4. " Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

5. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

6. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.

(IAC, 567-20.2[455B])

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

8. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

9. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

10. "Residential premises" means a single-family dwelling and any multiple-family dwelling up to and including four (4) separate dwelling units.

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

14. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final

disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director.

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

15. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

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

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

(Code of Iowa, Ch. 657)

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

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

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

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth ($\frac{1}{4}$) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. 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. A bonfire for recreational purposes shall be maintained only in accordance with the following:

(IAC, 567-23.2[3e])

- A. The fire must be in a steel, stone or concrete enclosure; no barrels.
- B. The enclosure must be covered with a screened cover or grate.
- C. The fire must be supervised by a person 18 years of age or older at all times.
- D. Firewood shall be the only material used; no other substance such as garbage, paper or construction material shall be used.
- E. Exception is made to these provisions for the annual City-sponsored Halloween Bonfire.

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Pesticide Containers and Seed Corn Bags. Paper or plastic pesticide containers and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

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

(IAC, 567-23.2[3i])

9. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be 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 or alley 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 twenty-four (24) 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 containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Des Moines County Regional Solid Waste Commission are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

105.13 RECYCLING PROGRAM. A mandatory program for the separation of recyclable material is hereby established, and residents shall separate and prepare recyclable material in accordance with the rules and regulations of the City's recycling program as established by the Council and the collector.

[The next page is 461]

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment
106.10 Use of Approved Facility Required

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.

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 collector.

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. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:
 - A. For each residential premises and for each dwelling unit of a multiple-family dwelling ó a \$11.00 per month
 - B. For each residential premises and for each dwelling unit of a multiple-family dwelling occupied by a person 65 years of age or older ó \$10.00 per month
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

106.10 USE OF APPROVED FACILITY REQUIRED.

1. All of the City's solid waste disposed of within the State of Iowa shall be transported to the Des Moines County Regional Landfill unless the contractor obtains a written waiver from the City to deposit waste at an alternate site identified and included in the Comprehensive Plan of the Des Moines County Regional Solid Waste Commission.
2. No person shall engage in the collecting, transporting or disposing of solid waste, other than his own, within the City without first obtaining from the Des Moines County Regional Waste Commission an annual permit.
3. Failure to comply with this section by any person, or tenant in cases where a lease agreement gives specific responsibility for solid waste disposal to said tenant, shall be a municipal infraction. If a person violates the provisions of this section by transporting waste to a site not designated as set out in this chapter, each trip to the unauthorized landfill shall be considered a separate offense.

(Ord. 270 – Sep. 06 Supp.)

[The next page is 467]

CHAPTER 110
NATURAL GAS UTILITY

110.01 Service Rules and Regulations
110.02 Rates

110.03 Rate Adjustment

110.01 SERVICE RULES AND REGULATIONS. The rules and regulations for gas service are contained in the "Municipal Gas Utility of the City of Winfield Tariff," on file with the Utilities Division of the Iowa Department of Commerce. Also, an official copy of the rules and regulations as adopted is now on file in the office of the Clerk. The rules and regulations contained therein shall apply to all users of the municipal gas system.

110.02 RATES. The rates for gas service shall be as follows: \$5.00 per month per meter, plus \$9.00 per mcf with an effective date of the May 1, 2009 billing cycle.
(Ord. 287 – Sep. 10 Supp.)

110.03 RATE ADJUSTMENT. The following cost of purchased gas adjustment shall apply with respect to the cost of purchased gas from and after September 14, 2000:

1. The purchased gas adjustment (PGA) for gas customers is 1.25 cents per mcf plus the hot gas adjustment average which is also determined monthly.
2. The computation of hot gas also shall be determined for monthly adjustment. The amount will be determined by taking the daily computation based on 1,000 BTU for the month, averaging the monthly totals and adding that amount to the PGA.
3. The implementation of the purchased gas adjustment (PGA), whether resulting in an increase or decrease in rates, shall not require notice to patrons of the municipal gas system.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted	111.05 Nonexclusive
111.02 Construction; Maintenance; Indemnification	111.06 Service Provided
111.03 Meters — Service Lines	111.07 Term of Franchise
111.04 System Requirements	111.08 Agreement

111.01 FRANCHISE GRANTED. There is hereby granted to the IES UTILITIES, INC., hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Winfield, Henry County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City, to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years[^]; also the right to eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City and the Company, its successors and assigns, shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 METERS — SERVICE LINES. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

[^] **EDITOR'S NOTE:** Ordinance No. 238, adopting an electric franchise for the City, was passed and adopted on November 13, 2000.

111.04 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern up-to-date condition.

111.05 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

111.06 SERVICE PROVIDED. Service to be rendered by the Company under this franchise shall be continuous unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.07 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company.

111.08 AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superceded, modified or otherwise amended without approval by qualified electors at a special election. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted
112.02 Term of Franchise
112.03 Police Power

112.04 Indemnification
112.05 Restoration of Property

112.01 FRANCHISE GRANTED. There is hereby granted unto Contel of Iowa, Inc., an Iowa corporation, d/b/a GTE IOWA, having its principal place of business in the City of Newton, Iowa, its successors and assigns (the "Company"), the right, privilege and franchise to locate, erect, construct, relocate, replace, extend, enlarge, repair, operate and maintain a general telephone system and exchange in the City, and to enter upon, use and occupy the streets, roads, avenues, highways, alleys, boulevards, public grounds and other public places in the City, in the supplying and furnishing to persons and firms and corporations residing in the City and to persons and firms and corporations beyond and outside of the City, communication by telephone, with the right, privilege and franchise to locate, erect, construct, relocate, replace, extend, enlarge, repair, operate and maintain all necessary and convenient poles, conduits, manholes, apparatus, service pipes, fixtures, wires, cables, cross-arms, appliances, connections and appurtenances, and to make house and building connections upon, on, along, in, under, across, through and over said streets, roads, avenues, highways, alleys, boulevards, public grounds and other public places in the City, as are requisite for the complete equipment and furnishing and supplying of communication by telephone and in receiving and transmitting intelligence by electricity for all purposes, in any manner and by any method or device.

112.02 TERM OF FRANCHISE. The right, privilege and franchise herein and hereby granted shall extend for a period of twenty-five (25) years^Ä from and after the date that the ordinance codified in this chapter became effective.

112.03 POLICE POWER. The rights, privileges and franchise herein and hereby granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon by the City.

112.04 INDEMNIFICATION. The Company shall at all times protect and save harmless the City from all damages or loss from or arising out of or by reason of the construction or maintenance or operation of said telephone system

^Ä **EDITOR'S NOTE:** Ordinance No. 185, adopting a telephone franchise for the City, was passed and adopted on September 10, 1991.

and exchange, except as may be the result of negligence on the part of the employees of the City.

112.05 RESTORATION OF PROPERTY. The Company, in constructing, maintaining and operating its telephone system and exchange, and in its use of the streets, roads, avenues, highways, alleys boulevards and other public places in the City, shall perform its necessary and convenient work with due care and with reasonable dispatch; and shall not unnecessarily obstruct travel; and shall protect the place while its work is in progress by guards, barriers and signals; and shall backfill all openings made by it in such a manner as to prevent settling or depressions in the surface, and shall replace the surface, pavement and sidewalk of any excavations made by the Company with the same or like material, so as to restore same, as nearly as is practical, to its condition prior to such excavation; and shall not unnecessarily interfere with any water mains, gas mains, sewers, or drains which are now or may hereafter be laid, except as the prior consent of the Council is first obtained, and shall repair any defects caused by the Company.

CHAPTER 113

CABLE TELEVISION FRANCHISE AND REGULATIONS

113.01 Purpose	113.12 Line Extensions
113.02 Definitions	113.13 City Rights
113.03 Granting of Franchise	113.14 Rates and Charges
113.04 Compliance Required Generally	113.15 Record Keeping
113.05 National Electric Safety Code	113.16 Service Procedures
113.06 FCC Regulations	113.17 Program Content Restrictions
113.07 Transfer	113.18 Discrimination Prohibited
113.08 Company Rules and Regulations	113.19 Liability and Indemnification
113.09 Franchise Term	113.20 Franchise Fee
113.10 Franchise Renewal	113.21 Violations
113.11 System Construction, Maintenance and Procedures	

113.01 PURPOSE. The purpose of this chapter is to provide regulatory provisions of cable television systems in the City.

113.02 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. "Basic subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the City for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and origination channels, if any. Basic subscriber revenues shall not include any revenues received:
 - A. As reimbursement of expenses in the operation of any access channels;
 - B. As advertising payments;
 - C. From the leasing of cable channels;
 - D. From programs for which a per-channel, per-program or tier charge is made; and
 - E. From furnishing other communications and nonbroadcast services either directly or as a carrier for another party or any other income derived from the system. Basic subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installations.

2. "Company" means Galaxy Communications, maintaining its offices in Sikeston, Missouri, the grantee of rights under the regulatory ordinance codified in this chapter.
3. "Federal Communications Commission" or "FCC" means the Federal agency by that name as constituted by the Communications Act of 1934, as amended.
4. "System" means the lines, fixtures, equipment, attachments and appurtenances thereto which are used in the construction, operation and maintenance of the community antenna television system authorized by this chapter.

113.03 GRANTING OF FRANCHISE. The cable television ordinance which grants to the Company the nonexclusive right to construct, operate and maintain a cable television system in the City was passed and adopted by the Council after a full, open and public proceeding. The proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical and other qualifications of the Company. Having received at said proceeding all comments regarding the qualifications of the Company, the City found that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's construction arrangements are adequate and feasible. Therefore, the City grants to the Company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain in, upon, among, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes set forth in this chapter.

113.04 COMPLIANCE REQUIRED GENERALLY. The Company shall, at all times during the life of the cable television ordinance codified in this chapter, be subject to all lawful exercise of the police power by the City and to such reasonable regulations as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the Company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and as the same may be amended

and revised from time to time, and in full compliance with all other applicable rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the City or any other agency of the State or the United States, which may hereafter acquire jurisdiction of the operations of the Company authorized in this chapter.

113.05 NATIONAL ELECTRIC SAFETY CODE. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code.

113.06 FCC REGULATIONS. The Company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC.

113.07 TRANSFER. The Company shall have the right at any time to assign, pledge, transfer or encumber its interest under the franchise; provided, however, any assignee of the franchise under this provision shall expressly assume, and by reason of such assignment or transfer shall be considered as having assumed, all of the obligations and duties of the Company hereunder. The Company shall give the City a written notice by certified mail, return receipt requested, within thirty (30) days of any change of ownership, transfers or assigns.

113.08 COMPANY RULES AND REGULATIONS. The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this chapter and to assure uninterrupted service to each and all of its customers.

113.09 FRANCHISE TERM. The franchise granted under this chapter shall terminate five (5) years from the date of grant.^Å If the Company has reasonably performed to the requirements and conditions of this chapter, the City will not unreasonably withhold granting a renewal of the franchise.

113.10 FRANCHISE RENEWAL. The Company shall be a party to any proceedings in which its rights, privileges or interests would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

^Å **EDITOR'S NOTE:** Ordinance No. 232, adopting a cable television franchise for the City, was passed and adopted on April 11, 2000.

113.11 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. In the event that at any time during the period of the franchise the City lawfully elects to alter or change the grade of any street, alley or other public way, the Company, upon reasonable notice by the City, shall remove, relay or relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
2. The Company shall, on the request of any person holding a building moving permit issued by the City temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The Company shall be given no less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.
3. The Company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the City and to any public or parochial elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

113.12 LINE EXTENSIONS. It shall be the obligation of the Company 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, the Company 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 forty (40) homes per each linear mile of new cable. In the event that the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory to the Company.

113.13 CITY RIGHTS.

1. City Rules. The right is reserved by the City to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the State or the United States.

2. Emergency or Disaster. In the case of any emergency or disaster, the Company shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster period.
3. Liability. The City shall not be liable for any damage occurring to the property of the Company caused by employees of the City in the performance of their duties, except for damage caused to the Company's facilities by the negligence of the City's employees. The City shall not be liable for the interruption of service by actions of City employees in the performance of their duties, nor shall the City be liable for the failure of the Company to be able to perform normal services due to acts of God or other factors beyond the control of the City.
4. No Property Right. Nothing in this chapter shall grant to the Company any right of property in the City-owned property.
5. Construction Approval by City. The City shall have and maintain the right to inspect the construction, operation and maintenance of the system by the Company to insure the proper performance of the terms of this chapter.
6. Correction of Defects. In the event the Company should violate any of the terms of this chapter, the City shall immediately give to the Company sixty (60) days' written notice to correct such violation and in the event the Company does not make such correction within sixty (60) days after the receipt of such written notice, the City may make such correction itself and charge the cost of same to the Company, and the Company shall pay such charges within thirty (30) days after the receipt of a statement for such charge from the City.

113.14 RATES AND CHARGES. In consideration for services rendered to subscribers, the Company shall have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the Company's need to attract new capital and provide a reasonable return on invested capital. The Company, from time to time, may alter these rates at its discretion.

1. Multi-user rates and charges may be negotiated between the Company and the subscriber, but in no event shall the multi-user rates and charges for any subscriber exceed the aggregate rates and charges which would be charged to the multi-user if computed on the basis of single-user rates and charges.
2. In addition to the monthly service rate, the Company may add to that rate, taxes or fees imposed upon the Company's basic subscriber revenues by City, State or Federal governmental or legislative bodies and

fees or charges imposed upon the Company for the use and distribution of copyrighted program material.

3. The Company may, at its own discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/or monthly services for promotional purposes.

113.15 RECORD KEEPING. The Company shall keep full, true, accurate and current records, maps, plans, and other like materials, and the same shall be made available for inspection by the City.

113.16 SERVICE PROCEDURES. During the term of the franchise, and any renewal thereof, the Company shall maintain within the City a nearby business office or agent for the purpose of receiving and resolving all questions regarding the quality of service, equipment malfunctions and similar matters. The provisions of this section shall be complied with if the Company may be reached by a toll-free telephone call to receive complaints regarding quality of service, equipment malfunctions and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours and in no event less than eight o'clock (8:00) a.m. to five o'clock (5:00) p.m., Monday through Friday. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within three (3) business days of their receipt. The Company shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date thereof. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the cable television service without payment to the Company for same. Such action shall be subject to penalties as allowed and imposed by Federal, State or local law.

113.17 PROGRAM CONTENT RESTRICTIONS. In addition to providing basic cable television service consisting of broadcast and automated signals, the Company may offer subscribers optional services on a per-program or per-channel basis.

113.18 DISCRIMINATION PROHIBITED. The Company shall not refuse to hire or discriminate against any person regarding compensation, terms, conditions or privileges of employment because of sex, age, race, color, creed or national origin. The Company shall take affirmative action to insure that employees are treated, during employment, without regard to their sex, age, race, color, creed or national origin.

113.19 LIABILITY AND INDEMNIFICATION. The Company shall indemnify the City and hold it harmless from all liability, damage, cost or

expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The City shall notify the Company's representative within fifteen (15) days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Company. The Company agrees as follows:

1. The Company shall carry Worker's Compensation insurance with statutory limits and Employer's Liability insurance with limits of not less than one hundred thousand dollars (\$100,000.00) which shall cover all operations to be performed by the Company as a result of this chapter.
2. The amounts of insurance to be carried for liability due to property damage shall be five hundred thousand dollars (\$500,000.00) as to any one occurrence and against liability due to injury or death of persons, five hundred thousand dollars (\$500,000.00) as to any one person and one million dollars (\$1,000,000.00) as to any one occurrence.
3. No person, whether or not a subscriber to the cable system, may intentionally or knowingly damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of the Company, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus or appurtenances of the Company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the Company, or to obtain cable television or other communications service with intent to cheat or defraud the Company of any lawful change to which it is entitled.

113.20 FRANCHISE FEE. The Company shall pay to the City five percent (5%) of basic subscriber revenues received for cable television service rendered to customers located within the City. Payments will be made to the City on a semiannual basis.

113.21 VIOLATIONS. Should the Company, its successors or assigns violate any of the provisions of this chapter or any reasonable rules and regulations established by the City pursuant hereto and should such violation continue for more than thirty (30) days after the City has given the Company written notice of such violation, failure or default, the same shall be cause of the forfeiture or revocation of the ordinance codified in this chapter and the termination of all rights hereunder; provided however, any delay in correcting such violation which is caused by factors beyond the control of the Company shall not be included in computing the length of the continuance of such violation.

[The next page is 489]

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

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

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

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

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

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

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

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

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

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or

immoral or disorderly conduct on the premises covered by the license or permit.

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

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

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

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

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

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

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

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

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

11. Sell, give, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Ord. 272 – Dec. 07 Supp.)

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

CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

[The next page is 497]

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. *(Ord. 279 – Dec. 07 Supp.)*

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.

(Ord. 279 – Dec. 07 Supp.)

(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. *(Ord. 279 – Dec. 07 Supp.)*

(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 (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

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)

(Ch. 121 - Ord. 266 – Sep. 06 Supp.)

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
2. Peddlers or Transient Merchants.
 - A. For one day \$ 5.00
 - B. For one week..... \$ 10.00
 - C. For up to six (6) months \$ 20.00
 - D. For one year or major part thereof .. \$ 25.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

Comment [ST2]: Page: 30
Typical fees are found at samples/misc/fees.doc

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Winfield - Mt. Union School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or

nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

[The next page is 511]

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Issued

123.07 Public Safety
123.08 Time Limit
123.09 Removal by City
123.10 Protect Pavement
123.11 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of ten thousand dollars (\$10,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability

insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

123.06 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.08 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.09 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.08 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.10 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.11 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

[The next page is 535]

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

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of

storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit 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. 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.

A. The Clerk shall, as soon as reasonable after the excavation has been started, notify the adjoining real property owner in writing of the two options for completing the street repair and the details involved in each.

B. The adjoining real property owner may contract with a contractor to complete the necessary work within thirty (30) days after the repair of the utility service. If the utility repair is completed and there are not thirty days of suitable weather conditions within which to complete the street repair, then the thirty-day period for completion of the street repair shall begin on the first day of April following the completion of the utility repair. The Clerk shall be notified within thirty (30) days of the completion of the utility repair, in writing by the real property owner, that the real property owner has elected to be responsible for completing the street repair. If the Clerk does not receive written notification within thirty days after the utility repairs are completed, the City shall take steps to complete the street repair and bill the adjoining real property owner.

C. If the adjoining property owner does not elect to be responsible for the street repair, then the Clerk shall bill the adjoining real property owner for the expense of the street repair or replacement of said street as soon as possible after the completion of said street repair or replacement of said street and shall offer to said real property owner, the option of executing a promissory note, on an Iowa Bar Association form, providing for the payment of said street repair or street replacement expense over a twelve-month term beginning on the first day of the month following the completion of said street repair or street

replacement. The promissory note shall provide for even payments and shall accrue interest at the rate of 7% per annum. Under this option, the Street Commissioner of the City shall be responsible for completing or contracting for the repair or replacement of that part of the street as soon as practical after the repair or replacement of the utility service has been completed.

D. In the event there is a dispute between the adjoining real property owner and the Street Commissioner, the real property owner may file a written request for a review by the Council. After a review of the statements of the real property owner and the Street Commissioner and any other evidence deemed relevant, the Council shall issue a final decision from which there shall be no appeal.

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 Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

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])

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.10 Failure to Repair or Barricade
136.02 Definitions	136.11 Interference with Sidewalk Improvements
136.03 Removal of Snow, Ice and Accumulations	136.12 Awnings
136.04 Responsibility for Maintenance	136.13 Encroaching Steps
136.05 City May Order Repairs	136.14 Openings and Enclosures
136.06 Sidewalk Construction Ordered	136.15 Fires or Fuel on Sidewalks
136.07 Permit Required	136.16 Defacing
136.08 Sidewalk Standards	136.17 Debris on Sidewalks
136.09 Barricades and Warning Lights	136.18 Merchandise Display
	136.19 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. ōWood float finishö 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 ten (10) 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 of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length.
 - B. All sidewalks throughout the Business District shall be constructed from lot line to the curb line unless the location of the sidewalk is varied by an appropriate resolution of the Council upon application by the landowner.
 - C. Driveway areas shall be not less than six (6) inches in thickness.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) within one foot of the property line, unless the Council establishes a different distance due to special circumstances.
7. Expansion Joints. Expansion joints shall be provided between all sidewalks and adjoining backs of curbs, between intersecting sidewalks, between sidewalks and driveways and between sections of sidewalks which are over four (4) feet wide.
8. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
9. 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.
10. Slope. All sidewalks shall slope one-quarter ($\frac{1}{4}$) inch per foot toward the curb.
11. Finish. All sidewalks shall be finished with a broom or wood float finish.
12. Ramps for Persons with Disabilities. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch

of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

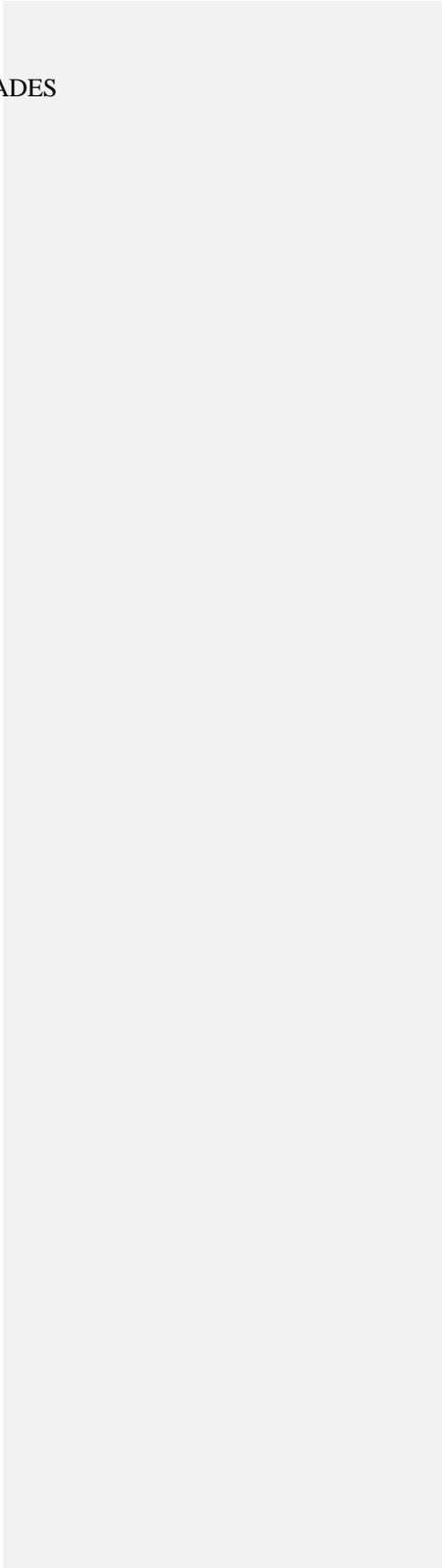
137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Winfield, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following

changes were made in the Official Street Name Map: (brief description),ö
which entry shall be signed by the Mayor and attested by the Clerk.

CHAPTER 140

DRIVEWAYS

140.01 Construction Requirements

140.03 Permit Where no Opening Left in Curbing

140.02 Owner's Failure to Construct; Action by City

140.01 CONSTRUCTION REQUIREMENTS. All driveways connecting residence property with paving shall be constructed substantially as follows:

1. They shall be eight (8) feet wide, back to back of concrete, having a six-foot radii; the concrete is to be six (6) inches thick.
2. The opening at the street curb line is to be twenty (20) feet wide, diminishing to eight (8) feet at a point six (6) feet back of street curb line.
3. The driveway curb is to extend back at least six (6) feet from the paving, and to have a six-inch exposure at the street curb line, gradually diminishing.
4. All driveways in an area not served by a curb and gutter street shall have installed a drainage tube under the driveway so as to provide for the natural flow of surface water runoff. The required size of the drainage tube shall be determined by the Public Works Director prior to installation and written notice of the specification shall be given to the property owner. The Clerk is to maintain a permanent file of copies of said specifications. If a property owner disagrees with the Public Works Director's determination, the property owner may appeal to the Council in writing within thirty (30) days of the issuance of the specifications by the Public Works Director. The Council shall then hold a hearing on said appeal at the next regularly scheduled Council meeting. After such hearing, the Council shall make a final determination regarding the required size of drainage tube.

140.02 OWNER'S FAILURE TO CONSTRUCT; ACTION BY CITY. In all cases where openings for driveways have been left in the curbing at the request or with the consent of the owner of the adjacent property, it shall be the duty of such owner to construct a driveway within thirty (30) days after being notified to do so by order of the Council. If such owner fails to construct such driveway within the time prescribed in this section, the Council may have the same constructed and the reasonable cost thereof shall be a charge against such adjacent property and may be assessed and taxed against such property in the

same manner as in cases of the construction of sidewalk, Chapter 136 of this Code of Ordinances.

140.03 PERMIT WHERE NO OPENING LEFT IN CURBING. In cases where no opening has been left in the curbing for driveways, the adjacent property owners may have a driveway constructed, but before doing so shall apply to and obtain a permit from the Clerk therefor, and the construction of such driveway shall be under the supervision of the Public Works Director.

[The next page is 575]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Zoning Administrator is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse; (f) leaning, holes in roof and not secured.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, unsecured windows and doors, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. **Owner's Rights.** At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. **Determination.** The Council shall make and record findings of fact and may issue such order as it deems appropriate.^Ä

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF WINFIELD, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

^Ä **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

FIRE ZONE

146.01 Fire Zone Established
146.02 Plans Submitted
146.03 Buildings Prohibited
146.04 Construction Standards

146.05 Reconstruction Prohibited
146.06 Special Permit
146.07 Removal of Buildings
146.08 Storage of Materials Restricted

146.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

The west one-half of Block One, the east one-half of Block Two, the east one-half of Block Three, and the west one-half of Block Four of the plat of the original town.

146.02 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

146.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

146.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code.

146.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

146.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary

purposes for a period of time not exceeding six (6) months from the date of such permission.

146.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

146.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

[The next page is 585]

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:

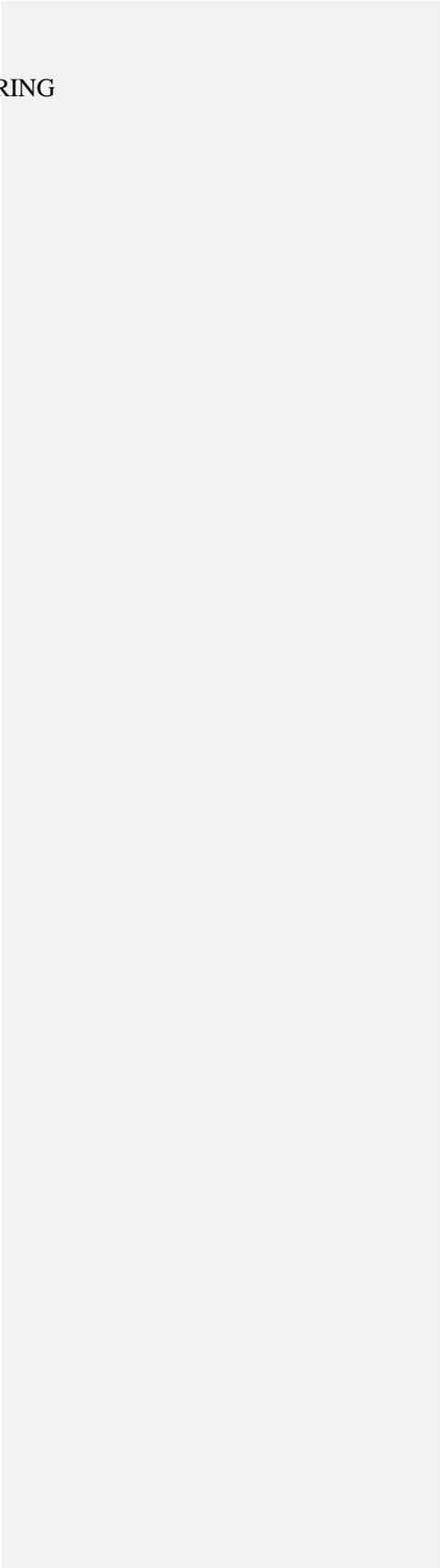
1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

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 thirty (30) 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

151.01 Definitions
151.02 Planting Restrictions
151.03 Duty to Trim Trees

151.04 Trimming Trees to be Supervised
151.05 Disease Control
151.06 Inspection and Removal

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

1. "Adjacent land owners" means property abutting City streets or City property.
2. "City right-of-way" means the area between the traveled street or curb line and the abutting land owners lot line. Sometimes referred to as the terrace area.
3. "Curb line" means the edge of the maintained and traveled portion of the street.
4. "Property line" means surveyed, plotted or dedicated land parcels.
(Ord. 261 – Sep. 06 Supp.)

151.02 PLANTING RESTRICTIONS.

1. The City of Winfield from the adoption date of the ordinance codified in this section prohibits the planting of trees and shrubs on any of the City right-of-way.
2. Special permission may be granted by the City Council with the adjacent land owner assuming total responsibility for all the maintenance and removal of any trees. These allowed trees are to be recorded and tracked.
3. Flowers with a total growing height of under 24 inches are permitted.
(Ord. 261 – Sep. 06 Supp.)

151.03 DUTY TO TRIM TREES.

1. City Responsibility.
 - A. The Winfield City Public Works Department shall assume the responsibility of trimming all trees overhanging the traveled portion of City streets.
 - B. Trimming shall be at least 15 feet above the traveled portion of any City street measured from the curb line.

- C. By request of the Winfield City Police Chief, the City Public Works Department shall trim trees at intersections that create a traffic visibility hazard.
 - D. Dead and diseased trees shall be removed by the City per state code.
2. Property Owners.
- A. Adjacent land owners will be responsible for all other maintenance of trees and shrubs.
 - B. Trees and shrubs are to be kept trimmed (7 ϕ) seven feet above sidewalks by the abutting land owner.
 - C. Stump removal is the responsibility of the landowner.
(Ord. 261 – Sep. 06 Supp.)

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may

cause the condition to be corrected and the cost assessed against the property.

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

[The next page is 605]

CHAPTER 165

ZONING REGULATIONS

165.01 Definitions	165.16 R-1 Single-family Residential District
165.02 Interpretation	165.17 R-2 Mixed Residential District
165.03 Application of District Regulations	165.18 C-1 Highway Commercial District
165.04 Applicability	165.19 C-2 General Retail District
165.05 Conformance Required	165.20 M-1 Industrial District
165.06 Height, Density or Yard Required	165.21 Supplementary District Regulations
165.07 Separate Yards, Open Space and Off-street Parking Required	165.22 Mobile Homes and Mobile Home Parks
165.08 Minimum Yards and Lot Areas Required	165.23 Nonconforming Uses
165.09 Districts Established	165.24 Zoning Permit
165.10 Adoption of Zoning Map	165.25 Board of Adjustment
165.11 Identification of Zoning Map	165.26 Powers and Duties of Board of Adjustment
165.12 Interpretation of District Boundaries	165.27 Decisions of the Board of Adjustment
165.13 Changes in Zoning Map	165.28 Appeals
165.14 Application for Change in District Boundaries	165.29 Amendment Procedure
165.15 A-1 Agricultural District	165.30 Administration and Enforcement
	165.31 Violations

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

1. "Accessory use of building" means use or structure subordinate to the principal use of building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land.
2. "Alterations, structural" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.
3. "Apartment house" means a building arranged, intended or designed to be occupied by three or more families living independently of each other.
4. "Basement" means a story having part but not more than one-half of its height below grade. A basement is counted as a story for the purpose of height regulation.
5. "Building" means anything constructed, erected or built, the use of which requires more or less permanent location on the ground, and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including, but without limiting the generality of the foregoing, installations such as signs, billboards, radio towers, and other facilities not designed for storage of property or occupancy by persons.

6. "Building height" means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
7. "Cellar" means a story having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.
8. "Commission" means the Planning and Zoning Commission of the City.
9. "Developed street" means a street that has a covering of concrete, asphalt, seal coat or sufficient rock for year around continuous usage and maintained (including snow removal) by the City of Winfield Public Works Department.
(Ord. 255 – Sep. 06 Supp.)
10. "Dwelling" means any building or portion thereof which is designed for and used exclusively for residential purposes.
11. "Dwelling, multiple" means a building designed for or occupied exclusively by more than two families.
12. "Dwelling, single-family" means a building designed for or occupied by one family.
13. "Dwelling, two-family" means a building designed for or occupied exclusively by two families.
14. "Family" means one or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, as distinguished from a group occupying a boardinghouse, lodging house or hotel as herein defined.
15. "Farm" means an area which is used for the growing of the usual farm products such as vegetables, fruits and grains, and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. "Farming" includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses is secondary to that of the normal farming activities, and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings.
16. "Frontage" means all the property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street, or, if the street is dead-ended, then all of the property

abutting on one side between an intersecting street and the dead end of the street.

17. "Garage, private" means an accessory building designed or used for the storage of not more than four motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one of the vehicles may be a commercial vehicle of not more than two-ton capacity.

18. "Garage, public" means a building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor-driven vehicles.

19. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building; except, when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

20. "Home occupation" means an occupation or a profession which:

A. Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and

B. Is carried on by a member of the family residing in the dwelling unit; and

C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and

D. Does not employ more than one person outside the immediate family; and

E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building; and

F. Has not more than one exterior sign mounted flush with the face of the building, which sign shall not exceed three (3) square feet in area; and

G. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

21. "Junkyard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, stored, abandoned, or handled, including the dismantling or "wrecking" of automobiles or other vehicles, and places or yards for storage of

salvage house wrecking and structural steel materials and equipment, but not including areas where such uses are conducted entirely within a completely enclosed building.

22. "Kennel" means an establishment where dogs are boarded for compensation, or where dogs are bred or raised for commercial purposes or sale.

23. "Loading space" means a space within the main building, or on the same lot, providing for the standing, loading or unloading of trucks, and having minimum dimensions of twelve (12) by thirty-five (35) feet, and vertical clearance of at least fourteen (14) feet.

24. "Lot" means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.

25. "Lot, corner" means a lot abutting upon two or more streets at their intersections.

26. "Lot depth" means the mean horizontal distance between the front and rear lot lines.

27. "Lot, double-frontage" means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

28. "Lot, interior" means a lot other than a corner lot.

29. "Lot of record" means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder.

30. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

31. "Manufactured home" means a factory-built, single-family structure which is manufactured or constructed under the authority of *42 USC Section 5403, Federal Manufactured Home Construction and Safety Standards*; and displays a seal from the United States Department of Housing and Urban Development; and was constructed on or after June 15, 1976; and is to be used as a place for human habitation; and is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and which does not have permanently attached to its body or frame any wheels or axles. For the purpose of these regulations, a "manufactured home" is considered the same as any site-built, single-family detached dwelling. It shall be located in accordance with the setback, lot size, minimum square footage and hook-up requirements for

a site-built, single-family dwelling on the same lot. It shall be installed with a permanent foundation system for a manufactured home.

32. "Mobile home" means any vehicle without motive power used or so manufactured as to permit its being used as a conveyance upon a public street or highway and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a vehicle in Iowa. A mobile home is not built to a mandatory building code, contains no State or Federal seals, and was built before June 15, 1976. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home is only permitted in an approved mobile home park from and after the date of the enactment of Ordinance No. 229, passed by the Council on January 11, 2000, and any mobile homes located outside of a mobile home park on such date shall not be considered in violation of this provision. Any mobile home outside of a mobile home park on such date may not be replaced if the mobile home is damaged, by any casualty or other means, by more than fifty percent of its value, or removed.

33. "Mobile home converted to real estate" means an unencumbered mobile home which has been attached to a permanent foundation on real estate owned by the mobile home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the assessor, and which has had the mobile home title, registration and license plates collected from the owner and the property entered in the tax rolls of the County. Mobile homes that have been converted to real estate at the time of the passage of Ordinance 206 (May 7, 1996) are considered as having met all the requirements of this subsection.

34. "Mobile home park" means any contiguous site, lot, field or tract of land upon which five (5) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, vehicle or enclosure intended for use as part of the equipment of such mobile home park. A mobile home park may only be located in a R-2 Mixed Residential District.

35. "Modular home" means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures; and displays the seal issued by the State Building Code Commissioner. Once certified by the State, a modular home shall be subject to the same standards as a site-built home. It shall be located in accordance with the setback, lot size, minimum

square footage and hook-up requirements for a site-built, single-family dwelling or multi-family dwelling on the same lot, whichever is applicable. It shall be installed with a permanent foundation system as required by codes for a site-built, single-family or multi-family detached dwelling, whichever is applicable.

36. "Nursing home" means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food or shelter and care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

37. "Parcel of land" means any piece of land that is three (3) acres or more. Anything smaller is defined as a lawn.

38. "Parking space" means a surface area enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than one hundred eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress for automobiles.

39. "Row crop" means legal agricultural commodities such as corn and soybeans, not including legumes and grasses. (*Ord. 255 – Sep. 06 Supp.*)

40. "Sign" means any structure or part thereof or device attached thereto or painted or represented thereon, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction, or advertisement. "Sign" includes "billboard," but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

41. "Story" means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

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

43. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.
44. "Structure" means "building." See also definition of "building" in this section.
45. "Trailer camp" or "tourist camp" means an area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.
46. "Travel trailer" or "camping trailer" means a vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways, and so designed to permit the vehicles to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight (8) feet in width and any length, provided its gross weight does not exceed four thousand five hundred (4,500) pounds, which shall be the manufacturer's shipping or the actual weight, and provided its overall length does not exceed twenty-eight (28) feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes. If used as a place of human habitation for more than ninety (90) days in any twelve-month period, it shall be classed as a mobile home, regardless of the size and weight limitation provided in this section. This definition also includes house cars and camp cars having motive power, and designed for temporary occupancy.
47. "Tree farm" means two hundred trees or more per acre.
(Ord. 255 – Sep. 06 Supp.)
48. "Yard" means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward, except as otherwise provided in the following subsections of this section. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot lines and the main building shall be used.
49. "Yard, front" means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner elects to front the building on the street parallel to the lot line having the greater dimension.

50. "Yard, rear" means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

51. "Yard, side" means a yard between the main building and the side line of the lot, and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the site of the main building or any projection thereto.

165.02 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion and protection of the public health, safety, morals and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive, or that imposing the higher standards shall govern.

165.03 APPLICATION OF DISTRICT REGULATIONS. Subject to Sections 165.15 through 165.20, the regulations and restrictions of this chapter shall apply as set out in Sections 165.02 through 165.08.

165.04 APPLICABILITY. The regulations set by this chapter shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as provided in Sections 165.02 through 165.08.

165.05 CONFORMANCE REQUIRED. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations specified in this chapter for the district in which it is located.

165.06 HEIGHT, DENSITY OR YARD REQUIRED. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller yards or other open spaces than required in this chapter or in any other manner contrary to the provisions of this chapter.

165.07 SEPARATE YARDS, OPEN SPACE AND OFF-STREET PARKING REQUIRED. No part of a yard, or other open space, or off-street parking, or loading space required by this chapter shall be included as part of a yard, open space, or off-street parking, or loading space similarly required for any other building.

165.08 MINIMUM YARDS AND LOT AREAS REQUIRED. No yard or lot existing at the time of passage of the ordinance codified in this chapter shall be reduced in dimension or area below the minimum requirements set forth in this chapter. Yards or lots created after the effective date of the ordinance codified in this chapter shall meet at least the minimum requirements set forth in this chapter. Yards or lots created after such effective date shall meet at least the minimum requirements established by this chapter.

165.09 DISTRICTS ESTABLISHED. The City is divided into districts which are designated as follows:

- A-1 Agricultural
- R-1 Single-family Residential
- R-2 Mixed Residential
- C-1 Highway Commercial
- C-2 General Retail
- M-1 Industrial

The locations and boundaries of these districts are shown on the official zoning map. All territory which may hereafter become a part of the incorporated area of the City through annexation shall be classified in the A-1, Agricultural District until otherwise classified; provided, however, the Commission may recommend the appropriate district classification prior to such territory becoming a part of the City, and upon the holding of a public hearing and approval by the Council, the territory, upon becoming a part of the City, may be immediately so classified.

165.10 ADOPTION OF ZONING MAP. The official zoning map and the explanatory material thereon is adopted by reference and declared to be a part of this chapter.

165.11 IDENTIFICATION OF ZONING MAP. The official zoning map shall be identified by the signature of the Mayor and attested to by the Clerk under the following statement:

This is to certify that this is the official zoning map referred to in Chapter 165 of the Code of Ordinances of Winfield, Iowa.

The official zoning map shall be on file in the office of the Clerk and shall be the final authority as to the current zoning status of land, buildings and other structures in the City.

165.12 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following township lines or section lines shall be construed as following township lines or section lines.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 4 of this section shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
6. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 5 of this section, the Board of Adjustment shall interpret the district boundaries.

165.13 CHANGES IN ZONING MAP. No changes in the official zoning map shall be made except as may be required by amendments to this chapter. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, approving such change in the official zoning map. *(See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)*

165.14 APPLICATION FOR CHANGE IN DISTRICT BOUNDARIES. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning map. Such application shall be filed with the administrative officer, accompanied by a fee of fifteen dollars (\$15.00), and shall contain the following information:

1. The legal description and local address of the property;
2. The present zoning classification and the zoning classification requested for the property;
3. The existing use and proposed use of the property;
4. A statement of the reasons why the applicant feels the present zoning classification is no longer valid;

5. A plat showing the location, dimension and use of the applicant's property.

All fees shall be deposited to the General Revenue Fund of the City. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

165.15 A-1 AGRICULTURAL DISTRICT.

1. Permitted Uses; Off-street Parking. In the A-1 Agricultural District, the permitted uses and the corresponding off-street parking requirements are as follows:

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
Agriculture, horticulture, general farming and other agricultural activities	None
Single-family dwellings	2 spaces/unit
Parks and recreation areas	5 spaces/acre developed for active use
Stable or kennel	3 spaces
Cemetery	10 spaces plus 1 space/acre
Public utilities, but not including equipment storage or maintenance yards and buildings, or general administrative and sales offices	1 space/substation or one per employee on the site

2. Accessory Uses and Structures. In the A-1 District, the permitted accessory uses and structures are as follows:

- A. Farm buildings incidental to agricultural uses;
- B. Private garage;
- C. Home occupation;
- D. Tennis court, swimming pool, greenhouse or other similar accessory use clearly incidental to the permitted principal use or structure of this district and not involving the conduct of business on the premises except home occupation as provided in this section;
- E. Temporary buildings used in conjunction with construction work, provided such buildings are promptly removed upon completion of construction work;
- F. Refreshment stand in conjunction with a park or recreation area.

3. Special Exceptions. Subject to Section 165.26(2) and other requirements contained in this chapter, the Board of Adjustment may permit the following: sanitary landfill or waste disposal area, provided: (i) it is not used for disposal of dead animals, that refuse shall be covered

with dirt daily if it contains raw garbage, that a nuisance due to smoke, odor, or blowing of trash and debris shall not be created, and that the site shall be restored to a condition compatible with the adjacent area upon conclusion of the operation; (ii) an access road having at least a graveled surface and five (5) parking spaces shall be provided; and (iii) no landfill or waste disposal area shall be located closer than one-fourth mile to any dwelling, park, school or place of public assembly.

4. Lot Area and Width. In the A-1 District, the lot area and width requirements shall be as follows:

MINIMUM LOT AREA AND WIDTH (Dwellings)	
Area	20,000 square feet
Width	125 feet
Depth	150 feet

5. Height. In the A-1 District, the maximum height limitation shall be two and one-half (2½) stories, or thirty-five (35) feet.

6. Yards. In the A-1 District, the yard requirements are as follows:

MINIMUM YARD REQUIREMENTS (Dwellings and other Non-institutional Uses)	
Front	35 feet
Rear	30 feet
Side	10 feet
Side street, corner lot	20 feet

7. Signs. Signs permitted in the A-1 District are as follows:

- A. Nameplates attached flat against the wall of the main building, not to exceed one square foot in area;
- B. Church or public bulletin boards not to exceed sixteen (16) square feet in area;
- C. Temporary signs advertising the lease or sale of the premises, not to exceed six (6) square feet in area;
- D. Home occupation sign not to exceed three (3) square feet in area;

- E. Billboards or advertising signs, provided:
 - (1) They are not within three hundred (300) feet of a highway or public road intersection, residence or another billboard,
 - (2) They are not within one hundred (100) feet of a park, school, cemetery or public or semipublic building, and
 - (3) They are not within seventy-five (75) feet of the centerline of a City or County road, or one hundred (100) feet of a State highway.

All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish. Any sign not conforming to the provisions of this chapter shall be made to conform or removed.

8. Utility Substations or Buildings. Public utility substations or buildings shall meet the front and rear yard requirements for dwellings and shall have side yards of not less than twenty-five (25) feet.

165.16 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT.

1. Permitted Uses; Off-street Parking. In the R-1 Single-family Residential District, the permitted uses and the corresponding off-street parking requirements are as follows:

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
Single-family dwelling	2 spaces/unit
Parks and recreation areas	5 spaces/acre developed for active use
Golf course and country club	1 space/50 sq. ft. of floor area
Public or semi-public swimming pool	1 space/50 sq. ft. of water area
Church or other place of worship	1 space/4 seats in the main auditorium
Elementary or secondary school	1 space/classroom and office, plus 1 space/each 6 seats in the main auditorium or stadium
Public utilities, but not including equipment storage or maintenance yards and buildings, or general administrative and sales offices	1 space/substation or one per employee on the site
Railroads	None

2. Accessory Uses and Structures. In the R-1 District, the permitted accessory uses and structures are as follows:

- A. Private garages;
- B. Home occupation;
- C. Tennis court, swimming pool, greenhouse or other similar accessory use clearly incidental to the permitted principal use or structure of this district and not involving the conduct of business on the premises except home occupation as provided in this section;
- D. Temporary buildings used in conjunction with construction work, provided such buildings are promptly removed upon completion of construction work;
- E. Refreshment stand in conjunction with a park or recreation area.

3. Special Exceptions. Subject to Section 165.26(2) and other requirements contained in this chapter, the Board of Adjustment may permit the following:

- A. Rest, nursing and convalescent homes; homes for the orphaned and aged on sites of one acre or more, provided that one parking space for each four beds is provided;
 - B. Public housing developments on sites of two acres or more; one off-street parking space per unit shall be provided.
4. Lot Area and Width. In the R-1 District, the lot area and width requirements are as follows:

MINIMUM LOT AREA AND WIDTH (Single-family Dwellings)	
Area	9,600 square feet
Width	75 feet
Depth	125 feet

Where a lot is not served by a public water and/or sanitary sewer system, the minimum lot area shall not be less than twenty thousand (20,000) square feet and the width not less than one hundred twenty-five (125) feet.

5. Height. In the R-1 District, the maximum height limitation shall be two and one half (2½) stories or thirty-five (35) feet.
6. Yards. In the R-1 District, the yard requirements are as follows:

MINIMUM YARD REQUIREMENTS (Dwellings and other Non-institutional Uses)	
Front	30 feet
Rear	25 feet
Side	8 feet
Side street, corner lot	20 feet
(Schools, Churches or Other Public or Institutional Buildings)	
Front	40 feet
Rear	40 feet
Side	20 feet
Side street, corner lot	20 feet

7. Signs. Signs permitted in the R-1 District are as follows:
- A. Nameplates attached flat against the wall of the main building, not to exceed one square foot in area;
 - B. Church or public bulletin board not to exceed sixteen (16) square feet in area;

C. Temporary signs advertising the lease or sale of the premises, not to exceed six (6) square feet in area.

D. Home occupation sign not to exceed three (3) square feet in area.

Illumination of signs, bulletin boards and nameplates shall not exceed sixty (60) watts and shall be lighted only with indirect non-intermittent lighting. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

165.17 R-2 MIXED RESIDENTIAL DISTRICT.

1. Permitted Uses; Off-street Parking. In the R-2 Mixed Residential District, the permitted uses and the corresponding off-street parking requirements are as follows:

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
Single-family dwellings	2 spaces/unit
Two- or multi-family dwellings	1 space/unit
Private kindergartens and day nurseries	1 space, plus 1 space/employee
Funeral home	1 space/each 4 seats in the chapel
Parks and recreation areas	5 spaces/acre developed for active use
Community meeting or recreation building	1 space/50 sq. ft. of floor area
Church or other place of worship	1 space/4 seats in the main auditorium
Elementary or secondary school	1 space/classroom and office plus 1 space/each 6 seats in the main auditorium or stadium
Public utilities, but not including equipment storage or maintenance yards and buildings, or general administrative and sales offices	1 space/substation or one per employee on the site

2. Accessory Uses and Structures. In the R-2 District, the permitted accessory uses and structures are as follows:

- A. Private garages;
- B. Home occupation;
- C. Tennis court, swimming pool, greenhouse or other similar accessory use clearly incidental to the permitted principal use or structure of this district and not including the conduct of business on the premises except home occupations as provided in this chapter;
- D. Temporary buildings used in conjunction with construction work, provided such building are promptly removed upon completion of construction work;
- E. Serving of meals and renting rooms, or both, to up to three persons not members of the family residing therein, provided that the character of the dwelling is not changed from that of a dwelling, or that it becomes in any sense a nursing or rest home as

defined in this chapter, and provided that one additional off-street parking space be provided for each roomer.

3. Special Exceptions.

A. Mobile home park, provided that the mobile home park has a water supply and sanitary sewage collection and treatment system approved by the applicable governmental authority, has a minimum area of five thousand (5,000) square feet for each mobile home space, has maximum density of five (5) units per acre, provides at least five (5) parking spaces plus one parking space per acre, and each mobile home shall not be closer than twenty-five (25) feet to any property line of the mobile home park, and shall meet the requirements of Section 165.01(34) of this chapter.

B. Rest, nursing, and convalescent homes, homes for the orphaned and aged on sites of one acre or more, provided that one parking space for each four (4) beds is provided.

C. Public housing developments on sites of two (2) acres or more; one off-street parking space per unit shall be provided.

D. Multi-family or apartment buildings may be constructed with a front or side yard of ten (10) feet and a rear yard of twenty (2) feet.

4. Lot Area, Width and Depth. In the R-2 District, the lot area and width requirements are as follows:

MINIMUM LOT AREA, WIDTH AND DEPTH (Single-family Dwellings)	
Area	8,000 square feet
Width	64 feet
Depth	125 feet
(Two-family Dwellings)	
Area	9,200 square feet
Width	64 feet
Depth	125 feet
(Multi-family Dwelling)	
Area	8,000 square feet, plus 1,200 square feet for each unit over one
Width	75 feet
Depth	125 feet

5. Height. In the R-2 District, the maximum height limitation is two and one-half (2½) stories or thirty-five (35) feet.

6. Yards. In the R-2 District, the yard requirements are as follows:

MINIMUM YARD REQUIREMENTS (Dwellings and other Non-institutional Uses)	
Front	25 feet
Rear	25 feet
Side	7 feet
Side street, corner lot	15 feet
(Schools, Churches or other Public or Institutional Buildings)	
Front	35 feet
Rear	35 feet
Side	15 feet
Side Street, corner lot	20 feet

7. Signs. Signs permitted in the R-2 District are as follows:

- A. Nameplates attached flat against the wall of the main building, not to exceed one square foot in area;
- B. Church or public bulletin board not to exceed sixteen square feet in area;
- C. Temporary signs advertising the lease or sale of the premises, not to exceed six square feet in area;
- D. Home occupation signs not to exceed three square feet in area.

Illumination of signs, bulletin boards and nameplate shall not exceed sixty (60) watts and shall be lighted only with indirect, non-intermittent lighting. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main buildings. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

165.18 C-1 HIGHWAY COMMERCIAL DISTRICT.

1. Permitted Uses; Off-street Parking. In the C-1 Highway Commercial District, the permitted uses and the corresponding off-street parking requirements are as follows:

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
Automobile sales, service and repair	1 space/300 sq. ft. of sales, service or office floor area
Drive-in eating or drinking establishment	5 spaces plus 1 space/50 sq. ft. of floor area
Nightclub or restaurant	1 space/100 sq. ft. of floor area
Dance hall or skating rink	2 spaces/100 sq. ft. of floor area
Bowling alley	5 spaces/lane or alley
Motel or tourist camp	1 space/unit or campsite
Public utilities, but not including equipment storage or maintenance yards and buildings	1 space/substation or one per employee on the site
Railroads	None

2. Accessory Uses and Structures. In the C-1 District, the permitted accessory uses and structures are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district;
- B. Storage warehouses in conjunction with the permitted principal uses in structures of this district;
- C. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.

3. Special Exceptions. Subject to Section 165.26(2) and other requirements contained in this chapter, the Board of Adjustment may permit the following: dwelling unit within a building housing a commercial use for the owner or operator, provided that an open yard area of at least two thousand four hundred (2,400) square feet is reserved and maintained for the occupants and one parking space is provided.

4. Lot Area and Width. In the C-1 District, the lot area and width requirements are as follows:

MINIMUM LOT AREA AND WIDTH

Tourist campground	3 acres
Commercial uses	None

5. Height. In the C-1 District, the maximum height limitation is two and one-half (2½) stories or thirty-five (35) feet.

6. Yards. In the C-1 District, the yard requirements are as follows:

MINIMUM YARD REQUIREMENTS	
Front	30 feet
No side or rear yard, except where adjacent to an A or R District, a side yard of ten (10) feet and a rear yard of twenty (20) feet shall be provided.	

7. Signs. Signs permitted in the C-1 District are as follows:

A. Trade, business or industry identification signs, provided that they:

- (1) Do not exceed twenty-five (25) feet in height,
- (2) Do not overhang the public right-of-way,
- (3) Are not within seventy-five (75) feet of a highway intersection, highway structure, residence, park, school, cemetery or public or semi-public building;

B. Advertising sign and billboard, provided that they:

- (1) Do not exceed twenty-five (25) feet in height,
- (2) Are not within twenty-five (25) feet of an A or R district,
- (3) Are not within seventy-five (75) feet of another billboard,
- (4) Do not exceed one hundred (100) square feet in area.

No sign or billboard shall be located in, overhang or project into a required yard. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

165.19 C-2 GENERAL RETAIL DISTRICT.

1. Permitted Uses; Off-street Parking. In the C-2 General Retail District, the permitted uses and corresponding off-street parking requirements are as follows:

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
Apartments above a store or shop	No off-street parking is required in this district.
Automobile sales, service and repair	
Farm implement sales, service and repair	
Business and professional offices and studios	
Medical, dental and chiropractic clinics	
Retail businesses	
Personal service and repair shops	
Laundry or dry cleaners	
Frozen food locker	
Clubs and lodges	
Public garages, storage garages and parking lots	
Plumbing and heating sales, service and repair shops	
Blacksmith or welding shop	
Printing shops	
Restaurants, cafes, taverns	
Commercial amusements	
Wholesale display and salesroom	
Public and community buildings	
Hotels and motels	
Public utilities, but not including equipment storage or maintenance yards and buildings	

2. Accessory Uses and Structures. In the C-2 District, the permitted accessory uses and structures are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district;
- B. Storage warehouses in conjunction with the permitted principal uses or structures of this district;

C. Temporary buildings used in conjunction with construction work, provided such buildings are removed promptly upon completion of the construction work.

3. Special Exceptions. In the C-2 District, the special exception uses and structures are as follows: None.

4. Lot Area and Width. In the C-2 district, the lot area and width requirements are as follows:

MINIMUM LOT AREA AND WIDTH	
Commercial uses	None

5. Height. In the C-2 District, the maximum height limitation is four (4) stories or fifty (50) feet.

6. Yards. In the C-2 District, the minimum yard requirements are as follows: for commercial uses, none, except where apartments are above a store or shop, a rear yard of twenty (20) feet shall be provided, and where adjacent to an R district, a front or side yard of ten (10) feet and a rear yard of twenty (20) feet shall be provided.

7. Signs. Signs permitted in the C-2 District are as follows: advertising signs, billboards and trade, business or industry identification signs, provided that:

A. Freestanding signs do not exceed twenty-five (25) feet in height;

B. Signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building;

C. No sign shall exceed one hundred fifty (150) square feet in area nor shall any sign cover more than ten percent (10%) of the building face which it covers.

No sign or billboard shall be located in, overhang or project onto a required yard. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

165.20 M-1 INDUSTRIAL DISTRICT.

1. Permitted Uses; Off-street Parking. In the M-1 Industrial District, the permitted uses and corresponding off-street parking requirements are as follows:

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
Farm implement sales, service, repair and assembly	1 space/300 sq. ft. of sales, service or office floor area
Truck garage and repair shop	1 space/200 sq. ft. of sales, service or office floor area
Automobile paint and body shop	
Building material sales and storage	
Manufacturing, assembly and processing uses, except the manufacture warehousing, wholesaling, storage or blending of fertilizers, pesticides, insecticides or other chemicals that are combustible, explosive or of a toxic nature potentially dangerous to the health, safety and general welfare of the people of the City	<p>1 space/employee plus 1 space/vehicle used by the industry</p> <p>All uses shall provide one off-street loading space for each 5,000 square feet of floor area or fraction thereof</p>
Concrete products manufacture and central mixing and proportioning plant	
Contractor's shop and storage yard	
Grain elevator and storage bins	
Feed milling	
Veterinarian's office and kennel	
Truck and freight terminal	
Welding and machine shop	
Wholesaling and warehousing, but not including the bulk storage of petroleum products under pressure	
Railroads and public utilities, including storage and maintenance yards and buildings	

2. Accessory Uses and Structures. In the M-1 District, the permitted accessory uses and structures are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses of this district;

- B. Temporary buildings used in conjunction with construction provided such buildings are removed promptly upon completion of the construction work;
 - C. Dwelling units for watchmen or caretakers employed on the premises; provided, that an open yard of at least two thousand four hundred (2,400) square feet is reserved and maintained for use by the occupants.
3. Special Exceptions. Subject to Section 165.26(2) and other requirements contained in this chapter, the Board of Adjustment may permit the following:
- A. Stockyards, loading pens, slaughterhouses, poultry processing plants, buying stations and/or sale barns and yards; provided, that any such use is not closer than one-fourth mile to any dwelling unit other than that of the owner or operator, or any park, school, church or place of public assembly, and provided that the provisions for drainage, sanitation, waste disposal, and fly control are approved by the City health officer, and provided that it is located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity, and that one parking space for each employee and one space for each vehicle used by the industry be provided, and an additional twenty-five (25) parking spaces shall be provided for sale barns;
 - B. Bulk storage of petroleum products under pressure, provided that such use is not closer than three hundred (300) feet to a dwelling or place of public assembly and that one parking space for each vehicle used by the industry be provided;
 - C. Bulk storage of anhydrous ammonia products under pressure, provided that such use is not closer than two hundred (200) feet to a dwelling or place of public assembly and that one parking space for each vehicle used by the industry be provided.
4. Lot Area and Width. In the M-1 District, the lot area and width requirements are as follows: None.
5. Height. In the M-1 District, the maximum height limitation is sixty (60) feet.
6. Yards. In the M-1 District, the yard requirements are as follows:

MINIMUM YARD REQUIREMENTS	
Front	25 feet

Rear	25 feet
Side	10 feet
Side street, corner lot	20 feet

- 7. Signs. Signs permitted in the M-1 District are as follows:
 - A. Billboards and advertising signs provided that:
 - (1) They are not within seventy-five (75) feet of a highway intersection, highway structure, residence, park, school, cemetery or public or semi-public building,
 - (2) They are not within one hundred fifty (150) feet of another billboard or advertising sign.
 - B. Trade, business or industry identification signs for the firm located on the site provided that:
 - (1) Freestanding signs shall not exceed one hundred fifty (150) square feet in area or twenty-five (25) feet in height,
 - (2) Signs mounted flush on the wall of a building shall not exceed ten percent (10%) of the area of the wall of the building on which they are located or two hundred (200) square feet, whichever is smaller,
 - (3) Overhanging signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building and shall not have more than one hundred (100) square feet of area.

All signs shall be maintained in a neat and presentable condition and in the event that they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free from refuse and debris.

165.21 SUPPLEMENTARY DISTRICT REGULATIONS. Subject to Sections 165.15 through 165.20, the following provisions, regulations or exceptions shall apply equally to all districts except as provided in this chapter:

1. Uses Not Covered In Chapter; Permit. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Commission for a recommendation as to the proper district in which such use should be permitted and the ordinance codified in this chapter shall be amended as provided in Section 165.29 before a permit is issued for such proposed use.
2. More Than One Principal Structure on a Lot. In any district, more than one principal structure housing a permitted principal use may be erected on a single lot, provided that the area, yard and other requirements of this chapter are met for each structure as though it were on an individual lot.
3. Building-Frontage. Every building erected or structurally altered shall be on a lot or parcel having a frontage on a public street or road.
4. Accessory Buildings. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five (5) feet of any main buildings or within five (5) feet of a rear lot line.
5. Height. The height limitations contained in Sections 165.15 through 165.20 do not apply to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housing or other structures placed above the roof level and not intended for human occupancy.
6. Use of Public Ways. No portion of the public road, street or alley right-of-way shall be used or occupied by use of a structure for storage or display purposes, or to provide any parking or loading space required by this chapter.
7. Mobile Homes.
 - A. Mobile homes occupied as a permanent or temporary place of residence shall only be located in an approved mobile home park unless otherwise provided for in this chapter, and occupied travel trailers and camping trailers shall be located only in an approved tourist or trailer camp.
 - B. All mobile homes shall be located on a permanent masonry or paved concrete foundation as defined in Section 165.22 of this chapter.

- C. All mobile homes shall be skirted with a suitable material harmonizing with the design of the mobile home.
- D. All mobile homes shall be connected to the public water supply and public sewage collection system.
8. Fences or Hedges - Visibility at Intersections. On a corner lot in any agricultural, residential or industrial district, no fence, wall, hedge or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines and measured along the right-of-way lines.
9. Fences or Hedges - Requirements.
- A. Definitions or Descriptions of Fence Types:
- (1) An ornamental fence is a fence with more than ten percent (10%) of the fence material obstructing the vision of anyone viewing objects within the fenced area from outside the fenced area. An ornamental fence may be a plant or plants.
 - (2) A chain link fence is a fence constructed of linked components.
 - (3) A division fence is a fence wholly within a single parcel or tract and one which is not located on a property boundary line.
 - (4) A line fence is a fence which is located on the boundary line of the parcel or tract and an adjoining parcel or tract of different ownership.
 - (5) An underground electrical fence for pet control is a fence where the lines of fence are below ground level.
 - (6) An above ground electrical livestock fence is a fence which is charged with non-lethal voltage for the purpose of containing livestock.
 - (7) A barbed wire fence is a fence constructed with one or more strands of barbed wire.

- B. Agricultural Districts. In the Agricultural Districts:
- (1) All of the fences described in paragraph A may be used.
 - (2) The four-foot height restriction for the front yard shall be six (6) feet.
 - (3) All of the restrictions in paragraph C herein, except where in conflict with subparagraphs B(1) and B(2) of this paragraph shall apply to fences in Districts zoned Agricultural.
- C. Other District Requirements. The following requirements shall apply to fences in Districts zoned R-1, R- 2, M-1, C-1 or C-2.
- (1) Fences and hedges shall not exceed four (4) feet in height in any required front yard and shall not exceed six (6) feet in height in any side or rear yard.
 - (2) Before any fence may be erected or established, a zoning permit shall be obtained with the applicant to have all relevant property lines located.
 - (3) The following types of fences shall be allowed:
 - a. An ornamental fence which is a fence with more than ten percent (10%) of the fence visually obstructed.
 - b. A chain link fence.
 - c. A division fence wholly within a single parcel or tract and one which is not located on a property boundary line.
 - d. A line fence which is located by a professional land surveyor on the boundary line of the parcel or tract and an adjoining parcel or tract of different ownership.
 - e. An underground electrical fence for pet control.
 - (4) If a line fence is to be installed, each adjoining property owner of the relevant fence line shall sign a fence agreement outlining responsibilities for ownership and maintenance of said fence, a copy of which shall be submitted with the zoning permit application. If the zoning permit is issued, the fence agreement shall be recorded at

the Henry County Recorder's office at the land owner's expense.

(5) If a line fence is not located on the tract or parcel boundary line, then the following apply:

- a. The finished side of the fence shall face the boundary line.
- b. The front setback shall be two (2) feet from the tract or parcel boundary line.
- c. The side and or rear setback shall be three (3) feet from the tract or parcel boundary line.
- d. All fences existing at the time that Ordinance No. 222 was approved (July 13, 1999) shall not have to comply with this subsection 9, but shall continue to comply with the Code as it existed prior to the adoption of such Ordinance, but if the fence is more than 50% destroyed or if it is replaced, then the property owner must comply with this subsection.

10. Agricultural Uses. Any vacant parcel of land, three acres or more, in any district may be used for agricultural purposes, grain crops, fruit or vegetables; provided, however, no livestock, poultry or other animals other than customary household pets shall be kept on land or in confinement within three hundred (300) feet of any dwelling unit other than that of the owner.
(Ord. 256 – Sep. 06 Supp.)

11. Foundation. A permanent foundation shall be required for all buildings permanently located on a lot or lots within the City. The foundation shall be constructed of masonry construction.

12. Foundation for a Manufactured Home. The minimum requirements for the foundation of a manufactured home, placed outside of an approved mobile home park, shall be a perimeter trench footing that is no smaller than the width and length of the proposed home. The minimum trench footing width shall be six (6) inches but in no event less than the width of the foundation wall. The trench footing depth shall be forty-two (42) inches or greater. No reinforcement is required. The foundation wall shall either be six (6) or eight (8) inch block or brick. An access door to the underfloor space shall be provided. All other State support and tie-down requirements shall be met. It is the intent herein to require a foundation which is compatible with the structural design of a

manufactured home and ensures visual compatibility with surrounding site-built residential structures.

13. **Minimum Width Regulation.** The minimum frontage width dimension of the main structure of the principal building in all zoning districts shall be twenty-four (24) feet. This minimum width shall not apply to mobile homes in a mobile home park. The measurement shall be made at the outside of the foundation at a point on the foundation at the highest finished grade level. All buildings in existence at the time of the passage of Ordinance No. 206 (May 16, 1996) shall be considered as having met the minimum width requirements.

165.22 MOBILE HOMES AND MOBILE HOME PARKS. The purpose of this section is to provide certain minimum standards for mobile home parks to the mutual advantage of mobile home occupants and the community at large.

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

A. "Community building" means a building having a toilet, bath or shower, laundry, and other sanitary facilities necessary for the health and convenience of the mobile home occupants.

B. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets or highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is not built to a mandatory building code, contains no State or Federal seals and was built before June 15, 1976. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home is only permitted in an approved mobile home park.

C. "Mobile home park" means any site, lot, field or tract of land upon which five (5) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

- D. "Mobile home space" is a plot of ground designated for the accommodation of one mobile home.
2. **Parking on Public Ways.** It is unlawful for any person to park any mobile home on the streets, alleys or highways, on any public place, or on any private land within the City, except as is provided by State law and this section.
3. **Emergency or Temporary Parking.** Emergency or temporary parking is permitted in the streets, alleys or highways or any other public or private place for a 24-hour period, subject to any other prohibitions or regulations imposed by traffic and parking ordinances of the City.
4. **Permanent Occupancy Permitted.** A mobile home may be located outside of a mobile home park, provided that it is connected with the City's sewer and water systems, that the mobile home is in place on a lot on the date of the adoption of the ordinance codified in this subsection (May 7, 1996), that the mobile home may remain on the lot other than a space in a mobile home park, subject to the restriction that the mobile home may not be replaced with another mobile home and that the mobile home continually meets with all of the requirements of the building, plumbing, health, sanitary, electrical and zoning ordinances of the City or the State now in effect or which may hereafter be enacted.
5. **Mobile Home Park Layout.** Mobile home parks shall be laid out as follows:
- A. All roads shall be continuous and shall be constructed of at least a seal-coat construction, meaning a combination of crushed rock and road oil.
- B. All roads shall be twenty (20) feet wide, excluding parking. Where parking is permitted along such roads, an additional six (6) feet of road for parallel parking and an additional sixteen (16) feet of road for diagonal parking shall be provided on each side of the road on which parking is permitted.
- C. At least one motor vehicle parking space shall be provided for every mobile home space in a mobile home park with a dimension of not less than ten (10) feet by twenty (20) feet.
- D. Walks shall be provided from the entrance of each mobile home to the service facilities. These walks shall be at least three (3) feet wide and shall be constructed of concrete.
- E. Each mobile home space shall be at least 5000 square feet, and this computation shall not include the street or road in

computing the square feet. The mobile home shall be set back from the street a minimum of twenty-five (25) feet, from the side mobile home space line seven (7) feet and the rear mobile home space line fifteen (15) feet.

F. The mobile home stand shall be constructed in such a manner that it will not heave, shift, or settle unevenly under the weight of the mobile home due to inadequate drainage, vibration or other forces acting on the superstructure. The mobile home stand shall be constructed at a minimum with six-inch deep by thirty-inch wide poured concrete ribbons with 6x6 #10 wire mesh, or ½-inch reinforcing rod, and sufficient length to support all wheels and undercarriage supports that may be placed on the mobile home stand. Each stand shall include a concrete vehicle parking place with minimum dimensions of ten (10) feet by twenty (20) feet.

6. Water Supply. In mobile home parks:
 - A. The quantity of water to be provided per mobile home space shall equal that provided a residence within the City.
 - B. City water shall be supplied to all independent mobile homes.
7. Concrete Slab. Each mobile home shall be supported with a concrete slab equal to the size of the mobile home parked thereon.
8. Sewage Disposal. All mobile homes shall be connected to the City sanitary sewer system.
9. Refuse Disposal. Each mobile home shall have refuse pickup weekly through the City or its contractor.
10. Insect and Rodent Control. Insect and rodent control measures to safeguard public health, as recommended by the health officer, shall be applied in all mobile home parks.
11. Electricity. Each mobile home shall be provided with electric service with an Underwriters Laboratories-approved service entrance.
12. Storm Drains. Storm drains shall be installed at a grade to ensure a velocity of two (2) feet per second when flowing full. Storm water shall not be discharged into sanitary sewers.
13. Fire Protection. Fire hydrants shall be installed according to the recommendations of the Fire Department. There shall also be a portable fire extinguisher, approved by the Fire Department, in each community building.

14. Speed Limit. The maximum speed limit for any vehicle in a mobile home park shall be fifteen (15) miles per hour.

15. Fuel Cylinders. Cylinders containing liquefied petroleum gas or oil to be used as fuel by mobile home occupants shall be connected to the stove or heater of the mobile home by copper or other metallic tubing to provide leakproof connections. The cylinders shall be securely fastened in place and may not be closer than five (5) feet from any mobile home exit.

165.23 NONCONFORMING USES.

1. Purpose.

A. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before the ordinance codified in this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of such ordinance or future amendment.

B. Subject to Section 165.15 through 165.20, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

C. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of the ordinance codified in this chapter and upon which actual building construction has been diligently carried on.

2. Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of the ordinance codified in this chapter. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the

district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action by the Board of Adjustment as provided in Section 165.26(3).

3. Continuation of Prior Lawful Uses.

A. Land. Where, at the effective date of adoption or amendment of the ordinance codified in this chapter, lawful use of land exists that is made no longer permissible under the terms of the ordinance codified in this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the ordinance codified in this chapter.

(2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of the ordinance codified in this chapter.

(3) If any such nonconforming use of land ceases for any reason for a period of more than one year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

B. Structures. Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such structure may be enlarged or altered in any way which increases its nonconformity;

(2) Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

C. Structures, or Structures and Premises in Combination. If a lawful use of a structure or of structure and premises in

combination exists at the effective date of adoption or amendment of the ordinance codified in this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure, devoted to a use not permitted by this chapter in the district in which it is located, shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing to a use permitted in the district in which it is located.

(2) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the Board of Adjustment, either by general rule or by making findings in the specific case, finds that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

(3) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

(4) When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for eighteen months during any three-year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

(5) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

4. Repairs and Maintenance.

A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to

an extent not exceeding ten percent (10%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of the ordinance codified in this chapter shall not be increased.

B. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

5. Special Exceptions. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in the district where the special exception is granted.

165.24 ZONING PERMIT.

1. Required. A zoning permit shall be obtained from the Zoning Administrator before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height, or floor area, or remodeled to increase the number of dwelling units or accommodate a change in use of the building and/or premises or part thereof. The zoning permit shall state that the proposed construction complies with all provisions of this chapter, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this chapter. Said zoning permit shall include a complete plan of the proposed construction drawn showing the location of the proposed improvement on the applicable lot with the dimensions and the setbacks of the improvement included legibly on the permit or on an attachment thereto. The zoning permit shall also include a signed statement by the applicant that the lot lines have been located and marked so that the Zoning Administrator may complete an inspection of the site prior to the installation of the permanent foundation. Said zoning permit shall show the proposed drainage of surface waters on said lot after the completion of the proposed project. If there is a modification of the construction project that changes the setback distances from those listed in the original zoning permit, then an additional zoning permit shall be applied for that includes the proposed changes.

2. Enforcement and Penalty. The Zoning Administrator shall inspect the construction site prior to the placement of a permanent foundation for the purposes of verifying compliance with this Code of Ordinances and the zoning permit as issued. The Zoning Administrator may inspect the project at any time prior to completion for compliance with this Code and the zoning permit. If the Zoning Administrator finds material

noncompliance with the zoning permit, then a written notice shall be given by the Zoning Administrator to the holder of the zoning permit describing the noncompliance. If the zoning permit holder fails to correct the noncompliance with this Code, the permit holder shall be in violation of this Code of Ordinances, and each day that a violation is permitted to exist shall constitute a separate offense.

3. Fees.

A. The Zoning Administrator is directed to issue a zoning permit as required by this section for proposed construction, reconstruction or alteration which complies with all provisions contained in this chapter and to charge a fee of twenty dollars (\$20.00) for each zoning permit issued.

B. There shall be no fee charged to the United States government, the State or any political subdivision thereof.

C. All fees required shall be paid to the Zoning Administrator, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the General Revenue Fund of the City.

4. A zoning permit is to be posted at the site of the construction from the beginning of the project to the completion of the project. Permit is to be posted where visible to the public and made waterproof by whatever means available.

(Ord. 260 – Sep. 06 Supp.)

165.25 BOARD OF ADJUSTMENT.

1. Organization. A Board of Adjustment is established. The Board shall consist of five (5) members to be appointed by the Council for staggered terms of five (5) years. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member.

2. Meetings; Records. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chair and at such other times as the Board may determine. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board, which shall be located in the City Office.

165.26 POWERS AND DUTIES OF BOARD OF ADJUSTMENT. The Board of Adjustment shall have the powers and duties as follows:

1. Administrative Review. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this chapter.
2. Special Exceptions Granting Authority. The Board of Adjustment shall hear and decide only such special exceptions as it is specifically authorized to pass on by the terms of this chapter, to decide such questions as are involved in determining whether special exceptions shall be granted, and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:
 - A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.
 - B. Notice shall be given at least fifteen (15) days in advance of the public hearing by publication in a newspaper of general circulation in the City.
 - C. The public hearing shall be held. Any party may appear in person or by agent or attorney.
 - D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board of Adjustment shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

3. Variance Procedure. The Board of Adjustment shall authorize upon appeal in specific cases such variance from the terms of this

chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

- A. A written application for a variance is submitted to the Chair of the Board of Adjustment.
- B. Notice of public hearing shall be given as in subsection 2 of this section.
- C. The public hearing shall be held. Any party may appear in person or by agent or by attorney.
- D. The Board of Adjustment finds after hearing and deliberation all of the following:
 - (1) The property cannot yield a reasonable return if used only for a purpose allowed in that zone.
 - (2) The plight of the property owner is due to unique circumstances and not to the general conditions in the neighborhood which may reflect the unreasonableness of the zoning ordinance itself.
 - (3) The use to be authorized will not alter the essential character of the locality.
 - (4) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;
 - (5) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- E. The Board of Adjustment shall further make a finding in writing that the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in

conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under Section 165.31. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the laws of the State of Iowa and the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.27 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the powers set forth in Section 165.26, the Board of Adjustment may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The concurring vote of three members of the board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

165.28 APPEALS.

1. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with the Zoning Administrator that by reason of facts stated in the certificate a stay would, in the opinion of the Zoning Administrator, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

2. Hearing, Notice and Fee. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the Zoning Administrator. Such appeals shall be taken within a reasonable time not to exceed sixty (60) days of filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. A fee of ten dollars (\$10.00) shall be paid to the Zoning Administrator at the time the notice of appeal is filed, which the Zoning Administrator shall pay over to the credit of the General Revenue Fund of the City.

3. Appeals From the Board of Adjustment. Any person or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414 of the Code of Iowa.

165.29 AMENDMENT PROCEDURE. The regulations imposed and the districts created by this chapter may be amended from time to time by the Council, but no such amendments shall be made without public hearing before the Council and after a report has been made upon the amendment by the Commission. The notice of the time and place of the public hearing shall be published in a newspaper having general circulation in the City not less than seven (7) days nor more than twenty (20) days in advance of the public hearing, but in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. In case the Commission does not approve the change or in the case of a protest filed with the Council against a change in district boundaries signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent thereto and within two hundred (200) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three-fourths of all the members of the Council.

165.30 ADMINISTRATION AND ENFORCEMENT.

1. Zoning Administrator. A Zoning Administrator appointed by the Mayor and approved by the Council shall administer and enforce this chapter. The Zoning Administrator may be provided with the assistance of such other persons as the Council may direct. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, said officer shall notify in writing the person responsible for such violations, indicating the nature of the violation and order the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.
2. Appeals. Appeals from any decision of the Zoning Administrator may be taken to the Board of Adjustment as provided in Section 165.28.

165.31 VIOLATIONS.

1. Separate Offense May be Charged. The owner or tenants of any building, structure, land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be charged with a separate offense.
2. Abatement by Injunction or Mandamus. If any building or structure is erected, constructed, reconstructed, altered repaired or land is used in violation of this chapter, the City may, in addition to other remedies, institute injunction, mandamus or other appropriate lawful action necessary to prevent, correct or abate such violation.
3. Penalty. Any person who violates or fails to comply with the provisions of this chapter, upon conviction, in addition to being subject to the penalties for violation of this Code of Ordinances, shall pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues shall constitute a separate offense.

[The next page is 675]

CHAPTER 166

SUBDIVISION REGULATIONS

166.01 Applicability
166.02 Definitions
166.03 Platting Procedure Generally
166.04 Preliminary Plat
166.05 Final Plat

166.06 Design Standards
166.07 Improvements
166.08 Variances
166.09 Amendments
166.10 Violations Designated

166.01 APPLICABILITY. All plats, replats or subdivision of land into three or more parts of the purpose of laying out a portion of the City, additions thereto, or, pursuant to Section 354.9 of the Code of Iowa, suburban lots within one mile of the corporate limits of the City, for other than agriculture purposes, shall be submitted to the Council and Commission in accordance with the provisions of this chapter and shall be subject to the requirements established in this chapter.

166.02 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined. As used herein, the word "building" includes the word "structure."

1. "Alley" means permanent public service way or right-of-way designated to provide a secondary means of access to abutting property.
2. "Auditor" means the County Auditor of Henry County, Iowa.
3. "Building" includes "structure."
4. "Building line" means a line established on a plat as a restrictive covenant, beyond which no building may be placed. The building lines need not correspond to the front, side or rear yard requirements established in the zoning ordinance codified in Chapter 165; the most restrictive requirement will control.
5. "Commission" means the Planning and Zoning Commission of the City.
6. "Cul-de-sac" means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
7. "Easement" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said owner's property.

8. "Final plat" means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and the Commission, will be filed and recorded with the County Recorder.
9. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and the Commission for consideration.
10. "Right-of-way" means the area measured between property lines dedicated and accepted for public use and providing access to abutting properties.
11. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of the ordinance codified in this chapter.
12. "Street" means a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway, thoroughfare, parkway, avenue, road, lane, drive, place or other appropriate designation.
13. "Street, collector" means a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators.
14. "Street, minor residential" means a cul-de-sac or loop street designated to serve not more than twenty (20) dwellings.
15. "Street, residential" means a street used primarily for access to abutting property.
16. "Subdivider" means any person who shall lay out for the purpose of sale or development any subdivision or part thereof, as defined in this section, either for himself or herself or others.
17. "Subdivision" means the division of a separate tract of land into three or more lots or parcels for the purpose of transfer of ownership or building development, or if a new road is involved, any division of a parcel of land.
18. "Thoroughfare" means a street intended for cross-county or through traffic.

166.03 PLATTING PROCEDURE GENERALLY. Procedure for approval of preliminary and final plats of land within one mile of the corporate limits shall be the same as set out in Sections 166.04 and 166.05 except that five (5) copies of the plat shall be filed with the Clerk, and the Clerk shall refer one copy to the County Engineer and one copy to the County Planning and Zoning Commission and request their recommendations to be submitted to the City

Planning and Zoning Commission. The Commission shall not take action on the plat prior to receiving the recommendations of the County. The Council or the Commission may request such professional assistance as it deems necessary to properly evaluate the plats as submitted.

166.04 PRELIMINARY PLAT.

1. Filing; Recommendations of Commission; Council Action.

A. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared, a plat of the subdivision containing the information specified in this chapter and shall file three (3) copies and a reproducible sepia or tracing of the plat with the Clerk.

B. The Clerk shall immediately transmit two copies of the preliminary plat to the Commission for study and recommendation.

C. The Commission shall examine the plat as to its compliance with this chapter, and the comprehensive plan of the City, and shall have thirty (30) days to submit a recommendation to the Council; provided, the owner or developer may agree to an extension of time not to exceed sixty (60) days. A copy of the recommendation shall be forwarded to the owner or developer.

D. The Council, upon receipt of the Commission's recommendation or after thirty (30) days or any extension thereof has passed, shall by resolution grant approval or reject the preliminary plat. If the pre-plat is rejected, the Council will advise the owner or developer of any changes which are desired or should have reconsideration before approval will be given. Approval of the preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat but shall not be deemed approval of the subdivision.

2. Fee. Each preliminary plat submitted for approval shall be accompanied by a fee of ten dollars (\$10.00) which shall be credited to the General Fund of the City.

3. Location Map; Drawing. The preliminary plat shall contain the following information:

A. A location map showing:

- (1) The subdivision name;
- (2) An outline of the area to be subdivided;

- (3) The existing streets and public or community utilities, if any, on adjoining property;
- (4) North point and scale.

B. A preliminary plat of the subdivision drawn to the scale of fifty feet to one inch, provided, that if the resulting drawing would be over thirty-six (36) inches in shortest dimension, a scale of one hundred feet to one inch may be used, said preliminary plat to show:

- (1) Legal description, acreage and name of proposed subdivision;
- (2) Name and address of the owner;
- (3) Name of person who prepared the plat, and the date thereof;
- (4) Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, watercourses, bridges, railroads and buildings in the proposed subdivision;
- (5) Location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas;
- (6) A statement concerning the location and approximate size or capacity of utilities proposed to be installed;
- (7) Layout of proposed blocks, if used, and lots including the dimensions of each, and the lot and block number in numerical order;
- (8) Contours at vertical intervals of not more than two feet;
- (9) Tract boundary lines showing dimensions, bearings, angles, and references to known lines or bench marks;
- (10) Names of adjacent property owners;
- (11) Proposed building lines;
- (12) Grades of proposed streets;
- (13) A cross-section of the proposed streets showing the roadway location, the type and width of surfacing, type of drainage and other improvements to be installed;

- (14) The location of proposed wells and/or water mains and sewage disposal system if a public or community system is used;
- (15) The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures;
- (16) North point and graphic scale;
- (17) Layout of lots showing approximate dimensions and number.

166.05 FINAL PLAT.

1. Procedure Generally.
 - A. A final plat shall be submitted within twelve (12) months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.
 - B. Procedures for final plats shall be the same as set out for preliminary plats in Section 166.04(1).
 - C. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the Clerk, County Auditor and County Recorder, along with such other certifications and instruments as may be required by law.
2. Specifications Generally. The final plat shall meet the specifications set out in this section.
3. Inclusion of Preliminary Plat. The final plat may include all or only part of the preliminary plat.
4. Required Information. The final plat shall contain the following:
 - A. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot in three thousand feet;
 - B. Accurate references to known or permanent monuments giving the bearings and distance from some corner of a congressional division of the county of which the subdivision is a part;
 - C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;

- D. Accurate metes and bounds description of the boundary;
 - E. Street names;
 - F. Complete curve notes for all curves included in the plat;
 - G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;
 - H. Lot numbers and dimensions;
 - I. Block numbers, if used;
 - J. Accurate locations of easements for utilities and any limitations in such easements;
 - K. Accurate dimensions for any property to be dedicated or reserved for public, semipublic or community use;
 - L. Building lines and dimensions;
 - M. Location, type, material and size of all monuments and markers;
 - N. Name of the subdivision;
 - O. Name and address of the owner and subdivider;
 - P. North point, scale and date;
 - Q. Certification by a registered land surveyor of the state.
 - R. Certification of dedication of streets and other public property;
 - S. Resolution and certificate for approval by the Council, and signatures of the Mayor and Clerk.
5. Drawing; Scale Designated. The plat shall be drawn to the scale of fifty feet to one inch, provided that if the resulting drawing would be over thirty-six inches in shortest dimensions, a scale of one hundred feet to one inch may be used.
6. Instruments to Accompany Final Plat. The final plat shall be accompanied by the following instruments:
- A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys,

parks, open areas, school property, or other public use, if the dedication is approved by the Council;

B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

C. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

D. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

E. One of the following:

(1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications, or

(2) A surety bond with the City which will insure the City that the improvements will be completed by the subdivider or property owner within two (2) years after the official acceptance of the plat. The form and type of bond shall be approved by the City Attorney, and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus ten percent (10%) and the amount of the estimate must be approved by the Council. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same, or

(3) A petition by the developer to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.

If option (2) or option (3) above is chosen, the final plat shall state that the developer, the grantees, assignees and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.

F. A copy of the restrictive covenants to be attached to the lots of the subdivision.

166.06 DESIGN STANDARDS.

1. Streets, Generally. General consideration for street design shall be as follows:
 - A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
 - B. Streets jogs of less than one hundred fifty (150) feet shall be avoided.
 - C. Cul-de-sacs shall not exceed five hundred (500) feet in length.
 - D. New subdivisions shall make provisions for continuation and extension of thoroughfares and collector streets and roads.
 - E. No dead-end streets or alleys will be permitted except at subdivision boundaries.
 - F. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof.
 - G. Alleys shall not be permitted in residential areas but shall be provided in commercial and industrial areas.
 - H. Intersection of road centerlines shall be between eighty degrees and one hundred degrees.

- I. Where parkways or special types of streets are proposed, the Commission may apply special standards for the design of such parkways or streets.
- J. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street.
2. Streets; Right-of-way. Minimum rights-of-way shall be provided as follows:
 - A. Thoroughfares, one hundred (100) feet;
 - B. Collector streets, eighty (80) feet;
 - C. Residential streets, sixty (60) feet;
 - D. Minor residential street, fifty (50) feet;
 - E. Cul-de-sacs, one hundred ten (110) feet in diameter;
 - F. Alleys, twenty (20) feet.
3. Streets; Width. The minimum width of surfacing to be provided shall be as follows:
 - A. Thoroughfare streets, forty-nine (49) feet;
 - B. Collector streets, forty-five (45) feet;
 - C. Residential streets, twenty-five (25) feet;
 - D. Cul-de-sacs, eighty-five (85) feet in diameter;
 - E. Alleys, twenty (20) feet;
 - F. Sidewalks, four (4) feet.
4. Streets; Grade. No street grade shall be less than one-half of one percent and shall not exceed the following limits:
 - A. Thoroughfare streets, four percent (4%);
 - B. Collector streets, six percent (6%);
 - C. Residential and minor residential streets, eight percent (8%).
5. Blocks.
 - A. The length of blocks shall not be less than five hundred (500) feet and not more than nine hundred (900) feet in length.
 - B. Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, and in no case shall the width be less than two hundred twenty (220) feet; except, where a single tier of double frontage lots parallels a limited access highway,

thoroughfare, drainage course, railroad or other barrier, the width shall be not less than one hundred fifty (150) feet.

C. Crosswalks may be required in blocks over seven hundred (700) feet long or in areas where curved streets require excessive out-of-distance travel. If required, crosswalks shall be constructed by the developer.

6. Lots.

A. All lots shall abut on a street or place. Corner lots which abut on a thoroughfare or collector street shall have a minimum radius of fifteen feet at the intersection.

B. Side lines of lots shall approximate right angles to straight street lines and radial angles to curved street lines, except where a variation will provide better lot layout.

C. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event, a planting screen shall be provided along the rear of the lot.

D. Corner lots shall not be less than eighty (80) feet in width and interior lots shall not be less than seventy (70) feet in width at the building lines.

166.07 IMPROVEMENTS.

1. Specifications Generally. The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the Council for approval prior to construction, and construction shall not start until the plans and specifications have been approved.

2. Sanitary Sewers. The subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with a sanitary sewer outlet approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property.

3. Water. The subdivider shall provide the subdivision with a complete water main supply system which shall be extended into and through the subdivision to the boundary lines, and which shall provide a water connection for each lot and shall be connected to the City water system. Hydrants and gate valves shall be provided by the City. Where water mains in excess of four inches in diameter are required, the additional cost shall be borne by the City.

4. Storm Drains. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, storm sewers, intakes and manholes to provide the collection and removal of all surface waters. These improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.
5. Natural Gas. The City shall extend natural gas to the subdivision and shall make service available to each lot in the subdivision.
6. Markers. An iron rod not less than one-half inch in diameter and twenty-four inches in length shall be as follows:
 - A. Set in concrete three (3) feet deep at the intersection of all lines forming angles in the boundary of the subdivision and at all street intersections;
 - B. At lot corners and changes in direction of block and lot boundaries.
7. Streets; Grade. All streets and alleys within the platted area which are being dedicated for public use shall be brought to the grade approved by the Council.
8. Streets; Curbs and Gutters. Curbs and gutters shall be installed on all streets in the plat being dedicated for public use and shall be constructed of portland cement concrete in accordance with designs and specifications and at grades approved by the Council.
9. Streets; Surfacing. All streets being dedicated for public use shall be surfaced from curb to curb. Surfacing shall consist of bituminous seal coat or asphaltic concrete and shall be constructed in accordance with designs and specifications and at grades approved by the Council.
10. Inspection. The Council shall cause the installation of all improvements to be inspected to ensure a compliance with the requirements of this chapter. The cost of said inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

166.08 VARIANCES. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of land while preserving the intent of this chapter.

166.09 AMENDMENTS. This chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

166.10 VIOLATIONS DESIGNATED. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall not be violated subject to the following:

1. No plat or subdivision in the City or within one mile thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed in this chapter.
2. Not more than two building permits shall be issued for each separate tract existing at the effective date of the ordinance codified in this chapter unless the tract shall have been platted in accordance with the provisions contained in this chapter.
3. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the date of adoption of the ordinance codified in this chapter unless such subdivision and streets have been approved in accordance with the provisions of this chapter, and the street accepted by the Council as a public street.
4. Any person who hereafter disposes of or offers for sale or lease any lots in the City or addition thereto, unless the plat thereof has been approved in accordance with this chapter and recorded, shall forfeit and pay \$250.00 for each lot or part of lot sold or disposed of, leased or offered for sale.

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