

CODE OF ORDINANCES

OF THE

CITY OF

RED OAK, IOWA

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**CODE OF ORDINANCES
OF THE
CITY OF RED OAK, IOWA**

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SUPPLEMENT RECORD

[illegible]

CODE OF ORDINANCES CITY OF RED OAK, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
1.02 Definitions
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1.04 Indemnity
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1.06 Rules of Construction
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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Red Oak, Iowa.

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

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“Ordinances” means the ordinances of the City of Red Oak, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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

and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00. The court may order imprisonment not to exceed 30 days in lieu of a fine or in addition to a fine.[†]

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

[The next page is 9]

[†] **EDITOR'S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 4.

CHAPTER 2

CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties of City Officers

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of two years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

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CHAPTER 3

BOUNDARIES

3.01 Precincts Established
3.02 Wards Established

3.03 Elections

3.01 PRECINCTS ESTABLISHED. The City is divided into three precincts, as follows:

1. The first precinct consists of that territory bounded by a line as follows:

Beginning at the intersection of the Nishnabotna River and West Coolbaugh Street (shown as 205th Street outside the corporate City limits), then east on West Coolbaugh Street to Eighth Street, then north on Eighth Street to Joy Street, then east on Joy Street to Boundary Street, then south on Boundary Street to Corning Street, then east on Corning Street to Eastern Avenue, then south on Eastern Avenue to Coolbaugh Street, then east on Coolbaugh Street to the Burlington Northern Santa Fe Railroad tracks, then northeasterly along the railroad tracks to the corporate City limits, then south along the corporate City limits to the southern boundary line of the corporate City limits, then west following the corporate City limits to Oakwood Avenue, then south along the corporate City limits to the southern boundary line of the corporate City limits, then west along the corporate City limits to Eighth Street (shown as Hickory Avenue outside the corporate City limits), then south on Eighth Street to the southern boundary line of the corporate City limits, then west along the corporate City limits to Hwy. 48, then north on Hwy. 48 following the corporate City limits to Ohio Avenue, then west along the corporate City limits to the Nishnabotna River, then north along the corporate City limits to the place of beginning.

2. The second precinct consists of that territory bounded by a line as follows:

Beginning at the intersection of the Nishnabotna River and West Coolbaugh Street (shown as 205th Street outside the corporate City limits), then east on West Coolbaugh Street to Eighth Street (shown as Hickory Avenue outside the corporate City limits), then north on Eighth Street to the north corporate City limits, then west along the corporate City limits line to State Highway 48, then south on State Highway 48 following the corporate City limits line to the point where the corporate City limits line turns west, then west following the corporate City limits line to the point where the corporate City limits line turns south then south following the corporate City limits line to the place of beginning.

3. The third precinct consists of that territory bounded by a line as follows:

Beginning at the intersection of Eighth Street (shown as Hickory Avenue outside the corporate City limits), and Joy Street, then east on Joy Street to Boundary Street, then south on Boundary Street

to Corning Street, then east on Corning Street to Eastern Avenue, then south on Eastern Avenue to Coolbaugh Street, then east on Coolbaugh Street to the Burlington Northern Santa Fe Railroad tracks, then northeasterly along the railroad tracks to the corporate City limits, then north following the corporate City limits to Summit Street, then west on Summit Street to the eastern boundary line of the corporate City limits, then north to U. S. Highway 34, then west following U. S. Highway 34 to Eastern Avenue, then north on Eastern Avenue to the corporate City limits, then west along the corporate City limits to Eighth Street, then south on Eighth Street to the place of beginning.

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

1. The first ward consists of the first precinct.
2. The second ward consists of the second precinct.
3. The third ward consists of the third precinct.

3.03 ELECTIONS. Each ward shall constitute a voting precinct for all elections.

[The next page is 15]

CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties

4.04 Civil Citations
4.05 Alternative Relief
4.06 Alternative Penalties

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

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

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

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

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

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

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

1. Standard Civil Penalties.
 - A. Schedule 1. Any person who has been served with a notice to abate as provided by Chapter 50, Chapter 51, and Chapter 145 in this Code of Ordinances and who has failed to abate said condition within the time set forth in the notice, shall be subject to a civil penalty not to exceed \$750.00 for a first offense and a civil fine not to exceed \$1,000.00 for a second and each repeat offense. Each day that a violation occurs or is permitted to exist shall constitute a repeat offense.
 - B. Schedule 2. Unless another civil penalty is provided elsewhere in this Code for a specific violation, a municipal infraction is a civil offense punishable

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

as follows: First offense, a civil fine not to exceed \$750.00; second and each repeat offense, a civil fine not to exceed \$1,000.00. Each day that a violation occurs or is permitted to exist shall constitute a repeat offense.

2. Special Civil Penalties.

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

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

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

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

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

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

If the citation affects real property and charges a violation relating to the condition of the property, including a building code violation, a local housing regulation violation, a housing

code violation, or a public health or safety violation, after filing the citation with the Clerk of the District Court, the City shall also file the citation in the office of the County Treasurer.

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES. A vacancy in an elective City office during a term of office shall be filled in accordance with Section 372.13[2] of the *Code of Iowa*.

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than 25 eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance, or resolution.

2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance, or resolution, was properly budgeted, and supported by a claim approved by the Council.

3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

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

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

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

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

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

6. Utility and Enterprise Funds. A surplus in a Utility or Enterprise Fund may be transferred to any other City fund, except the Emergency Fund, by resolution of the Council. A surplus may exist only after all required transfers have been made to any restricted accounts in accordance with the terms and provisions of any revenue bonds or loan agreements relating to the Utility or Enterprise Fund. A surplus is defined as the cash balance in the operating account or the unrestricted net position calculated in accordance with generally accepted accounting principles, after adding back the net pension and other postemployment benefits, liabilities, and the related deferred inflows of resources and deducting the related deferred outflows of resources, in excess of:

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

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

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

4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for

the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

1. Program Increase. Any increase in the amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.2[384, 388])

2. Program Transfer. Any transfer of appropriation from one program to another must be prepared, adopted, and subject to protest in the same manner as the original budget.
(IAC, 545-2.3[384, 388])

3. Activity Transfer. Any transfer of appropriation from one activity to another activity within a program must be approved by resolution of the Council.
(IAC, 545-2.4[384, 388])

4. Administrative Transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriations allocated within a specific activity without prior Council approval.
(IAC, 545-2.4[384, 388])

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: City Administrator, Clerk, Mayor, or Mayor Pro Tem following Council approval, except as provided by Subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose
8.02 Definitions
8.03 Period of Partial Exemption
8.04 Amounts Eligible for Exemption
8.05 Limitations

8.06 Applications
8.07 Approval
8.08 Exemption Repealed
8.09 Dual Exemptions Prohibited

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

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

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

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

five years. The exemption shall also apply to the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1[1e] of the *Code of Iowa*, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

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

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

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

1. For the first year, 75 percent.
2. For the second year, 60 percent.
3. For the third year, 45 percent.
4. For the fourth year, 30 percent.
5. For the fifth year, 15 percent.

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 9

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
313	December 17, 1990	Red Oak Urban Renewal Area, Original Project Area
363	May 15, 1995	Red Oak Urban Renewal Area, Amendment No. 1
383	November 17, 1997	Downtown Urban Renewal Project Area
414	November 20, 2000	Red Oak Urban Renewal Area, Amendment No. 2
501	November 21, 2005	2005 Addition to the Red Oak Urban Renewal Area
558	June 4, 2012	Red Oak Urban Renewal Area Tax Increment Revenue Fund

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CHAPTER 10
URBAN REVITALIZATION

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA
400	April 17, 2000	Heuer Subdivision Urban Revitalization Area

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CHAPTER 11

USE OF CITY-OWNED PROPERTY

11.01 LEASE OF CITY-OWNED PROPERTY TO PRIVATE ENTERPRISES. The City of Red Oak, acting by and through the City Council—or any of its boards or commissions, subject to review and approval of the City Council—is authorized to enter into rental or lease agreements of City-owned property of a like kind to property interests offered for rental or lease by private enterprise.

(Code of Iowa, Sec. 23A.1[1] & 23A.2[1])

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CHAPTER 12

HOTEL AND MOTEL TAX

12.01 Definitions
12.02 Tax Imposed
12.03 Exemptions

12.04 Use of Tax Revenue
12.05 Administration

12.01 DEFINITIONS. The following terms shall have the following meanings for use in this chapter.

1. “Lessor” or “seller” means any person engaged in the business of renting lodging to users.
2. “Lodging” means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals.
3. “Renting” means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration, whether paid as a direct or indirect charge for such lodging or its use.
4. “Sales price” means the consideration for renting of lodging, including cash, credit, property and services for which personal property or services are sold, leased or rented valued in money.
5. “User” means a person or firm to whom lodging is rented.

All other words and phrases used in this chapter shall have the same meaning given them by Chapter 423A, *Code of Iowa*, as amended.

12.02 TAX IMPOSED. There is hereby imposed a tax at the rate of seven percent upon the sales price from the renting of lodging within the City.

12.03 EXEMPTIONS. Exempted from the provisions of this chapter and from the computation of the tax imposed hereunder, are all of the following:

1. The sales price from the renting of lodging to a person where the lodging is rented by the same person for a period of more than 31 consecutive days, except as provided in Subsection 2 of this section.
2. The sales price from the renting of lodging to a person where the lodging is rented by the same person for the period beginning after 90 consecutive days of rental by such person, if the rental is a room, apartment, or sleeping quarter in a hotel, motel, inn, public lodging house, or rooming house, or in any place where sleeping accommodations are furnished to a transient guest.
3. The sales price of lodging furnished to the guests of a religious institution if the property is exempt under Section 427.1[8] of the *Code of Iowa*, and the purpose of renting is to provide a place for a religious retreat or function and not a place for transient guests generally.

4. The sales price from the renting of sleeping rooms in dormitories and in memorial unions at all universities and colleges located in the City.

5. The sales price of lodging furnished to the guests of a nonprofit lodging provider and the purpose of renting is to provide a place for the friends and family of a hospital patient during a time of medical need of the patient and the length of stay is based upon the needs of the friends, family, or patient. For purposes of this subsection, "nonprofit lodging provider" means a nonprofit entity which is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code that maintains an established facility that provides lodging to friends and family of a hospital patient during a time of medical need of the patient.

(Code of Iowa, Sec. 423A.5)

12.04 USE OF TAX REVENUE. The revenue derived from the hotel and motel tax imposed under this chapter shall be used as follows:

1. At least 50 percent of the revenue derived shall be used for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining recreation, convention, cultural, or entertainment facilities, including but not limited to, memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or entertainment facilities, or the payment of principal and interest when due on bonds or other evidence of indebtedness issued by the City for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.

2. The remaining revenues may be spent by the City for any City operations authorized by law as a proper purpose for the expenditures within statutory limitations of City revenues derived from ad valorem taxes.

3. The City may pledge irrevocably an amount of the revenues derived from the hotel and motel tax authorized under this chapter in payment of bonds which the City may issue for one or more of the purposes set forth in Subsection 1 of this section for each year the bonds remain outstanding. Any revenue pledged to the payment of such bonds may be credited to the spending requirement set forth in Subsection 1 of this section.

4. The City may act jointly with one or more other cities or counties having adopted and imposed a hotel and motel tax pursuant to the provisions provided in Chapter 28E, *Code of Iowa*, and under any such agreement may pledge irrevocably any amount derived from the revenues of the local hotel and motel tax to the support or payment of bonds issued for a project within the purposes set forth in Subsection 1 of this section and located within one or more of the participatory cities or counties or may apply the proceeds of its bonds to the support of any such project. Revenues so pledged or applied shall be credited to the spending requirement of Subsection 1 of this section.

12.05 ADMINISTRATION. The administration for the imposition of the local hotel and motel tax adopted pursuant to this chapter shall be through the Director of Revenue of the State of Iowa.

1. Pursuant to Iowa law, the City shall not require any tax permit not required by the Director of Revenue.

2. The City may repeal, increase or reduce the tax rate of the hotel and motel tax adopted pursuant to this chapter only after an election at which a majority of those voting on the question favors repeal or change in rate. Provided, this hotel and motel tax shall not be repealed or reduced in rate if obligations are outstanding which are payable by or through the hotel and motel tax, unless funds sufficient to pay principal, interest and premium, if any, on the outstanding obligations at and before maturity have been properly set aside and pledged for that purpose.

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within 14 days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief (with Council approval)
3. Library Board of Trustees (with Council approval)
4. Historic Preservation Commission (with Council approval)

The Mayor also recommends members for the Planning and Zoning Commission for appointment by the Council.

15.04 COMPENSATION. The salary of the Mayor is \$4,800.00 per year, payable monthly.
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of two Council Members elected at large and one Council Member from each of wards as established by the Code of Ordinances, elected for overlapping terms of four years.

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.1[a])

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

1. Regular Meetings. The time of the regular meetings of the Council shall be the first and third Mondays of each month at 5:30 p.m. If such day falls on a legal holiday, the meeting is held at a mutually agreeable time, as determined by the Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.

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

3. Quorum. A majority of all Council members is a quorum.

(Code of Iowa, Sec. 372.13[1])

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.

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

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

1. City Administrator
2. City Clerk
3. City Attorney
4. City Treasurer
5. Board of Adjustment
6. Board of Appeals
7. Airport Commission
8. Certified Local Government Committee
9. Planning and Zoning Commission (upon recommendation of Mayor)
10. Cemetery Superintendent
11. Park and Tree Board
12. Low Rent Housing Committee
13. Department Heads as recommended by the City Administrator

17.06 COMPENSATION. The salary of each Council member is \$40.00 for each meeting of the Council (or other governmental meeting that the Council member has been designated to attend) attended, payable monthly.

(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 Other Publications
18.06 Authentication
18.07 Certification

18.08 Records
18.09 Attendance at Meetings
18.10 Licenses and Permits
18.11 Notification of Appointments
18.12 Elections
18.13 City Seal
18.14 Duties off Clerk

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

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

18.02 POWERS AND DUTIES: GENERAL. The Clerk has the powers and duties as provided in this chapter, this Code of Ordinances, and the law.

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.
2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.11 NOTIFICATION OF APPOINTMENTS. The Clerk shall inform all persons appointed by the Mayor or Council to offices in the City government of their positions and the time at which they shall assume the duties of their offices.

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

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

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

18.14 DUTIES OF CLERK.

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law and Council direction.
2. Record of Fund. Keep the record of each fund separate.
3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.
4. Record Disbursements. Keep an accurate account of all disbursements, money, or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.
6. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
7. To prepare and submit to the Council annually the required budgets.
8. To submit monthly to the Council an itemized financial report in writing showing the receipts and disbursements for the preceding month. Copies of financial reports must be available at the Clerk's office for public distribution.

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CHAPTER 19

CITY TREASURER

19.01 Appointment

19.02 Duties of Treasurer

19.01 APPOINTMENT. The Council shall appoint by majority vote a City Treasurer to serve at the discretion of the Council.

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

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

1. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.
2. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.
3. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.
4. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

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CHAPTER 20

CITY ATTORNEY

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

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

20.01 APPOINTMENT. The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment and Term
21.02 Compensation and Allowance

21.03 Duties
21.04 City Elections

21.01 APPOINTMENT AND TERM. The City Administrator is appointed by a majority vote of the Council and holds office at the discretion of the Council, and is subject to removal by a majority vote of the Council.

21.02 COMPENSATION AND ALLOWANCE. The City Administrator shall receive such annual salary and allowances as the Council shall from time to time determine by resolution, and payment shall be made from the treasury of the City in the manner provided for paying other officers and employees.

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

1. To supervise enforcement and execution of the City ordinances.
2. To attend all meetings of the Council unless excused by the Mayor.
3. To recommend to the Council such measures as deemed necessary or expedient for the good government and welfare of the City.
4. To have the general supervision and direction of the administration of the City government and to appoint with approval of the Council such administrative assistants as shall be deemed advisable.
5. To be an advisor to all department heads, including the Chiefs of the Fire and Police Departments; to evaluate their performances and assist in coordinating control and management of their departments.
6. To interview those applying or recommended for a department head position and make recommendations to the Council for approval.
7. With involvement of the respective department head and within departmental budgets as approved by the Council, to employ, reclassify or discharge any employee who has not performed his or her duties in a satisfactory manner, subject to the Veterans Preference Law. All action concerning department heads pertaining to matter of hiring, discharge or reclassification will be referred to the Council.
8. To be an advisor to the City's engineer, in construction, improvement, repairs, maintenance and management of all City property, capital improvements and preservation of all surveys, maps, plans, drawings, specifications and estimates for capital improvements.
9. To cooperate with any administrative agency of the City.
10. To provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by City law, with the approval of the Council.
11. To keep the Council fully advised of the financial and other conditions of the City and of its future needs.

12. To conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
13. To review annually the compensations of all employees and report such findings to the Council.
14. Shall serve as the City's Zoning Officer.
15. To perform other duties at the Council's direction.

21.04 CITY ELECTIONS. The Administrator shall not take part in any election for City officers other than casting a vote, and shall not appoint a Council Member to any other City office or employment.

CHAPTER 22

LIBRARY BOARD OF TRUSTEES

22.01 Public Library
22.02 Library Trustees
22.03 Qualifications of Trustees
22.04 Organization of the Board
22.05 Powers and Duties
22.06 Contracting with Other Libraries

22.07 Nonresident Use
22.08 Expenditures
22.09 Annual Report
22.10 Injury to Books or Property
22.11 Theft
22.12 Notice Posted

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

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

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

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

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

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

1. Officers. To meet and elect from its members a President, a Vice Chairperson, 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 by resolution; provided, however, prior to such employment, the compensation of the Librarian, assistants, and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. Removal of Personnel. To remove the Librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence, or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.
6. Purchases. To select, or authorize the Librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery, and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify, or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.
(Code of Iowa, Ch. 661)
12. Record of Proceedings. To keep a record of its proceedings.
13. County Historical Association. To have authority to make agreements with the local County historical association where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

1. Contracting. The Board may contract with any other boards of trustees of free public libraries, with any other city, school corporation, private or semiprivate

organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies

23.04 Compensation
23.05 Powers and Duties

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

CHAPTER 24

PARK AND TREE BOARD

24.01 Park and Tree Board Created
24.02 Appointment and Term
24.03 Board Member Requirements

24.04 Organization
24.05 Compensation
24.06 Powers and Duties

24.01 PARK AND TREE BOARD CREATED. There is established a Park and Tree Board for the City consisting of five members.

24.02 APPOINTMENT AND TERM. Members shall be appointed by the City Council for staggered four-year terms. Vacancies in the Board shall be filled in the same manner as original appointments except that the individual appointed to fill a vacancy shall fill out the unexpired term for which the appointment is made. The position of any board member shall be considered vacated if such member is absent from four meetings of the Board in any 12-month period.

24.03 BOARD MEMBER REQUIREMENTS. Three of the members must be residents of the City. Two members may be either residents of the City or may reside elsewhere within Montgomery County. Members should have an interest in parks and recreation. At least two members must be certified tree stewards, arborists, or possess similar qualifications to demonstrate extensive knowledge of trees and/or horticulture in general.

24.04 ORGANIZATION. At the first meeting following the members taking office, the Board shall elect one of its members as Chairperson, another as Vice Chairperson, and another as Secretary. Election of officers shall then be held during the Board's January board meeting and annually thereafter. The Chairperson or the Vice Chairperson, in the absence of the Chair, shall preside over all meetings of the Board, and the Secretary shall be responsible for keeping records of the Board. The Board shall meet monthly at a regularly scheduled time and date. Said time and date shall be determined by the Board with care given to provide for convenience to board members, staff, and the public.

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

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

1. The Board shall have the primary responsibility to plan for the development, maintenance, and improvement of all park and recreational facilities under the ownership and control of the City. The Board shall have administrative authority in the adoption of policies, rules, and regulations, subject to City Council review, pertaining to the use and control of all parks and recreational grounds and facilities.
2. The Board shall have the direct responsibility for management of the City Swimming Pool. Management shall be deemed to include providing for the staffing of the facility, overseeing the annual budget for the facility, and making recommendations to the City Council for major repairs, improvements, or replacement of the facility.
3. It shall be the responsibility of the Board to oversee trees located within the City parks and also within the City rights-of-way. While it remains the responsibility

of the adjoining property owner to maintain trees within the right-of-way adjacent to the owner's property, the Board shall make recommendations to the City regarding trees that have become diseased or dangerous and need to be removed. The Board shall also make recommendations regarding steps that should be taken to protect against damage to trees throughout the community due to pests or disease.

4. The Board shall submit a recommended budget for consideration by the City Council for inclusion in the annual budget.

5. The Board may enter into contracts for services relative to park and recreational programs and facilities, subject to City Council review and approval.

CHAPTER 25

AIRPORT COMMISSION

25.01 Airport Commission
25.02 Appointment and Term
25.03 Vacancies

25.04 Compensation
25.05 Officers
25.06 Powers and Duties

25.01 AIRPORT COMMISSION. There shall be an Airport Commission consisting of five members. Three of the members shall be residents of the City. Two members may be either residents of the City or may reside elsewhere within Montgomery County.
(Code of Iowa, Sec. 330.20)

25.02 APPOINTMENT AND TERM. Commission members shall be appointed by the Council for staggered terms of six years.
(Code of Iowa, Sec. 330.20)

25.03 VACANCIES. Vacancies shall be filled by appointment of the Council to fill out the unexpired term for which the appointment was made.
(Code of Iowa, Sec. 330.20)

25.04 COMPENSATION. Members of the Commission shall serve without compensation.
(Code of Iowa, Sec. 330.20)

25.05 OFFICERS. The Commission shall elect from its own members a Chairperson and a Secretary.
(Code of Iowa, Sec. 330.20)

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

1. General. The Commission shall be responsible for the oversight of the daily operation of the Airport, which shall include, but shall not be limited to, the power and authority to appoint and discharge employees, to contract for labor and materials to serve the Airport, to manage real estate of the Airport, including the right to sell, purchase or lease real estate, and to do all other things necessary to assure the proper management of the Airport. Provided, the Commission shall not have the power to sell the Airport without permission of the Council.

(Code of Iowa, Sec. 330.21)

2. Budget. The Commission shall, on or before the date specified in Section 7.05(2) of this Code of Ordinances, submit to the City Administrator a proposed budget for general airport purposes for the ensuing fiscal year.

(Code of Iowa, Sec. 330.21)

3. Rules and Regulations. The Commission shall have the power to make rules and regulations for the use of airport facilities under its control; such rules shall be posted at the Airport or otherwise publicized in a manner to provide adequate notice to the public.

(Code of Iowa, Sec. 330.21)

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CHAPTER 26

HISTORIC PRESERVATION COMMISSION

26.01 Purpose and Intent

26.02 Definitions

26.03 Structure of the Commission

26.04 Powers of the Commission

26.01 PURPOSE AND INTENT. The purposes of this chapter are to:

1. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement and perpetuation of sites and districts of historical and cultural significance;
2. Safeguard the City's historic, aesthetic and cultural heritage by preserving sites and districts of historic and cultural significance;
3. Stabilize and improve property values;
4. Foster pride in the legacy of beauty and achievements of the past;
5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;
6. Strengthen the economy of the City;
7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

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

1. "Commission" means the City of Red Oak Historic Preservation Commission, as established by this chapter.
2. "Historic district" means an area which contains a significant portion of buildings, structures or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:
 - A. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
 - B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or
 - C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof which is deemed to add significantly to the value and attractiveness of properties within such area; or
 - D. Is associated with the lives of persons significant in our past; or
 - E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. “Historic site” means a structure or building which:
 - A. Is associated with events that have made a significant contribution to the broad patterns of our history; or
 - B. Is associated with the lives of persons significant in our past; or
 - C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
 - D. Has yielded, or may be likely to yield, information important in prehistory or history.

26.03 STRUCTURE OF COMMISSION.

1. The Commission consists of seven members. Five of the members must be residents of the City. Two members may be either residents of the City or may reside elsewhere within Montgomery County.
1. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, archeology, history, historic preservation, or closely related disciplines.
2. The Commission members are appointed for staggered terms of three years. Members may serve for more than one term. Each member shall serve until the appointment of a successor.
3. Vacancies occurring in the Commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.
4. Members shall serve without compensation.
5. A simple majority of the Commission shall constitute a quorum for the transaction of business.
6. The Commission shall elect a Chairperson who shall preside over all Commission meetings and elect a Secretary who shall be responsible for maintaining written records of the Commission’s proceedings.
7. The Commission shall meet at least three times a year.

26.04 POWERS OF THE COMMISSION.

1. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter. The Commission may proceed at its own initiative or upon a petition from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.
2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.
3. The Commission may investigate and recommend to the Council the adoption of ordinances designating historic sites and historic districts if they qualify as defined herein.

4. The Commission may appoint three members to a local design review committee, which committee shall have the power to review applications for the Main Street Linked Investments for Tomorrow program. Projects receiving preliminary design review approval from this committee will be submitted to the State Main Street LIFT Design Review Board.
5. In addition to those duties and powers specified above, the Commission may, with Council approval:
 - A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation.
 - B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties.
 - C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission.
 - D. Lease, sell, and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.
 - E. Contract, with the approval of the Council, with State or federal government or other organizations.
 - F. Cooperate with federal, State and local governments in the pursuance of the objectives of historic preservation.
 - G. Provide information for the purpose of historic preservation to the Council.
 - H. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.

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CHAPTER 27

BOARD OF APPEALS

27.01 Board of Appeals Created
27.02 Appointment and Term
27.03 Board Member Requirements
27.04 Organization

27.05 Compensation
27.06 Powers and Duties
27.07 Hearings

27.01 BOARD OF APPEALS CREATED. There is established a Board of Appeals for the City consisting of five members.

27.02 APPOINTMENT AND TERM. Members shall be appointed by the City Council for staggered three-year terms. Vacancies in the Board shall be filled in the same manner as original appointments except that the individual appointed to fill a vacancy shall fill out the unexpired term for which the appointment is made.

27.03 BOARD MEMBER REQUIREMENTS. Three of the members must be residents of the City. Two members may be either residents of the City or may reside elsewhere within Montgomery County. Members shall be qualified by experience and training to pass on matters pertaining to property maintenance.

27.04 ORGANIZATION. At the first meeting following the members taking office, the Board shall elect one of its members as Chairperson and another as Vice Chairperson. The City Administrator shall serve as Secretary to the Board. Election of officers shall then be held during the Board's January board meeting and annually thereafter. The Chairperson or the Vice Chairperson, in the absence of the Chair, shall preside over all meetings of the Board, and the Secretary shall be responsible for keeping records of the Board. The Board shall meet as needed to hear and act upon appeals filed in regards to the Property Maintenance Code of the City.

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

27.06 POWERS AND DUTIES. The Board shall hear and act upon any appeal properly filed by an individual claiming that the true intent of the Property Maintenance Code of the City or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of said code do not fully apply, or the requirements of said code are adequately satisfied by other means, provided that written application for appeal has been filed within 20 days after the day the decision, notice, or order being appealed was served.

27.07 HEARINGS.

1. Application for hearing shall be made upon forms provided by the City and all information requested on said forms shall be completed accurately and completely.
2. A fee of \$150.00 shall be paid by the appellant at the time the appeal is filed with the City, and said payment is nonrefundable, regardless of the outcome of the hearing.
3. The Board shall meet within 20 days of the filing of an appeal.

4. Any Board member having a conflict with an appeal being made due to personal, professional, or financial interest shall not hear the appeal, and shall abstain from discussion and action on the appeal.
5. Upon hearing all evidence provided, the Board shall rule on the appeal, and the Board's ruling shall be final.

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CHAPTER 30

POLICE DEPARTMENT

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

30.06 Peace Officers Appointed
30.07 Powers and Duties of Police Chief
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons

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

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

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.
(Code of Iowa, Sec. 80B.11)

30.04 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.
(Code of Iowa, Sec. 80B.11[2])
(IAC, 501-3 and 501-8)

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

30.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Police Chief shall recommend, subject to the approval of Mayor, the other members of the department.
(Code of Iowa, Sec. 372.4)

30.07 POWERS AND DUTIES OF POLICE CHIEF. The Police Chief has the following powers and duties subject to the approval of the Council.
(Code of Iowa, Sec. 372.13[4])

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances, and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards, and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance, and use of all vehicles, equipment, and materials of the department.

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.
(*Code of Iowa, Sec. 804.17*)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items that are capable of causing bodily harm which the arrested person may have within such person's control, to be disposed of according to law.
(*Code of Iowa, Sec. 804.18*)

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CHAPTER 31

RESERVE PEACE OFFICERS

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

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

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

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

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

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

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

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

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

31.08 COMPENSATION. While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of \$1.00 per year. The Council may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers.

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

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

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

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Fire Chief Appointed
35.06 Duties of Fire Chief

35.07 Accidental Injury Insurance
35.08 Liability Insurance
35.09 Mutual Aid
35.10 Authority to Cite Violations
35.11 Emergency Ambulance Service

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

35.05 FIRE CHIEF APPOINTED. The Council shall appoint the Fire Chief, who shall serve at the discretion of the Council. The Council shall be furnished the department's attendance records for drills, meetings and fires, and shall give due consideration to such records in approving the appointment of a Fire Chief. The Council may remove the Fire Chief by written order setting out the reasons for removal; the order shall be filed with the City Clerk.

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

35.06 DUTIES OF FIRE CHIEF. 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 firefighting 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 \$200,000.00 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 \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 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 that under law or ordinance may be necessary to be made and that 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.

12. Records. Cause to be kept records of the Fire Department personnel, firefighting 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.

35.07 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 firefighters injured in the performance of their duties as firefighters whether within or outside the corporate limits of the City. All volunteer firefighters shall be covered by the contract.

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

35.08 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)

35.09 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])

35.10 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)

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

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

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

36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss, and reasonable attorney fees.
4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.
5. The following schedule for hazardous cleanup costs shall be assessed by the City.
 - A. Response and hazard control and cleanup at the scene of any vehicle accident within or outside the City limits which involves light rescue – \$250.00.
 - B. Response and hazard control and cleanup at the scene of any vehicle accident within or outside the City limits which involves heavy rescue – \$500.00.
 - C. Response and hazard control and cleanup at the scene of any vehicle accident within or outside the City limits which involves a semi-tractor and/or semi tractor trailer rescue – \$1,000.00.
 - D. The Fire Department shall be authorized to charge the above costs. The costs collected shall be deposited in the Fire Department's account for benefit of the Fire Department.

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct

40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

An act described in Subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace; (ii) if the person doing any of the enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds, or at an official school function, regardless of the location, whether the fight or physical struggle or other disruptive situation is between students or other individuals, if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

(Code of Iowa, Sec. 723.4[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 that the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

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

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

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

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

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

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

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

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

C. "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.

D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.

E. “Show disrespect” means to deface, defile, mutilate, or trample.

F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

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

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

8. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

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

C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.06 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, jailer, emergency medical care provider under Chapter 147A of the *Code of Iowa*, or firefighter, whether paid or volunteer, or a person performing bailiff duties pursuant to Section 602.1303[4] of the *Code of Iowa*, in the performance of any act that is within the scope of the lawful duty or authority of that officer, jailer, emergency medical care provider, or firefighter, or person performing bailiff duties, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 USE OR DISCHARGE OF WEAPONS PROHIBITED.

1. Definitions. The following terms shall be defined as follows for use in this section:

A. "Discharge" means the firing or propelling of a shot, shell, projectile or bullet by a weapon or firearm.

B. "Firearm" means any instrument or device which will or is designed to discharge a shot, shell, projectile or bullet by the force of a chemical explosive such as gunpowder.

C. “Use” means the display of a weapon or firearm in public in such a manner as to indicate either intent to inflict injury upon another person or damage to property, whether or not the weapon or firearm is loaded or is capable of discharging a projectile.

D. “Weapon” means an instrument or device of any sort whatsoever that is either designed to be used or is actually used or can be made to fire a projectile by the explosion of a propellant charge, or that is designed to be used or is actually used in such a manner that indicates the defendant intends to inflict injury upon another person, and when so used, is capable of inflicting injury upon another person. “Weapon” includes, but is not limited to any of the following: rifle, shotgun, revolver, pistol, gun, BB gun, pellet gun, paint ball gun or any firearm of any kind.

2. Unlawful Use of Weapon or Firearm. It is unlawful for any person to use or discharge any weapon or firearm within the City, except as permitted by law or by permission of the City Council or its designee.

3. Reckless Use of Weapon or Firearm. It is unlawful for any person to intentionally use or discharge a weapon or a firearm in a reckless manner.

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

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

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

41.14 SMOKING AND TOBACCO USE PROHIBITED.

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

(Code of Iowa, Sec. 142D.2 & Sec. 321.1[78])

A. “Athletic complex” or “sports arena” means an area, whether enclosed or outdoor, where members of the general public are permitted to assemble to engage in physical exercise, participate in athletic competition, or witness sporting or other events or performances, including, but not necessarily limited to a sports field or fields, pavilion, stadium, gymnasium, swimming pool, skating or skateboarding park and any area similarly used, whether known by one of these terms or not.

B. “Dipping” means placing tobacco or tobacco products into the user’s mouth in such a manner as to allow the tobacco or tobacco products to enter the user’s body system. The terms means the same as “chew” or “chewing” when used in this ordinance.

C. “Enclosed area” means all space between a floor and a ceiling that is contained on all sides by solid walls or windows, exclusive of doorways, which extends from the floor to the ceiling.

D. “Entrance” means that place or those places designed and constructed to indicate a primary path or way into or out from an area.

E. “Outdoor area” means any public place or public area as defined in this section not meeting the definition of an enclosed area as used herein.

F. “Public place” or “public area” means either an enclosed area or outdoor area, whether owned by, leased to, dedicated to, and accepted by, or under the control of the City, including (but not limited to) all City park facilities, recreational trails, athletic complexes or sports arenas, cemeteries, and any parking areas or grounds located immediately adjacent to any of such places and used or operated by the City in connection with them, except:

(1) The rights-of-way of all public streets, alleys or ways within the City, except when such streets, alleys, or ways have been closed to the public, either temporarily or permanently, and except as limited by Subsection 3 of this section.

(2) City-owned property leased to the Montgomery County Agricultural Society (Fair Board) unless the Fair Board elects to declare such property a non-smoking area.

(3) City-owned property leased to the Red Oak Community School District.

G. “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco product in any manner or in any form. “Smoking” does not include smoking that is associated with a recognized religious ceremony, ritual, or activity, including but not limited to the burning of incense.

H. “Snuffing” means inserting tobacco or tobacco products into the user’s nose and inhaling in such a manner as to allow the tobacco or tobacco products to enter the user’s body system.

I. “Street right-of-way” 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 travel, including that portion thereof customarily referred to as the parking or parkway and sidewalk.

J. “Tobacco” or “tobacco product” means and refers to any one or more of the forms of agricultural product and its chemical compounds by the same name processed from the leaves in the plant genus *Nicotiana*, whether manufactured for consumption in the form of smoking, chewing, snuffing or dipping, or any other form.

K. “Tobacco use” means smoking, chewing, snuffing or dipping tobacco or tobacco products. “Tobacco use” does not include smoking, chewing, snuffing or dipping tobacco or tobacco products that are associated with a recognized religious ceremony, ritual, or activity.

2. Tobacco Use Prohibited. All public areas or public places of the City shall be considered tobacco free areas and it is unlawful for tobacco use to occur in all such areas. The City shall cause a sign in form similar to the sign conforming to the provisions of Section 142D.6, *Code of Iowa*, to be posted in the public place or public area and at every entrance to it.

3. Smoking Prohibited. All public areas or public places of the City shall be considered smoke free areas and it is unlawful for smoking to occur in all such areas. The City shall cause a sign conforming to the provisions of Section 142D.6, *Code of Iowa*, to be posted in the public place or public area and at every entrance to it.

4. Infiltration of Smoke into Prohibited Areas. It is unlawful for any person to smoke within 10 feet of any entrance to any area in which smoking is prohibited either under this section or by State law.

(Code of Iowa, Sec. 142D.5)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry

42.05 Fraud
42.06 Theft
42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Specific Exceptions. "Trespass" does not mean either of the following:
(*Code of Iowa, Sec. 716.7[2b]*)

A. Entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. This paragraph does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.

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

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

(*Code of Iowa, Sec. 716.1*)

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

(*Code of Iowa, Sec. 716.1*)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon or when said

building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 22 – Library
 - A. Section 22.10 – Injury to Books or Property
 - B. Section 22.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(49) and (50) of this Code of Ordinances.]*

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

(Code of Iowa, Sec. 123.47)

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 that 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 18 years.
 - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that 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 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, that 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.
2. Curfew Established.. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 6:00 a.m. of the following day on Sunday, Monday, Tuesday, Wednesday and Thursday nights; and between the hours of 12:00 midnight and 6:00 a.m. on Friday and Saturday nights..
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 or before the beginning of work;
 - (2) Minor’s place of religious activity or, if traveling, within one hour after the end or before the beginning of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (4) School activity or, if traveling, within one hour after the end or before the beginning of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end or before the beginning of the activity.
 - D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time 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 nonsecured 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 municipal infraction.

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, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

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 municipal infraction.

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

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

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

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

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

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Alcoholic Beverages in Parks
47.05 Parks Closed
47.06 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 fire shall be built, except in a place designated for such purpose, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

47.04 ALCOHOLIC BEVERAGES IN PARKS. It is unlawful for any person to consume or otherwise possess any alcoholic liquors, wine or beer within any park or pleasure ground under jurisdiction and authority of the Red Oak Park and Tree Board, unless otherwise provided by this section. Any person violating this section may be removed from the park area by the appropriate police authority, and may be proceeded against in accordance with the standard penalty provisions of this Code of Ordinances.

1. Beer and wine may be possessed and consumed within park areas designated by resolution of the City Council and authorized by the Red Oak Park and Tree Board in accordance with the provisions of this Section.
2. Beer and wine may be possessed and consumed within the designated park area by any person or group which upon application has been issued a valid beer and wine consumption permit for that area by the Red Oak Park and Tree Board.
3. The application for the beer and wine consumption permit must satisfy each of the following basic conditions and any others which may be established by resolution of the Red Oak Park and Tree Board and included in the application form:
 - A. Identify the park area to be used, the specific use to which the area will be put, the date and times during which the area will be used, and the person or group (and responsible person within the group) to whom the permit is to be issued; and
 - B. Contain payment of the permit fee established by resolution of the Red Oak Park and Tree Board. If the application is ultimately refused, the permit fee shall be refunded to applicant within 45 days from the date notice is given to applicant; and
 - C. Contain an agreement by the person or group to clean up and restore the park area used to good and clean condition after use; and

D. Require deposit with the Park and Tree Board security by check or cash in an amount not less than \$100.00 or more than \$500.00, determined by the Park and Tree Board, and contingent upon the size of the group, to cover any expense incurred by the City for cleanup of the park area after the applicant's use thereof, as necessary. Amounts not used to clean up and restore the park to good and clean condition after such use shall be refunded to the applicant within 45 days after the applicant's use of the park.

E. Require applicant to provide to the Red Oak Park and Tree Board before the date of use a certificate of general liability insurance protecting the person or group to whom the permit is to be issued against claims of injury to persons or property, with combined limits of not less than \$1,000,000.00, effective for all dates of the event and naming the City as an additional insured.

4. No application will be considered and no beer and wine consumption permit issued until applicant has satisfied all of the conditions for issuance of the permit contained in Subsection 3 of this section.

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 11:00 p.m. and 6:00 a.m. unless written permission is secured from the Park Board.

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

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CHAPTER 48

SALE AND USE OF FIREWORKS

48.01 Definitions

48.02 Scope of Regulations

48.03 Display Fireworks Regulations

48.04 First-Class Consumer Fireworks Regulations

48.05 Second-Class Consumer Fireworks Regulations

48.06 Novelties Use Regulations

48.07 Consumer Fireworks Use Restrictions

48.08 Prohibition of Fireworks or Novelties Use

48.09 General Requirements

48.10 Sale of Fireworks

48.11 Penalty

48.01 DEFINITIONS. For purposes of this chapter:

1. “APA 87-1” means the American Pyrotechnics Association Standard 87-1 as published in December, 2001, and as may be amended from time to time and re-published.
2. “Consumer fireworks” means first-class consumer fireworks and second-class consumer fireworks as those terms are defined in Section 100.19, *Code of Iowa*.
3. “Display fireworks” means the fireworks defined in Section 727.2(1)(b), *Code of Iowa*, as amended from time to time.
4. “Explosive” means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by the United States Department of Transportation. The term includes all materials which are classified as a Class 1, Division 1.1, 1.2, 1.3, or 1.4 explosive by the United States Department of Transportation under 49 C.F.R. Section 173.50, and all materials classified as explosive materials under 18 U.S.C. Section 841, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonating fuse, instantaneous fuse, igniter cord, igniters, smokeless propellant, cartridges for propellant-actuated power devices, cartridges for industrial guns, and overpressure devices, but does not include consumer fireworks, display fireworks, or novelties as those terms are defined in this chapter, or ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.
5. “Fireworks” means any explosive composition or combination of explosive substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation.
6. “First-class consumer fireworks” means those fireworks defined as first class consumer fireworks in Section 100.19(c), *Code of Iowa*, and includes, but is not limited to, the following consumer fireworks:
 - A. Aerial shell kits and reloadable tubes.
 - B. Chasers.
 - C. Helicopter and aerial spinners.
 - D. Firecrackers.
 - E. Mine and shell devices.

- F. Missile-type rockets.
 - G. Roman candles.
 - H. Sky rockets and bottle rockets.
 - I. Multiple tube devices under this section manufactured in accordance with APA 87-1, section 3.5.
7. “Novelties” means those items enumerated as novelties as defined in Section 727.2, *Code of Iowa*, as amended from time to time, and includes those items classified as novelties in Chapter 3 of APA 87-1, and that comply with the labeling regulations issued by the U.S. Consumer Products Safety Commission.
8. “Permanent building” means a structure as defined by the State Fire Marshal by administrative regulation or rule, which shall comply with the National Fire Protection Association, Standard 1124, published in the *National Fire Protection Code* relating to the manufacture, transportation, storage and retail sale of fireworks and pyrotechnic articles, 2006 Edition, as it may be amended from time to time.
9. “Retailer” is defined in Section 423.1, *Code of Iowa*.
10. “Sale” or “sell” means transfer of ownership or possession in exchange for valuable consideration furnished by the person receiving ownership or possession.
11. “Second-class consumer fireworks” means those fireworks defined as second-class consumer fireworks in Section 100.19(e), *Code of Iowa*, and includes, but is not limited to, the following consumer fireworks:
- A. Cone fountains.
 - B. Cylindrical fountains.
 - C. Flitter sparklers.
 - D. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.
 - E. Ground spinners.
 - F. Illuminating torches.
 - G. Toy smoke devices that are not classified as novelties pursuant to APA 87-1, section 3.2.
 - H. Wheels.
 - I. Wire or dipped sparklers that are not classified as novelties pursuant to APA 87-1, section 3.2.
12. “Stand-alone structure” means either a permanent building or a temporary structure attached to no other building or structure, and which is located a minimum of 50 feet from any adjacent structure.
13. “Structure” means a place constructed by putting together materials which satisfies all conditions for a structure as set out in regulations or rules of the State Fire Marshal.
14. “Temporary structure” means that structure as defined by the State Fire Marshal by administrative regulation or rule, which shall comply with the National Fire

Protection Association, Standard 1124, published in the *National Fire Protection Code* relating to the manufacture, transportation, storage and retail sale of fireworks and pyrotechnic articles, 2006 Edition, and amendments thereto.

15. “Use” means to apply the device or substance involved to the purpose for which it was designed. In the case of fireworks, this includes the discharge or exploding of the device or substance.

16. “Wholesaler” means a person who engages in the business of selling or distributing consumer fireworks for the purpose of re-sale in the State of Iowa.

48.02 SCOPE OF REGULATIONS. The City deems the use of display fireworks and first-class consumer fireworks both a threat to public safety and a nuisance, and therefore prohibits the use of display fireworks and first-class fireworks, except as provided in this chapter.

48.03 DISPLAY FIREWORKS REGULATIONS. It is unlawful for any person to use display fireworks, unless upon application and permit therefor issued by the City in accordance with conditions established by the City Council. In addition to or incorporated into the conditions established, shall be conditions requiring that the operator or sponsoring organization has satisfied the City that the display fireworks will be managed by a competent operator and that the operator or sponsoring organization has filed with the City Clerk evidence of liability insurance protecting the City with limits established by the City, but not less than \$1,000,000 per person and \$2,000,000 aggregate.

48.04 FIRST-CLASS CONSUMER FIREWORKS REGULATIONS. It is unlawful for any person to use any first-class consumer fireworks, unless upon notice in advance to the City on form provided by the City Clerk which shall disclose the name of the person responsible for use of the fireworks and the address where the fireworks will be used. This notice must be provided to the City Clerk at least three business days in advance of the first use date of the fireworks at the location. Use of first-class consumer fireworks in violation of this section shall be a violation of this chapter and any adult person at the location may be charged accordingly.

48.05 SECOND-CLASS CONSUMER FIREWORKS REGULATIONS. Second-class consumer fireworks may be used without advance notice as long as in compliance with all other regulations and restrictions concerning consumer fireworks use in the City.

48.06 NOVELTIES USE REGULATIONS. Novelties may be used without advance notice as long as in compliance with all other regulations and restrictions concerning novelties use in the City.

48.07 CONSUMER FIREWORKS USE RESTRICTIONS. In addition to restrictions stated in other sections of this chapter, the following use restrictions are adopted for use both of first-class consumer fireworks and second-class consumer fireworks:

1. Dates of Use. First-class consumer fireworks and second-class consumer fireworks may be used only on the following dates and times. All times are local times:
 - A. July 4 of each year beginning at 1:00 p.m. and ending at 11:00 p.m.
 - B. December 31 of each year beginning at 1:00 p.m. and ending at 12:30 a.m. of the day following.
2. Proximity to Structures. Fireworks shall be discharged a minimum of 50 feet from any structure at the location where discharged.

3. Supervision. Use of first-class consumer fireworks shall be under supervision of the responsible person indicated on the notice filed with the City Clerk. Use of second-class consumer fireworks shall be under supervision of an adult. The responsible person or adult shall be physically present at the location and in a position to enable the responsible person or adult to render assistance on an immediate basis.
4. Fire Extinguisher. It shall be the responsibility of the responsible person or adult to have present at the location a fire extinguisher sufficient to suppress or extinguish fires started by use of the fireworks.
5. Reserved Power in City. The City Fire Chief or Police Chief may refuse or end the use of fireworks at any location in the event the Fire Chief or Police Chief determines use at that location to be unsafe or in violation of this chapter.

48.08 PROHIBITION OF FIREWORKS OR NOVELTIES USE. The City may prohibit use of fireworks when an increased fire danger is present, or for any other good cause posing hazard to the City or property of its residents.

48.09 GENERAL REQUIREMENTS.

1. Adults Only. No person under the age of 18 years shall discharge first-class consumer fireworks or second-class consumer fireworks without supervision as specified in this chapter.
2. Intoxication. No fireworks shall be discharged by a person under the influence of an alcoholic beverage or drugs.
3. Responsibility for Safe Use. The responsible person or adult at each location where consumer fireworks are used is responsible for both proper and safe use of the fireworks and use in compliance with this chapter.
4. Unsafe or Reckless Use. No person shall discharge fireworks in an unsafe or reckless manner or with the intent to cause injury, death, fire or property damage either to the person's property or that of a third party.
5. Alteration of Components. It is a violation of this chapter for any person to alter components of fireworks. The responsible person or any adult at the location of the violation may be charged accordingly.
6. Open Flame Devices. Open flame devices shall not be released into the air, unless the device after release remains connected to a person able to retrieve the device during or after use.
7. Public Property Use Restrictions. It is unlawful for any person to use fireworks upon public property within the City, unless upon application and permit therefor issued by the City in accordance with the requirements of Section 48.03 of this chapter. This use restriction includes, but is not limited to, use of fireworks upon City parks, street rights-of-way, sidewalks, recreational trail areas, and the adjoining easement area thereto, and upon other easement areas granted to the City.

48.10 SALE OF FIREWORKS. The following regulations apply to sales or selling of fireworks within the City:

1. State Fire Marshal. The sale of consumer fireworks shall be regulated by the State Fire Marshal. Dates of permitted sales, minimum requirements for a consumer fireworks seller license and issuance of licenses shall be controlled by the State Fire

Marshal, and those rules and regulations are hereby adopted by reference and incorporated into this chapter in addition to those provisions herein stated. In the event of a conflict between the rules and regulations of the State Fire Marshal and the provisions of this chapter, the stricter provision shall be deemed controlling, in the absence of a State law providing otherwise.

2. Place of Sales. The sale of fireworks shall be limited to either a permanent building or temporary structure meeting the requirements of the State Fire Marshal, which building or structure is a stand-alone structure under this chapter.

3. NFP Standards. Any seller of consumer fireworks as described in APA 87-1, Chapter 3, shall do so in accordance with the National Fire Protection Standard 1124, published in the *National Fire Protection Code* relating to the manufacture, transportation, storage and retail sales of fireworks and pyrotechnic articles, 2006 Edition, and amendments thereto.

4. Permit and Insurance Required. A seller must provide to the City Clerk proof satisfactory to the City of the seller's possession of a valid license issued by the State Fire Marshal and a policy of commercial general liability insurance with minimum limits per occurrence of \$1,000,000 and minimum aggregate limits of \$2,000,000 with both the City of Red Oak and the property owner where the permanent building or temporary structure is located shown as additional insureds, effective during the entire duration of sale dates provided for under law.

5. Sale Dates and Times. Sales of fireworks from the following structures are permitted each year during the dates and times shown. All times are local time.

A. Permanent Building. June 1 through July 8, and December 10, to the following January 3, all dates inclusive.

B. Temporary Structure. June 13 through July 8, inclusive.

C. Hours. Sales shall begin at 8:00 a.m. and shall end at 8:00 p.m.

6. Age Restrictions. No consumer fireworks shall be sold to any person under the age of 18 years on the date of sale.

7. Where Allowed. Fireworks sales shall be permitted only in commercial or industrial districts zoned C-1, C-2, M-1 or M-2 under the City zoning ordinance.

48.11 PENALTY. Any person found guilty of a violation of any of the provisions of this chapter shall upon conviction be subject to a minimum fine of \$250.00, plus court costs. Any violation of the provisions of this chapter may be prosecuted as a municipal infraction under this Code of Ordinances, either in addition to or in lieu of, the criminal prosecution.

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CHAPTER 49

NOISE CONTROL

49.01 Scope of Regulations
49.02 Definitions
49.03 Noise Disturbance Prohibited

49.04 Included Sounds
49.05 Excluded Sounds
49.06 Other Laws and Ordinances

49.01 SCOPE OF REGULATIONS. This chapter applies to the control of all noise originating within the limits of the City, except in the following cases:

1. A State or federal agency has adopted a different standard or rule than that prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable; or
2. The Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the residents of the City. Those noises deemed acceptable to the residents of the City are those listed at Section 49.05 of this chapter.

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

1. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
2. “Emergency work” means any work performed for the purpose of alleviating or resolving an emergency.
3. “Motorcycle” means any two- or three-wheeled motor vehicle.
4. “Motor vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. (Note: “Motor vehicle” includes most motorcycles.)
5. “Noise” means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
6. “Noise disturbance” means those sounds defined as “noise disturbances” in Section 49.04 of this chapter which have not been excluded under Section 49.05 of this chapter.
7. “Powered model vehicle” means any self-propelled airborne, waterborne or land-borne model plane, vessel or vehicle which is not designed to carry persons, including but not limited to, any model airplane, boat, car or rocket.
8. “Public right-of-way” means the traveled portion of any street or alley or similar place which is owned or controlled by the City or other governmental entity.
9. “Real property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property division.

10. “Recreational vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways is deemed a “motor vehicle” (or motorcycle if two- or three-wheeled) and not a “recreational vehicle.” (Examples of recreational vehicles are a snowmobile, a minibike, a stock car or motorboat.)

11. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

12. “Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

13. “Sound equipment” means any radio, record player, tape deck or player, loud speaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, “sound equipment” does not include: (i) sirens and other equipment used to alert persons to the existence of an emergency; (ii) equipment used by law enforcement and other public safety officials in the performance of their official duties; (iii) church carillons, bells or chimes; (iv) mobile radio or telephone signaling devices; and (v) automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than 25 feet from such automobile or truck.

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

49.04 INCLUDED SOUNDS. Except for sounds excluded under Section 49.05 of this chapter, the term “noise disturbance” means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety or health of a human being or disturbs a reasonable human being of normal sensitivities or causes or tends to cause an adverse physiological or physical effect on human beings or devalues or injures property.

2. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying or testing of a motor vehicle or recreational vehicle which is received between the hours of 9:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

3. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of 9:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

4. Off-Road Motorcycle and Recreational Vehicle Noise. The sound made on private property or on City-owned property other than a public right-of-way by an off-road motorcycle or recreational vehicle and received between the hours of 11:00 p.m. and 7:00 a.m. at the real property boundary of residential property; provided, however, the sound made by an off-road motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for

purposeful transportation is not a noise disturbance unless made so by some provisions of this section other than this Subsection 4.

5. Construction Noise. The sound made by tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of 9:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

6. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, if plainly audible from any public right-of-way within the City.

7. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system has been modified by the installation of a muffler cut-out or bypass or the sound made by such vehicle whose exhaust system emits an excessive or unusual sound as compared to the sound emitted by its original exhaust system, whether caused by modification, substitution, age, injury or deterioration of its original exhaust system. For the purposes of this subsection, the sound made by a vehicle's original exhaust system may be determined by the observation of the sound made by the original exhaust system of another similar vehicle.

8. Animal or Bird Noises. The frequent or habitual sound made by domesticated animal or bird, other than livestock owned or possessed for agricultural purposes, which is received between the hours of 9:00 p.m. and 7:00 a.m. at the real property boundary of residential property.

49.05 EXCLUDED SOUNDS. Any other provision of Section 49.04 or other section of this chapter to the contrary notwithstanding, the term "noise disturbance," as used in this chapter, does not mean or include the following sounds:

1. Lawn and Garden Equipment. The sound emitted by motor-powered muffler-equipped lawn and garden equipment operated between the hours of 7:00 a.m. and 9:00 p.m.

2. Chain Saws. The sound emitted by motor-powered tree-trimming equipment operated between the hours of 7:00 a.m. and 9:00 p.m.

3. Snow Removal Equipment. The sound emitted by motor-powered, muffler-equipped snow removal equipment operated between the hours of 6:00 a.m. and 10:00 p.m. and the sound emitted by City-owned or hired snow removal equipment.

4. Emergencies. The sound emitted in the performance of emergency work or to alert persons to the existence of an emergency.

5. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purpose or for the essential testing of such device.

6. Church Bells. The sound emitted by church carillons, bells or chimes.

7. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or player or other such standard equipment used and intended for the use and enjoyment of such vehicle's occupants while such vehicle is on the public right-of-way, provided that the sound emitted therefrom is not audible for more than 25 feet.

8. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.

9. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.
10. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.
11. Construction Noise. The sound emitted by construction work (erection, demolition, excavation, drilling, etc.) between the hours of 7:00 a.m. and 9:00 p.m., which is being performed pursuant to a proper and current building permit.
12. Mosquito Spraying Equipment. The sound made by the City-owned or hired mosquito spraying equipment.
13. School Activities. The sounds made by students, employees and/or the general public while in attendance at any school sponsored event.
14. Fireworks Displays. The sound made during any fireworks display that has been issued a fireworks permit.

49.06 OTHER LAWS AND ORDINANCES. No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by other ordinances of the City or State or federal statutes.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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

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

(Code of Iowa, Sec. 657.1)

50.02 NUISANCES ENUMERATED. The following matters, things, substances and conditions include, but do not necessarily limit, the conditions which are deemed to be nuisances in the City:

1. Privy. Any privy, unless it has connection with the public sewer. Privies that emit or cause an offensive or noxious or disagreeable smell or odor.
2. Odors and Offensive Annoyances. The erecting or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
3. Various Materials and Deposits. Putrid, filthy and offensive substances, materials, deposits or things left deposited or existing in or upon any street, alley, sidewalk, park, public place, vacant or occupied lot or building, or upon any pond or pool of water which are or may be injurious, offensive, dangerous or prejudicial to the health of the City or its inhabitants.
4. Animal Matter. Carcasses of animals remaining exposed and unburied six hours after death. Green or salted hides left or deposited in any open or public places.
5. Livestock Facilities and Slaughter Houses. Livestock facilities or slaughter houses which are kept in such a condition as to be offensive to the senses of any individual or the public.
6. Obstructing Streets, Sidewalks, Parkings, Rivers and Drains. The unlawful obstructing or impeding of any burial grounds, commons, airport, street, alley, sidewalk, parking, gutter, drainage ditch, sewer, river, catch basin, or collection of water, or changing the natural course of any of the same to the prejudice of others.
7. Deposits on Parking. The deposit or storage of any garbage or refuse containers, brush, rubbish, grass, rocks, building materials, incinerators, or any other debris or materials on the parking or area between the sidewalk and the curb on any street, except for a period not to exceed 48 hours while awaiting removal by garbage or refuse haulers.

8. Signs. Billboards and signs whether erected or constructed on public or private property, which so obstruct and impair the view of any portion or part of a street or alley, or of a railroad track, as to render dangerous the use thereof.
9. Offensive Smells. Any business, trade, manufacture or other operation or condition of property, which gives rise to noxious or offensive odors, gases, vapors, smoke, dust, pollen, or fumes which may be injurious, offensive, dangerous or prejudicial, or which threaten the health or safety of individuals or the public.
10. Storage of Waste. The storage, collection, discharge or depositing of any waste, offal, filth, garbage, refuse, dead animals or contaminated material in any private or public place which threatens the health or safety of, or which is offensive to the senses of, any individual or the public, or is conducive to the breeding and harborage of mosquitoes, flies, rats or other vermin.
11. Presence of Conditions Facilitating Breeding of Vermin. The presence of a condition facilitating the breeding of mosquitoes, flies, rats or other vermin in or upon any premises.
12. Discharge of Waste Substance. The discharge or depositing of any waste, offal, filth, refuse, garbage, dead animals, contaminated material or other polluting material into any stream, river, lake or other body of water, so as to render the water, shore, channel, bottom or other feature thereof unwholesome, impure, dangerous or unsafe for the uses to which they are put or so as to otherwise injure or threaten the health and safety of individuals or the public.
13. Unlawful Exposure to Communicable Disease. The exposure of any person to any communicable disease by unlawful act or practice.
14. Unlawful Drug Uses. The unlawful manufacture, formulation sale, distribution and/or use of drugs, medication, devices, materials and/or chemicals.
15. Disposal of Dead Animals. The disposal of dead animals by means other than by rendering or by burying at least three feet under the surface of the ground.
16. Failure to Secure Buildings. Failure to secure areas, buildings, or places against unauthorized access where such access threatens the health or safety of individuals, or is an attractive nuisance.
17. Open Storage of Vehicle Parts. The open storage on private property which is residentially zoned of any two or more vehicle parts including but not limited to bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields or windows, wheels, or any other structural, mechanical, or decorative vehicle parts.
18. 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.
19. Weeds, Brush. Dense growth of all weeds, grass, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard, or which otherwise constitute a nuisance under this chapter. For purposes of this subsection, all growths of grass or weeds in excess of six inches in height shall be deemed to be a nuisance. Exempt from this paragraph are growths used primarily for educational and/or research purposes, so long as the growths are controlled.
20. Tree Diseases. Trees infected with Dutch Elm disease or other like disease which is an infection threat to trees within the City.

21. Airport Air Space. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located and is in compliance with all applicable easements and aviation restrictions on use.

22. Places Maintained for Illegal Activities. Houses 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*, places resorted to by persons unlawfully using controlled substances as defined in Section 124.101 of the *Code of Iowa*, or houses where drunkenness, quarreling, fighting or breaches of the peace are, or have been, carried on or permitted to the disturbance of others.

23. Open Storage of Discarded Machinery. Accumulations in the open of parked, stored, discarded, or disused machinery; unlicensed, unregistered or inoperable vehicles; household appliances; automobile or other vehicle bodies, parts, or components thereof, or any material parked, stored, discarded, or disused in a manner conducive to the harboring of rats, mice, snakes, or vermin, or to fire, health, or safety hazards from such accumulation of other material or from the rank growth of vegetation among the items so accumulated.

24. Other Nuisances. Any matter, thing, substance, or condition within the City deemed to be a nuisance in Chapter 657 of the *Code of Iowa*.

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

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

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [†]
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
 - D. Reasonable Time. A reasonable time within which to complete the abatement.
 - E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 of this section after notice to the property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.
(Code of Iowa, Sec. 364.12[3h])

[†] **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.

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and having any of the following characteristics:

A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.

B. Broken, Loose, or Missing Part. Any vehicle with a broken, loose, or missing fender, door, bumper, hood, steering wheel or trunk lid.

C. Habitat for Nuisance Animals or Insects. Any vehicle that has become the habitat for rats, mice, snakes, or any other vermin or insects.

D. Flammable Fuel. Any vehicle that contains gasoline or any other flammable fuel.

E. Inoperable. Any motor vehicle that lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or that cannot be moved under its own power or has not been used as an operating vehicle for a period of 30 days or more.

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

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

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

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

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

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

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

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

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

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

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CHAPTER 52

NUISANCE PARKING REGULATIONS

52.01 Definitions
52.02 Prohibitions
52.03 Owner Presumed Operator

52.04 Responsibility for Removal
52.05 Enforcement and Penalties
52.06 City's Right to Abate

52.01 DEFINITIONS. For use in this chapter, the following phrases, words and their derivations shall have the meaning given herein:

1. "Driveway" means an improved parking surface providing access from private property to the public street including a curb opening and approach as authorized and approved by the City. All driveways must be surfaced with concrete or asphalt in the City right-of-way spanning the area between the curb opening from the edge of the street to the adjacent property line.
2. "Front yard" yard means the area between the street and the front building line of a residential dwelling unit. For a corner property "front yard" also includes the area from the sideline of the residential dwelling unit to the side property line on the street side of the dwelling unit.
3. "Improved parking surface" means a parking area for one or more motor vehicles constructed of concrete, asphalt, brick, or other suitable pavers, exclusive of any walkway or sidewalk. Gravel or crushed stone may be used if gravel is at least two inches deep and evenly distributed throughout the vehicular use areas. Said surface must be connected to a public street via a driveway as defined herein. Any gravel parking area constructed or created after the effective date of the ordinance codified in this chapter must include a visible and definable edge made of landscape timbers, metal edging, vegetation such as low shrubs or decorative grass or similar technique to distinguish the vehicular use area from the front or side portions of the yard.[†]
4. "Owner" means that person or persons on whose property the vehicle is parked or located as shown by the records of the County Auditor and/or that person or those persons who are the registered owners of said vehicle(s).
5. "Park" means the standing of vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
6. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
7. "Residential district" means any property zoned R-1, R-2, R-3, or R-4.
8. "Vehicle" means every device which is self-propelled, upon or by which any person or property is or may be transported or drawn or moved upon a street, highway, waterway or airway and shall include any automobile, bus, truck, tractor, motor house, farm machinery, motorcycles, scooters, mopeds, all-terrain vehicles, boats, aircraft, recreational vehicles, golf carts, go-carts, trailers, fifth wheel trailers, campers, camper

[†] **EDITOR'S NOTE:** Ordinance No. 613 was passed and adopted on November 18, 2019.

shells, wheeled towing frames, semi-tractor trailers, truck beds mounted on chassis and mobile homes.

52.02 PROHIBITIONS.

1. No person shall park any vehicle on any front yard in a residential district of the City except an improved parking surface as defined herein. The presence of a motor vehicle on private property other than in a lawfully permitted driveway or on an improved parking surface as defined above is hereby declared to be a public nuisance which shall be abated as such in accordance with the provisions of this article or as is otherwise provided by law.
2. No improved parking surface shall cover more than 50 percent of the front yard in any residential district.
 - A. In order to qualify as an improved parking surface, it must be connected to a public street via an approved driveway as herein defined.
3. No person shall park or leave unattended any vehicle on any side or rear yard in a residential district other than on an improved parking surface, unless otherwise concealed from view of public street rights-of-way by:
 - A. A solid, opaque screening fence or wall at least six feet in height. The construction of any said screening fence or wall shall comply with the City's ordinance regulating fence construction.
 - B. Vegetation consisting of solid hedgerow of evergreen shrubs, or trees and shrubs, providing full screening from the ground to a minimum height of six feet.
 - C. Any combination of the above that effectively conceals the vehicle from view and accomplishes the required screening height.

52.03 OWNER PRESUMED OPERATOR. The owner, tenants, occupant, or lessee of the private property on which the vehicle is located is presumed to be the owner and/or operator of said vehicle. It is further presumed that said owner, tenant, occupant, or lessee parked said vehicle or otherwise caused it to be parked in violation of this article.

52.04 RESPONSIBILITY FOR REMOVAL. Upon notice and an opportunity to be heard, the owner, tenant, occupant, or lessee of the private property on which the vehicle is parked shall be responsible for the motor vehicle's removal. In the event of removal and disposition by the City, the owner, tenant, occupant, or lessee of the private property on which the vehicle is parked shall be liable for the expenses incurred by the City in the enforcement of this chapter.

52.05 ENFORCEMENT AND PENALTIES.

1. Violation or failure to comply with requirements of this chapter shall be deemed a public nuisance. This chapter shall be enforced through the procedures for nuisance abatement set out in Chapter 50 of the City Code.
2. "Notice" for the enforcement of this chapter shall be made in accordance with Chapter 50 of the City Code or by personal service on the owner(s).
 - A. Contents of the Notice. Any notice provided herein shall provide the owner with ten days to cure or abate the nuisance. The notice shall request the removal of said motor vehicle. The notice shall also advise that, upon the

failure to comply with the notice to remove, said motor vehicle may be removed and disposed of pursuant to the requirements of this Section. The notice shall also advise that the owner, tenant, occupant, or lessee of the private property on which the vehicle is parked may file a written request for hearing before the Council prior to the expiration of the ten days in order to contest the existence of the nuisance and/or contest ownership of the motor vehicle.

52.06 CITY'S RIGHT TO ABATE.

1. Whenever the owner fails to cure or abate the nuisance, the City shall have the right of removal, storage, and/or disposal, with its own forces or hired subcontractors, of such vehicle to a location of its selection, with the actual expenses thereof being billed to the owner. The City shall have the right to recover the full cost incurred for the enforcement of this chapter.
2. It shall be unlawful for any person to interfere with, hinder, or refuse to allow such City officials, employees, and agents of the City to enter upon private property for the purpose of removing a vehicle under the provisions of this Section.
3. Within 48 hours of the removal of said vehicle by the City, the City shall notify the owner that the vehicle has been impounded and stored for violation of this Section. The notice shall give the location of where the vehicle is stored, and the costs incurred by the City for its removal and storage.
4. If the City removes or stores any vehicles in violation of this Section or pursuant to a court order, the City may, after 60 days, sell said vehicle to the highest bidder at a public auction. The City shall provide the owner with at least 10 days' notice of the proposed sale. If the proceeds of such sale are insufficient to cover the remaining expenses incurred by the City, the owner shall be liable to the City for the balance of the costs. If the proceeds are in excess of costs, the balance shall be paid to the rightful owner, or deposited in the City treasury for the use of the owner.
5. The notice of the sale shall state (i) that the sale is of a vehicle in the possession of the City and removed from property described by street address pursuant to the provisions of this Section or as the same may be hereinafter amended; (ii) a description of the vehicle, including make, model, license number, and any other information which will accurately identify the vehicle; (iii) the terms of the sale; and (iv) the date, time, and place of the sale.
6. The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the City or its agents and assigns shall execute a certificate of sale in duplicate, the original of which is to be given to the purchaser, and the copy thereof is to be filed with the City Clerk. Should the sale so for any reason be invalid, the City's liability shall be limited to the return of the purchase price.
7. The owner of any vehicle seized under the provisions of this Section may redeem such vehicle at any time after its removal, but prior to the sale thereof, upon proof of ownership and payment to the City Clerk of such sum as the City Clerk may determine and fix for the actual and reasonable expense of removal, and any preliminary sale advertising expenses, plus any and all charges, fees or expenses for removal or storage which now exists or as hereinafter amended for each vehicle or boat redeemed.
8. Upon the failure of the owner of property on which a vehicle has been removed by the City to pay the unrecovered expenses incurred by the City in such removal, a lien shall be placed upon the property for the amount of such expenses.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Administration and Enforcement	55.14 Keeping of Vicious Animals Prohibited; Proceedings To Determine; Seizure and/or Destruction Authorized
55.02 Definitions	55.15 Seizure/Destruction of Animal
55.03 Cruel Treatment of Animals Prohibited	55.16 Administrative Appeal Procedure
55.04 Trapping, Poisoning and Destruction of Animals	55.17 General Prohibitions and Duties
55.05 Animals at Large	55.18 Fees
55.06 Impoundment	55.19 Vaccination For Rabies
55.07 Disposition of Impounded Animals	55.20 Rabies Control; Emergency
55.08 Injured Animals at Large	55.21 Procedure when Person Bitten by Animal; Quarantine
55.09 Dangerous Animal Designation	55.22 Report of Condition During Quarantine
55.10 Appeal of Dangerous Animal Designation	55.23 Tampering with Rabies Vaccination Tag
55.11 Keeping of Dangerous Animals Prohibited	55.24 Tampering with an Electronic Handling Device
55.12 Exceptions	55.25 Penalty
55.13 Regulation of Keeping of Dangerous Animals to Determine; Seizure and/or Destruction Authorized	

55.01 ADMINISTRATION AND ENFORCEMENT.

1. The City Administrator shall be responsible for administration of the provisions of this chapter. The City Administrator, nuisance control officers, Chief of Police, or any peace officer, and/or any other designee of the City Administrator, shall be responsible for the enforcement of the provisions of this chapter. Persons charged with enforcing the provisions of this chapter shall have the authority to seize and impound animals pursuant to the provisions of this chapter, and shall have the authority to write and serve enforcement/impoundment fee tickets as provided in this chapter.
2. It is the duty of those persons charged with enforcing the provisions of this chapter to impound any animals found at large in violation of this chapter. It shall further be the duty of the persons charged with enforcing the provisions of this chapter to investigate all animal bites reported and to impound and quarantine the biting animal as provided in this chapter. References to the City Administrator herein shall include the City Administrator's duly appointed designee.
3. Any conduct in this chapter defined as a misdemeanor may, at the discretion of the City Attorney, be handled as a municipal infraction pursuant to the terms of Chapter 4 of this Code.
4. Each separate occurrence of a violation of a particular section shall constitute a separate violation. If the violation is of a continuing nature, then each and every day that the violation is allowed to exist shall be deemed a separate and distinct violation.

55.02 DEFINITIONS. The following terms shall have the following meanings for use in this chapter:

1. "Animal" means every wild, tame or domestic member of the animal kingdom other than the genus and species *Homo sapiens*.
2. "Animal shelter" means the premises and/or buildings which the City Administrator or his/her designee may from time to time designate as the location for the impoundment of animals.

3. "At large," "running at large," or "being at large" means any licensed or unlicensed animal found off the premises of its owner and either: (i) not on a leash or lead secured to or held by a person able to control the animal, (ii) not restrained within a vehicle so as to prevent it leaving the vehicle, or (iii) not securely attached to a fixture installed upon the premises where the animal is located so as to prevent the animal from breaking free, (iv) not 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. "Cat" means both male and female animals of the feline species, whether neutered or not.
6. "Dangerous animal" or "dangerous animal, per se" means:
 - A. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so;
 - B. The following animals, which shall be deemed to be dangerous animals, per se:
 - Carnivora* of the family *Mustelidae*, which includes badgers, wolverines, weasels and skunks, except ferrets;
 - Carnivora* of the family *Procyonidae*, which includes raccoons;
 - Chelonia* of the family *Chelydridae* (snapping turtles);
 - Chiroptera* (bats);
 - Rodentia* of the family *Cricetidae* (mice), except white mice kept as household pets;
 - Rodentia* of the family *Muridae* (rats), except white rats kept as household pets;
 - Scorpions* of the family *Buthidae* (scorpions);
7. "Dangerous dog" means (i) any dog with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals, (ii) any dog that has been cited for running at large three times in 12 months, or (iii) any dog that has attacked another animal once while at large. A dangerous dog is "unconfined" if such dog is not indoors or within a securely enclosed and locked pen or structure upon the premises which shall be set back at least 10 feet from the nearest property line of the person owning, keeping, sheltering or harboring the animal. Such pen or structure must have secure sides and a secure top. The sides must be embedded into the ground no less than one foot or secured into a concrete slab.
8. "Dart" means the process whereby a drug of a sedative nature is delivered to and injected into an animal by means of a projectile for the purpose of subduing or rendering unconscious an animal.
9. "Dog" means both male and female animals of the canine species, whether neutered or not.

10. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action to protect the public health, safety and/or welfare, or the safety or welfare of an animal.

11. “Farm animal” means every wild, tame or domestic animal kept or raised for the purpose of meat, milk, breeding, fur-bearing, work, recreation, sport, hobby, experimentation, or income, excluding domestic dogs and cats; and any and all animals of the following orders, which shall be deemed to be farm animals, per se:

Anseriformes, which includes ducks and geese;

Artiodactyla, which includes all members of the families *Suidae* (swine) and *Bovidae* (cattle, sheep and goats);

Bovidae - males only (bulls);

Carnivora, which includes mink and skunks, but excluding domestic dogs and cats;

Columbiformes, which includes doves and pigeons;

Falconiformes, which includes hawks and falcons;

Galliformes, which includes chickens, turkeys and fowl-like birds;

Lagomorpha, which includes hares and rabbits;

Perissodactyla, which includes all members of the family *Equidae* (horses, ponies, asses, and mules);

Rodentia, which includes squirrels, rats and mice.

12. “Hybrid” means any offspring produced by breeding a domestic cat or domestic dog to an animal listed as a “dangerous animal” or “dangerous animal, per se.”

13. “Kennel” means “boarding kennel,” “commercial kennel,” as defined in Chapter 162 of the *Code of Iowa*, or its successor.

14. “Kennel dogs” means dogs kept or raised only for the purpose of sale and which are kept under constant restraint in a kennel pursuant to Chapter 162 of the *Code of Iowa*, or its successor.

15. “Killer trap” or “conibear trap” means a type of trap designed to apprehend and instantaneously kill an animal, not including jaw, leg-hold or snare-type traps, regardless if set underwater.

16. “Live trap” means a process whereby an animal is apprehended alive and uninjured by means of a cage-type device, the door or entrance to which closes after the animal enters, preventing escape. Jaw, leg-hold, or snare-type traps, designed to pinch trap an animal’s head or extremities, are not considered live traps.

17. “Noise disturbance” means any sound which (i) endangers or injures the safety or health of humans or animals; (ii) annoys or disturbs a reasonable person of normal sensitivities; or (iii) endangers or injures personal or real property.

18. “Owner” or “owner of animal” means any person, firm, association or entity keeping, sheltering, harboring or feeding or providing hydration to an animal, or allowing food or hydration to be provided to an animal on premises occupied by the person, firm, association or entity.

19. "Owner of premises" or "person or entity in lawful possession and control of any premises" means either a titleholder, tenant, or person or entity in actual possession or control of real estate or interest in real estate whether under a deed, lease, real estate contract or similar instrument recognized under law as granting a possessory right in property.

20. "Person" means any individual, association, partnership, corporation, or any other entity recognized by law, and includes any officer, employee, agent or agency thereof.

21. "Restrain" means to have the animal securely attached and under control either by leash or lead secured to or held by a person able to control the animal, or securely attached to or enclosed within a fixture installed upon the premises where the animal is located so as to prevent the animal from breaking free. Animals found at large having broken free from leash, lead or other device designed to restrain the animal are neither on a leash nor restrained within the meaning of this chapter and are in violation of this chapter.

22. "Service animals" means any animal which is owned by a person who is disabled, and that has been properly trained at a special school to guide its owner in going from place to place.

23. "Vicious animal" means any animal, except for a dangerous animal, per se, as listed above, which has attacked or bitten any person without provocation or which has attacked or bitten any domestic animal or fowl on more than two occasions within a 12-month period, any dog or other animal owned for the purpose of fighting or any dog trained for dog fighting, or which has been found to possess such a propensity by the board of health or City Administrator.

55.03 CRUEL TREATMENT OF ANIMALS PROHIBITED. It is the duty of every person or entity owning any animal to provide such animal with adequate amounts of food and water on a regular basis, and to provide clean and sanitary shelter for such animal. Dogs, cats and other domestic animals must be provided with food and water on a daily basis. A person owning an animal shall not abandon said animal. Abandonment of an animal shall be deemed cruel treatment. Failure to perform any of these duties is a misdemeanor. Except as hereinafter provided in Section 55.04, it is a misdemeanor for any person to trap, poison, shoot, harm, treat cruelly, injure, torture, or destroy any animal within the City. The City shall promptly investigate all reported cases of neglect, injury, or cruelty, and shall take such action as the City may deem appropriate.

55.04 TRAPPING, POISONING AND DESTRUCTION OF ANIMALS.

1. The owner or person or entity in lawful possession and control of any premises:
 - A. May trap, poison or destroy any mole or rodent (rat, mouse or gopher) found upon the premises, with the exception of tree squirrels;
 - B. May trap, poison or destroy any pigeons which congregate on such premises in such a manner as to create either a hazard to public health or cause damage to property;
 - C. May utilize live traps to apprehend any dangerous animal found at large upon the premises and constituting an immediate threat to the safety or health of any person;

- D. May trap, poison or destroy any animal which has entered the occupied portion of any structure or which has entered or nested in the attic, eaves, drainage or plumbing vent piping of any structure, thereby creating a nuisance which cannot otherwise be abated, except that animals regulated pursuant to Chapters 456A, 481A, and 481B of the *Code of Iowa* (protected and endangered animals) may not be trapped, poisoned or destroyed unless permission in writing has first been obtained from the Iowa Department of Natural Resources;
- E. May utilize live traps to apprehend animals on any premises, if such animals constitute a nuisance, and if the method and location of such trapping is done with the permission and under the direction of the City.
2. In the event that the City determines that game animal or fur-bearing animal populations pose a significant threat to public health or safety or property anywhere within the City, the City may authorize trapping by licensed pest-control operators or by commercial trappers who do not own the properties to be trapped, provided the written permission of such property owners is first obtained, and such trapping may utilize leg-hold traps, live traps, or killer traps in accordance with the provisions of Chapters 456A and 481A, *Code of Iowa*, or successor provisions thereof.
3. It shall be the duty of every person maintaining a trap pursuant to this provision to plainly label the trap with a tag displaying the owner's name and address, and to inspect the trap or traps at least once every twenty-four hours. Failure to do so shall constitute a misdemeanor. All animals trapped pursuant to the provisions of this section shall be promptly disposed of or destroyed in a humane manner. Traps which are placed or used in violation of this provision may be seized by the Mayor or his/her designee.
4. Nothing contained herein shall prohibit the operation of a pest control business within the City by licensed pest control technicians, provided that the pest control methods used meet with the approval of the United States Environmental Protection Agency. A licensed pest control technician may perform any of the acts set forth in subsections above if done in accordance with the requirements therein set forth and if authorized to do so by the owner or person in lawful possession and control of the premises.
5. Nothing herein shall limit the authority of the City to apprehend by any means animals found at large in violation of this chapter or to apprehend by any means or destroy any animal found at large which constitutes an immediate threat to public health, welfare or safety.
6. Nothing herein shall limit the authority of the Iowa Department of Natural Resources, or its successor agency, to trap or allow trapping upon property owned by the State of Iowa or under the exclusive jurisdiction and control of the Iowa Department of Natural Resources or its successors.

55.05 ANIMALS AT LARGE.

1. The owner of any animal shall at all times restrain the animal to prevent it from being at large. Failure to do so is a simple misdemeanor subject to the penalty provisions of Section 1.14 and/or 4.03-4.06, or the successors of said sections of this Code. Any animal found at large shall be seized and impounded. If the animal is unable to be apprehended or if the owner of the animal refuses to relinquish the same, the City shall cause the owner to be served a citation requiring payment of an

enforcement/impoundment fee as set forth in the current schedule of fees adopted by the Council.

2. An owner of a cat bearing a current rabies vaccination tag and license must restrain such animal from being at large to the extent necessary to prevent it from causing damage to either public or private property. Failure to do so is a misdemeanor. A cat found at large not bearing current rabies vaccination tag and license, or a cat wearing such vaccination tag and license but causing property damage, may be seized and impounded. If the cat is unable to be apprehended, or if the owner of the cat refuses to relinquish same, the City may cause the owner to be served a citation requiring payment of an enforcement/impoundment fee as set forth in the current schedule of fees adopted by the Council.

3. It is lawful for any person who finds an animal at large to seize and hold the animal. Such person may confine it or physically restrain such animal on a harness, collar or leash. The person seizing and holding the animal shall be responsible for the humane treatment of the animal while under that person's custody, and shall notify the City within forty-eight hours that the animal is in such person's custody. The provisions of this chapter shall not infringe upon any right or duty created by Sections 351.26 and 351.27, *Code of Iowa*, or their successor provisions.

55.06 IMPOUNDMENT.

1. Animals impounded shall be placed in the City animal shelter, a licensed kennel, or other suitable place designated by the City Administrator. The City shall register every impounded animal, noting the species, breed, color and sex of such animal and whether or not it is bearing a license.

2. Upon impoundment, the City shall give notice of impoundment to the owner of the animal within 48 hours of impoundment. If an impounded animal is not claimed within 72 hours of the giving of notice, not counting Sundays and legal holidays, or if an owner of the animal cannot be determined within 48 hours of the time of impoundment, the animal may be disposed of as provided in this chapter. However, an animal held under quarantine shall not be released until expiration of 10 days following placement in quarantine. The cost of impoundment, quarantine, board and all other related costs to apprehend, impound or dispose of the animal shall be billed by the City to the owner. Upon failure of the owner to pay such charges within 30 days, the charges billed may be certified to the County Treasurer for collection in the manner of a property tax.

3. Any animal held or impounded may be redeemed to the owner upon (i) proof of ownership; (ii) payment of the fees and costs incurred by the City; (iii) presentation of the City license for the current year, if required by law; and (iv) proof by certificate of a licensed veterinarian that the animal has been properly vaccinated for rabies, if required by law.

4. The City Administrator may give notices required by this section either orally or by posting a notice at the owner's residence, or by mail. Any animal not redeemed under the provisions of this section shall become property of the City.

55.07 DISPOSITION OF IMPOUNDED ANIMALS.

1. After the expiration of the period of either impoundment or quarantine, whichever is applicable, an animal not redeemed shall be disposed of in the discretion of the City in one of the following ways:

- A. By being humanely destroyed;
 - B. By being adopted to a person other than the animal's owner upon payment of an adoption fee set forth in the prevailing schedule of fees;
 - C. By being transferred to an animal shelter as defined at Section 162.2(3), *Code of Iowa*, 2009, as amended.
2. Ownership of an animal shall not be transferred by sale or adoption unless the animal is first subject to sterilization. The sterilization must permanently destroy the capacity of a dog or cat to reproduce, either by the surgical removal or alteration of its reproductive organs, or by the injection or ingestion of a serum. Custody shall not be relinquished until sterilization is completed.
3. The fees for adoption of animals shall be payment of fees and costs incurred by the City for impoundment and board of the animal, plus the applicable license fee for the animal.
4. Any animal which appears to be suffering from rabies or infected with disease or which is seriously injured or which, in the opinion of the City, is vicious, shall not be adopted or released, but shall be destroyed in a humane manner. An attempt to notify the owner of the animal will be made before euthanizing the animal.
5. Any animal which upon examination is deemed by a qualified professional to be suffering from rabies, infected with disease, or is so seriously injured as to make its recovery improbable, shall not be allowed to be adopted or released, but rather shall be humanely destroyed. Notice shall be given to the animal's owner by any means possible, if ownership can be determined.

55.08 INJURED ANIMALS AT LARGE.

1. In the event that an injured animal licensed pursuant to this Code, is found at large the City shall impound such animal. Upon impounding an injured animal, the City shall attempt as soon as practicable to notify the owner of the animal's location and condition. Upon being so notified, the owner either shall immediately take custody of the animal or shall cause the animal to be transported to a veterinarian, or shall authorize the animal's destruction in a humane manner.
2. If an injured animal at large cannot be apprehended, or if it displays vicious tendencies which would make its capture unduly hazardous, or if it is so seriously injured as to make its recovery improbable, or if its condition deteriorates to that point, the City may arrange for immediate destruction of the animal in a humane manner.
3. If an animal regulated pursuant to Chapters 481A or 481B of the *Code of Iowa* is found at large, the City Administrator will first consult with the Iowa Department of Natural Resources before destroying such animal.

55.09 DANGEROUS ANIMAL DESIGNATION. The City may designate an animal to be a dangerous animal under any of the following conditions or circumstances:

1. The animal is not naturally tame or gentle and is of a wild nature or disposition and capable of killing, inflicting serious injury, or causing disease among human beings or domestic animals, and has known tendencies as a species to do so;
2. An animal with a propensity, tendency, or disposition to attack, to cause injury to, or to otherwise endanger the safety of humans or animals;

3. An animal which has attacked another animal while at large;
4. An animal which has been at large on three or more occasions in a 12-month period;
5. An animal that while not at large bites or attacks a human being without provocation.

An animal deemed to be dangerous, per se, shall by operation of law be designated a dangerous animal by the City.

55.10 APPEAL OF DANGEROUS ANIMAL DESIGNATION. The decision of the City declaring an animal dangerous may be appealed by the owner to the Council under the provisions of this chapter. Provided, there shall be no appeal to the Council of the “dangerous, per se” designation.

55.11 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall own, keep, shelter or harbor within the City a dangerous animal as defined herein, except as permitted by this Code.

55.12 EXCEPTIONS. The prohibition contained in Section 55.11 does not apply to the keeping of dangerous animals in the following circumstances.

1. The keeping of bulls of any of the family Bovidae, or domestic swine of the family Suidae for farm purposes in a Class A-1 agricultural district;
2. The keeping of dangerous animals in a public zoo permitted by the City, or in a bona fide educational or medical institution or museum where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
3. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit or show permitted within the City, or a licensed pet shop;
4. The keeping of dangerous animals in a bona fide licensed veterinary hospital for treatment;
5. The keeping of dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources pursuant to Chapters 481A or 481B of the *Code of Iowa*.

55.13 REGULATION OF KEEPING OF DANGEROUS ANIMALS.

1. Every person owning, keeping, sheltering or harboring a dangerous animal pursuant to this chapter shall report such fact to the City together with the following information:
 - A. The species name of each animal;
 - B. The number of animals of each such species kept on the premises;
 - C. A physical description of each such animal, including any pet name to which it might respond;
 - D. The location of each such animal within the City, including the location of the cage or place of confinement upon or in the premises wherein the animal is kept;

- E. In the case of poisonous dangerous animals, the location of the nearest source of anti-venom for that species;
2. Every person owning, keeping, sheltering or harboring a dangerous animal shall at all times keep the animal securely confined within a cage.
3. Every person owning, keeping, sheltering or harboring a poisonous dangerous animal shall keep ten doses of anti-venom on hand and current at all times.
4. No person owning, keeping, sheltering or harboring a dangerous animal shall permit or allow the animal to enter upon any public property or the property of another, except when the animal is being transported while caged or confined. The City may authorize the display of dangerous animals upon public property if it is determined that such display will not be contrary to the public interest. Authorization to display such animals may be conditioned upon the provision of adequate public liability insurance and execution of an indemnity agreement in favor of the City by the party seeking such authorization.
5. If a dangerous animal is found upon public property or upon the property of someone other than its owner, thereby creating a hazard to life or property, such animal may be destroyed in the discretion of the City, if it cannot be caged, confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal found at large, and shall have no duty to notify the owner of such animal before its destruction.
6. No person owning, keeping, sheltering or harboring a dangerous dog shall permit the animal to go unconfined on the premises of such person.
- A. Said dangerous dog shall be confined in a securely enclosed and locked pen or structure upon the premises which shall be set back at least 10 feet from the nearest property line of the premises. Such pen or structure must have secure sides imbedded into the ground no less than one foot or secured into a concrete slab, with a side height of not less than six feet, or a secure top. The pen or structure must be constructed of materials which will prevent the dangerous dog from biting or otherwise attacking a person located outside the pen or structure.
- B. No person owning, keeping, sheltering or harboring a dangerous dog shall permit the dog to be beyond the premises of such person unless the dog is securely leashed by a responsible adult, or otherwise securely restrained in a kennel or cage.
- C. No owner shall permanently transfer any dangerous dog without first giving written notification to the City of the name, address and telephone number of the person receiving the dog. The notice shall include a copy of written notification signed by the person receiving the dog, that the dog has been declared dangerous, and that the person is aware of the restrictions of this Code with respect to the animal.
7. If the City determines that a dangerous animal is being owned, kept, sheltered or harbored by a person in violation of this chapter, the City may have the person prosecuted for such violation and order the person to remove the dangerous animal from the City or destroy it. Such order shall be in writing, directed to the person and delivered either personally or by certified mail, return receipt requested. The order of the City may be appealed by the person to the City Council, and the notice/order shall so state.

8. Any person desiring to appeal an order/notice issued by the City pursuant to Subsection 7 of this section shall file a written notice of appeal with the City Administrator within 10 days after receipt of the order/notice to remove the dangerous animal. This notice shall state the reasons for the appeal and shall be delivered personally or by certified mail, return receipt requested, to the City Administrator. Hearing on such appeal shall be scheduled as soon as possible but in no event less than 30 days from the date of receipt of the notice of appeal. After hearing, the City Council may affirm or reverse the order of the City Administrator. Such determination shall be contained in a written decision and shall be filed with the City Administrator within 10 days.

9. For purposes of hearings on appeals, the City Council may appoint a committee of three of its members to review the documents and decide the appeal.

10. If the City Council affirms the action of the City, it shall also order in its decision that the person owning, keeping, sheltering or harboring the dangerous animal remove same 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 order is not complied with within seven days of its issuance, the City Administrator shall seize and impound the dangerous animal for a period of seven days. If at the end of seven days, the person against whom the decision and order was issued has not petitioned the Iowa District Court for review of the order, the City shall cause the animal to be disposed of by any manner permitted in this Code. Failure to comply with an order of the City issued pursuant to this section shall constitute a misdemeanor and shall be subject to the penalty provisions of Sections 1.10 and 4.01-4.06 of this Code, or their successor provisions.

11. Every order of the Council issued pursuant to the provisions of this section shall set forth the language of Subsection 10 of this section.

55.14 KEEPING OF VICIOUS ANIMALS PROHIBITED; PROCEEDINGS TO DETERMINE; SEIZURE AND/OR DESTRUCTION AUTHORIZED.

1. No person shall own, keep, shelter or harbor within the City a vicious animal as defined herein, except as otherwise provided.

2. Any animal which has attacked or bitten any person, or which has attacked or bitten any domestic animal or fowl on more than one occasion, shall be deemed a vicious animal. Written notice of this determination and of the owner's right to hearing shall be served upon the owner by the City in one of the following methods:

A. By personal delivery of the notice with acceptance of service to be signed by the owner receiving the notice; or

B. By mailing the notice by certified mail return receipt requested to the owner at the owner's last known address.

3. Notice personally delivered is deemed to be served upon the owner either on the date of the acceptance of service signed by the owner or on the date of service shown on the return of service from the officer serving the notice. Notice served by certified mail is deemed to be served upon the owner when the notice is enclosed in a sealed envelope, with proper postage affixed, and addressed to the owner at the owner's last known mailing address and deposited in a mail receptacle provided by the United States Postal Service.

4. The notice shall advise the owner of the determination that the animal has been deemed a vicious animal and that the animal shall be ordered destroyed in a humane manner unless the owner appeals the determination to the City Council and shall contain instructions specifying the manner of providing notice of appeal. The instructions shall notify the owner that the decision may be appealed to the City Council by the owner causing written notice of appeal to be served upon the City Administrator by one of the methods set forth at Subsection 2, Subparagraphs (a) or (b) above within 10 days from the date written notice of the City's determination is served upon the owner.

5. If either hearing is waived in writing, or written notice of appeal is not served within 10 days, or if after hearing the City Council fails to reverse the determination that the animal is a vicious animal, the City shall schedule the animal for euthanasia in a humane manner within five days after the date of the determination, unless within that time the owner appeals the City Council's decision to the Iowa District Court having jurisdiction.

6. In the event of an appeal to the Iowa District Court, the owner shall pay the sum of \$500.00 to the City by cashier's check delivered to the City Clerk in order to cover payment of costs incurred by the City and as security for performance of the City Council's decision.

7. The posting of the security deposit shall be jurisdictional and a condition of the owner's right to appeal the Council's decision to the Iowa District Court, and in the event a notice of appeal is filed with the Iowa District Court without the posting of the specified security amount, the City may request the Court to dismiss the appeal at the costs of the owner, and upon dismissal may then enforce the determination of the City Council immediately without further notice to the owner.

8. The City, in its discretion or upon receipt of a complaint alleging that a particular animal is a vicious animal, may initiate proceedings to declare the animal vicious as defined in this Code, even when the animal does not meet the criteria set out in Subsection 2 of this section. Any such proceeding shall be conducted by the Council upon the same notice and procedures as set forth in Subsections 2 through 7, 9, and 10 of this section. The notice shall describe the animal in question and state the basis for the allegation of viciousness.

9. Any animal alleged to be vicious shall be impounded and remain impounded at the expense of the owner pending either waiver of hearing, expiration of the time allowed to appeal the determination, or the outcome of the hearing and any appeal.

10. All costs of impoundment or quarantine shall be paid by the owner, whether or not the animal is determined to be vicious.

55.15 SEIZURE/DESTRUCTION OF ANIMAL. Upon declaration of an animal as a vicious animal, the owner shall immediately surrender it to the City. If the owner refuses to surrender the animal, the nuisance control officer, animal control officer and/or police officers are authorized to seize the animal. A vicious animal shall be placed in quarantine by the City for a period of 10 calendar days. Upon completion of quarantine, the City may order the destruction of said animal.

55.16 ADMINISTRATIVE APPEAL PROCEDURE. The following procedure will apply to the appeal of a dangerous animal or vicious animal declaration or to hearing on an order issued pursuant to Section 55.12(4):

1. Within 10 days of receiving the notice, the City shall set the date for the hearing of the appeal, which shall be not less than five or more than 36 days.
2. Notice of hearing may be personally served on the owner or an adult member of the owner's household or by mail to the address listed on the notice of appeal at least five days before the hearing date.
3. Hearing on appeal shall be open to the public and conducted informally.
4. The City may be represented by the City Attorney or the City Administrator. The owner may represent himself or herself or may be represented by legal counsel.
5. The City shall have the burden to prove by a preponderance of the evidence that the action of the City should be affirmed.
6. Parties will be given up to 30 minutes to present their side of the matter by presentation of evidence consisting of documents or witnesses. Any documents given to the Council to examine shall become part of the record and will not be returned to the party submitting the same. Copies may be substituted for originals. At conclusion of the presentations, the Council may make a determination or may take the matter under advisement. Ultimately, the City Council, by a majority vote of those present and voting, may affirm, modify or reverse the determination of the City.
7. Proceedings before the Council shall be recorded electronically, by a certified court reporter, or by taking extensive notes of the testimony by a person designated by the Council.

55.17 GENERAL PROHIBITIONS AND DUTIES.

1. No person shall aid or cause any animal to escape confinement or impoundment, whether on the person's property or that of another, by opening any gate, door, or window, or by making an opening in any fence, enclosure or structure or by unleashing said animal.
2. No person shall allow an animal owned by him or her, or being under his or her custody or control, to defecate upon public property, park property, public right-of-way, or the property of another, and such person shall immediately clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way, or the property of another. Failure to do so shall constitute a misdemeanor.
3. Every person owning or having custody or control of, an animal shall physically restrain the animal within an enclosure or upon a leash when the animal is left unattended outside. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with the public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall be a misdemeanor.
4. No person owning or having an animal under the person's control or within the person's care or custody shall permit such animal to create an annoyance or disturbance to any person or persons by frequent and habitual howling, yelping, barking, or any other loud or unusual noise. Licensed kennels, veterinary clinics, animal hospitals and licensed animal shelters located within properly zoned areas shall be eligible for a variance from this requirement upon submission of the proper documentation to the City.

5. It is prohibited for any person in any manner to interfere with any employee or designated representative of the City so as to hinder, delay or prevent the employee's execution of the employee's duties in relation to the matters and things contained in this chapter.
6. It is unlawful for any person owning, controlling or caring for any animal that has died from any cause to allow the carcass to lie about the owner's premises or upon the premises of another or upon any public property or right-of-way. Such person shall cause the carcass to be removed and properly disposed of by burying, cremating in an approved incinerator, desiccation, removal by a licensed animal disposal company, or by delivering it to a licensed veterinarian or licensed animal shelter within twenty-four hours after the death of the animal. Persons having knowledge of a dead animal shall immediately report the address location of same to the City. The City shall immediately notify the owner or person having control to dispose of the animal pursuant to this section.
7. Regardless of the foregoing, it is unlawful for any owner or person having control of an animal to dispose of the dead animal or allow it to be collected for disposal, except by authorized representatives of the City, if the animal has attacked, bitten, or caused a skin abrasion on any person, or if the animal is suspected of being infected with rabies, until permission of disposal has been given by the City.
8. It is unlawful for any person owning, controlling or caring for any animal to fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house or the person's dwelling or other structure where the animal is at any time kept.
9. At least once every twenty-four hours, or more often if odors or health problems arise, the person shall pick up any and all feces so as to prevent its accumulation and same shall be properly disposed of. The animal and place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food and water shall be stored and placed for the animal's consumption in such a manner that it will not become food for rodents and other vermin.
10. It is unlawful for any person to abandon, set loose or leave any animal within the City, or so that the animal may find its way into the limits of the City, or to abandon or leave any animal upon or in any premises unattended for a period over three days.

55.18 FEES.

1. If an animal is found at large and cannot be captured for impoundment, or if the animal's owner refuses to relinquish possession of the animal for impoundment, an enforcement/impoundment fee citation may be issued to the owner requiring the payment of a fee for the City's costs in attempting to impound the animal and enforce the provisions of this Code.
2. If an animal required to be licensed pursuant to Section 56.01 is not licensed, or fails to display a license tag as required by this Code, an enforcement/impoundment fee citation may be issued to the owner requiring the payment of a fee for the City's cost in enforcing said provisions.
3. In the event an animal required to be vaccinated for rabies pursuant to this Code is not vaccinated as required, or does not display a rabies vaccination tag as required by law, an enforcement/impoundment fee citation may be issued to its owner requiring the payment of a fee for the City's cost in enforcing said provisions.

4. If the owner of an animal has been issued a citation for the payment of the enforcement/impoundment fee and fails to pay same to the City Clerk within 30 days from the date of issuance of the citation, the amount of the enforcement/impoundment fee shall double from its original amount and the City shall cause a criminal complaint to be filed for the violation of the appropriate section of this Code. An enforcement/impoundment fee citation may be served by either delivering the same personally to the owner or by posting same at the residence of the owner.

5. Enforcement/impoundment fees shall be as provided in the current schedule of fees adopted by the City Council.

6. Fees for boarding an animal, for removing a dead animal from any premises, for disposing of a dead animal, for humanely destroying an animal, for taking custody of unwanted animals, or for pest control shall be as provided in the current schedule of fees adopted by the City Council.

55.19 VACCINATION FOR RABIES. The owners of all dogs and cats aged six months or older and other animals required by State law to be licensed, which are permanently or temporarily within the City limits, are required to have a vaccination against rabies for such animals. It is unlawful for any person to own, keep, shelter or harbor an animal which is not vaccinated as required. The rabies vaccination shall be administered in accordance with Chapter 351, *Code of Iowa*, as amended. A current certificate of vaccination for rabies signed by a licensed veterinarian administering the vaccine shall be required for all animals for which the vaccination is required by this Code. Each veterinarian within the City limits shall forward to the City on April 1, July 1, October 1, and January 1, a copy of each certificate of vaccination issued by the veterinarian for the preceding calendar quarter.

55.20 RABIES CONTROL; EMERGENCY. If the Council believes rabies to be epidemic, or believes there is a threat of epidemic within the City, it may declare a quarantine in all or part of the City and such declaration shall be reported to the Iowa Department of Health. During this quarantine, any person owning a dog or other animal in the quarantined area shall keep the animal securely enclosed or on a leash for the duration of the quarantine. Any animal or dog at large during the time of this declaration shall be impounded unless noticeably infected with rabies. All animals or dogs noticeably infected with rabies and which are displaying vicious propensities may be destroyed by the City without notice to the owner. Dogs or other animals impounded during this declaration shall be disposed of as provided in this Code.

55.21 PROCEDURE WHEN PERSON BITTEN BY ANIMAL; QUARANTINE.

1. Whenever an animal bites any person, it shall be the duty of the City to have the animal immediately impounded in an animal shelter or a veterinary hospital for quarantine for not less than 10 days. If upon examination by a veterinarian, the animal is determined to have rabies, the animal may be humanely destroyed and the owner advised accordingly by any means reasonably possible. The owner must surrender the animal for impoundment and quarantine upon request by the City. Confinement at an animal shelter or veterinary hospital under quarantine shall be at the expense of the owner. No animal shall be released from confinement under quarantine until the expiration of the quarantine period, determination that the animal is not rabid and payment of the costs of confinement by the owner.

2. A wild or stray animal that has bitten any person may be destroyed immediately by the City.

3. The owner of an animal that has bitten a person may apply to the City to release the animal for the purpose of allowing quarantine at the home of the owner. Application may be made at any time during the quarantine period and shall be in writing. Home quarantine shall not be permitted unless all of the following conditions are met:

A. The animal was vaccinated against rabies at least three weeks before the bite and the vaccination is valid for at least one month after the bite and a certification of rabies vaccination is produced by the owner. The vaccination certificate must describe the animal, type of vaccine used, expiration of the vaccine and bear the signature of the veterinarian administering the vaccination.

B. The animal has a current City license, if required.

C. The owner has the animal examined by a veterinarian who shall certify that the animal appears to be free of rabies or any other zoonosis.

D. The person bitten or that person's parents or guardians sign an application indicating they understand the risks of rabies and that if the animal disappears during home quarantine the person bitten may have to undergo anti-rabies treatment, and that they do not object to home quarantine and agree to hold harmless and indemnify the City, the County Board of Health, and the agents or representatives of any of those bodies from any liability if the animal disappears during the quarantine period.

E. The owner demonstrates to the satisfaction of the City that the owner has proper facilities and the ability to adequately and properly confine the animal during the quarantine period.

F. The owner agrees to immediately notify the City of any change in the animal's health or disposition and to allow representatives of the City to enter upon the owner's property to examine the animal at any time and to immediately remove the animal to a licensed veterinarian for examination at any time.

G. At the end of the quarantine period, the owner shall have the animal examined by a licensed veterinarian who shall certify the animal free of rabies or other zoonosis, and the quarantine should be terminated.

H. The owner pays all costs and fees relating to impoundment, board and quarantine to the City before it is released and shall agree to pay all costs of examination by a veterinarian during the quarantine period.

I. The owner agrees to immediately surrender the animal at any time the City determines the home quarantine should be terminated, or at any time that any provisions or conditions of the home quarantine are violated.

J. The City may establish additional rules applicable to the individual circumstances pertaining to home quarantine and the owner agrees to abide by them.

55.22 REPORT OF CONDITION DURING QUARANTINE. Any veterinarian or owner of any other place at which an animal is placed under quarantine shall have a duty to report at once any noticeable change in the physical condition of the animal and to report at once if the animal should die. The City shall cause at least one examination at the end of the quarantine period and such other examinations as may be deemed necessary to insure that the animal is alive and well and not apparently infected with rabies. If believed necessary, the City

Administrator may order such examinations done by a licensed veterinarian and the owner of the animal shall pay all costs of such examinations.

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

(Code of Iowa, Sec. 351.45)

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

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

(Code of Iowa, Sec. 351.46)

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

55.25 PENALTY. Any person found guilty of a violation of any of the provisions of this chapter shall upon conviction be subject to the penalty provisions of Section 1.14 of this Code, and each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the City Attorney, any violation of the provisions of this chapter may be prosecuted as a municipal infraction according to the terms of Chapter 4 in addition to criminal prosecution.

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CHAPTER 56

CITY DOG AND CAT LICENSES REQUIRED

56.01 License Required; Exception

56.02 Definitions

56.03 Animal Owners; Minimum Age

56.04 License Application, Procedure and Fees

56.05 Number Restricted

56.06 Cattery/Kennel License Required

56.07 Farm Animals Permit Required; Exceptions

56.08 Revocation of License or Permit

56.09 Appeal of Revocation

56.10 Penalty

56.01 LICENSE REQUIRED; EXCEPTION. All dogs and cats six months of age or older owned, kept, harbored or sheltered within the City shall be licensed annually by their owners as provided in this chapter. It is unlawful for the owner of any dog or cat to fail to properly license the animal, except that the following dogs or cats need not be licensed, provided they are properly immunized against rabies:

1. Dogs or cats owned by an Iowa licensed kennel or Iowa licensed cattery, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint.
2. Service animals owned by disabled persons or governmental units for police purposes.
3. Dogs or cats under control of the owner which are in transit or are to be exhibited and are to be within the City for less than 30 days.

56.02 DEFINITIONS. For use in this chapter, certain terms have the meanings set out in Chapter 55 and shall be applied in this chapter.

56.03 ANIMAL OWNERS; MINIMUM AGE.

1. No dog or cat may be licensed unless at least one of the registered owners of the animal is at least 18 years of age. All registered owners 18 years of age or older shall be personally, jointly and severally liable for compliance with all of the provisions of this chapter.
2. In regard to an unlicensed dog, cat or other animal, whether or not a license is required, all residents of the premises 18 years of age or older shall be presumed to be the joint owners of the animals and shall be jointly and severally liable for compliance with the provisions of this chapter.

56.04 LICENSE APPLICATION, PROCEDURE AND FEES.

1. The owner of a dog or cat for which a license is required shall within 30 days of receiving the dog or cat and annually after January 1 and before April 1 thereafter, apply to the Clerk for a license for each dog and cat.
2. The application shall be in writing on forms provided by the City and shall set forth all information requested by the City thereon.
3. Before a license is issued, the owner must present evidence with the application that the dog or cat has been vaccinated against rabies. Such evidence shall be a certificate of vaccination signed by a licensed veterinarian and shall show the vaccination is valid for a minimum of 30 days from the date the license is purchased.

4. The annual license fee for such dog and cat shall be as provided by the current schedule of fees adopted by the Council.
5. All licenses shall expire on December 31 of each calendar year.
6. The annual license fee shall become delinquent on April 1 in which the same is due and a penalty as provided in the current schedule of fees shall be added to each unpaid license fee on and after such date. Licenses due for a dog or cat which has come into the possession or ownership of the applicant, or which has reached license age after April 1, shall be considered delinquent thirty days after such animal has come into the possession of the owner or reached six months of age, and the above penalty shall be added after that date.

56.05 NUMBER RESTRICTED. It is unlawful for any person to own at any time a total of more than four cats or dogs over the age of six months per dwelling unit within the City. Provided, this section shall not apply to kennels or catteries licensed under Chapter 162, *Code of Iowa*, or its successor.

56.06 CATTERY/KENNEL LICENSE REQUIRED.

1. Any person engaged in the business of buying, selling, breeding or boarding five or more cats shall be classified as a commercial cattery and shall obtain approval for the cattery from the City prior to application to the State for a license under Chapter 162, *Code of Iowa*, or its successor.
2. Any person engaged in the business of buying, selling, breeding or boarding five or more dogs shall obtain approval for the kennel from the City prior to application to the State for a license under Chapter 162, *Code of Iowa*, or its successor.

56.07 FARM ANIMALS PERMIT REQUIRED; EXCEPTIONS.

1. No person shall have in possession or keep or harbor any farm animals without having first obtained a permit to do so from the City, which permit shall be issued only after payment of the required fee and after inspection of the premises by the City Administrator for compliance with zoning and sanitation requirements of this Code or any other applicable State law. A farm animal permit shall be in effect for one year from the date of its issuance and applications shall be on forms furnished by the City.
2. Farm animal permits may be renewed upon expiration by filing application for renewal upon forms provided by the City. Approval of application for renewal shall be made and the permit issued for the succeeding annual period only after payment of the required fee and after inspection of the premises for compliance with zoning and sanitation requirements of this Code or any other State law. Every permit renewed shall be for a period of one year only.
3. Persons keeping canaries, doves, pigeons, parrots, parakeets, gerbils, hamsters, goldfish, tropical fish, or other similar small animals, caged or otherwise confined as household pets within a residence, are exempt from the permit requirements of this section.
4. In Agricultural Zone A-1 where farm animals are kept on property that exceeds five acres in total area, no permits for keeping farm animals shall be required. Provided, no person owning, sheltering, keeping or harboring farm animals in such area shall allow the animals to be closer than 75 feet from any dwelling other than the dwelling of the owner.

56.08 REVOCATION OF LICENSE OR PERMIT. The City may revoke any license or permit issued pursuant to this chapter for any violation of this Code, for any misstatement or misrepresentation in obtaining same or for any violation of State law related to the keeping, possession, harboring or licensing of animals or affecting the care or safety of animals, after notice to the licensee or permittee shown on City records and an opportunity for hearing pursuant to Section 56.09 of this Code.

56.09 APPEAL OF REVOCATION.

1. Any person whose license or permit for keeping of animals or farm animals has been revoked may appeal the revocation to the Council by filing written notice of appeal with the City Administrator within seven days after receipt of notice of revocation. Notice of appeal shall state the grounds of appeal and shall be delivered personally or by certified mail, return receipt requested, to City Hall. Hearing on such appeal shall be scheduled within 20 days of receipt of notice of appeal.
2. After hearing, the Council may affirm or reverse the action of the City by written decision filed within 20 days after the hearing.
3. If the Council affirms the revocation of a license or permit for animals or the keeping of farm animals, the City shall order the animals or farm animals removed within 15 days, or if such animals are diseased, ill or injured, may order destruction of them in the interest of humane treatment. If the order is not complied with within seven days of its issuance, the City is authorized to seize and impound the farm animal or animals for seven days, at the end of which if the person against whom the decision and order was issued has not petitioned the Iowa District Court for review of the order, the City shall cause the animal to be disposed of by sale or destroyed in a humane manner. Failure to comply with an order of the Council issued pursuant to this section shall constitute a misdemeanor and shall be subject to the penalty provisions of Section 1.14 and Chapter 4 of this Code.
4. Every order of the Council issued pursuant to the provisions of this section shall contain the language of Subsection 3 hereof.
5. All costs incurred by the City in impounding animals shall be paid by the license holder, permit holder or owner, as the case may be, regardless of whether the animals are returned or destroyed.

56.10 PENALTY. Any person found guilty of a violation of any of the provisions of this chapter shall upon conviction be subject to the penalty provisions of Section 1.14 of this Code, and each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the City Attorney, any violation of the provisions of this chapter may be prosecuted as a municipal infraction according to the terms of Chapter 4, in addition to criminal prosecution.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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

60.05 Reports of Traffic Accidents
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers
60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Red Oak Traffic Code” (and are referred to herein as the “Traffic Code.”)

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
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 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. “Suburban district” means all other parts of the City not included in the business, school, or residence districts.
10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

11. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. “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. Permission Required. No parade shall be conducted without first obtaining written permission from the Police Chief. Such written permission shall state the time and date for the parade to be held and the streets or general route therefor. Such written permission granted to the person organizing or sponsoring the parade shall be permission for all participants in the parade, provided they have been invited to participate. No fee is required for such permission.

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

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 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 this Traffic Code. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Braking Devices

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

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

23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
24. Section 321.218 – Operating without valid driver’s license or when disqualified.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – License inspected.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.247 – Golf cart operation on City streets.
35. Section 321.257 – Official traffic control signal.
36. Section 321.259 – Unauthorized signs, signals or markings.
37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
38. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
39. Section 321.263 – Information and aid.
40. Section 321.264 – Striking unattended vehicle.
41. Section 321.265 – Striking fixtures upon a highway.
42. Section 321.266 – Reporting accidents.
43. Section 321.275 – Operation of motorcycles and motorized bicycles.
44. Section 321.276 – Use of electronic communication device while driving; text-messaging.
45. Section 321.277 – Reckless driving.
46. Section 321.277A – Careless driving.
47. Section 321.278 – Drag racing prohibited.
48. Section 321.281 – Actions against bicyclists.
49. Section 321.284 – Open container; drivers.
50. Section 321.284A – Open container; passengers.
51. Section 321.288 – Control of vehicle; reduced speed.
52. Section 321.295 – Limitation on bridge or elevated structures.
53. Section 321.297 – Driving on right-hand side of roadways; exceptions.

- 54. Section 321.298 – Meeting and turning to right.
- 55. Section 321.299 – Overtaking a vehicle.
- 56. Section 321.302 – Overtaking and passing.
- 57. Section 321.303 – Limitations on overtaking on the left.
- 58. Section 321.304 – Prohibited passing.
- 59. Section 321.306 – Roadways laned for traffic.
- 60. Section 321.307 – Following too closely.
- 61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
- 62. Section 321.309 – Towing
- 63. Section 321.310 – Towing four-wheel trailers.
- 64. Section 321.312 – Turning on curve or crest of grade.
- 65. Section 321.313 – Starting parked vehicle.
- 66. Section 321.314 – When signal required.
- 67. Section 321.315 – Signal continuous.
- 68. Section 321.316 – Stopping.
- 69. Section 321.317 – Signals by hand and arm or signal device.
- 70. Section 321.318 – Method of giving hand and arm signals.
- 71. Section 321.319 – Entering intersections from different highways.
- 72. Section 321.320 – Left turns; yielding.
- 73. Section 321.321 – Entering through highways.
- 74. Section 321.322 – Vehicles entering stop or yield intersection.
- 75. Section 321.323 – Moving vehicle backward on highway.
- 76. Section 321.323A – Approaching certain stationary vehicles.
- 77. Section 321.324 – Operation on approach of emergency vehicles.
- 78. Section 321.324A – Funeral processions.
- 79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
- 80. Section 321.330 – Use of crosswalks.
- 81. Section 321.332 – White canes restricted to blind persons.
- 82. Section 321.333 – Duty of drivers approaching blind persons.
- 83. Section 321.340 – Driving through safety zone.
- 84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
- 85. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 86. Section 321.343 – Certain vehicles must stop.
- 87. Section 321.344 – Heavy equipment at crossing.

88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver's view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.

- 122. Section 321.408 – Back-up lamps.
- 123. Section 321.409 – Mandatory lighting equipment.
- 124. Section 321.415 – Required usage of lighting devices.
- 125. Section 321.417 – Single-beam road-lighting equipment.
- 126. Section 321.418 – Alternate road-lighting equipment.
- 127. Section 321.419 – Number of driving lamps required or permitted.
- 128. Section 321.420 – Number of lamps lighted.
- 129. Section 321.421 – Special restrictions on lamps.
- 130. Section 321.422 – Red light in front.
- 131. Section 321.423 – Flashing lights.
- 132. Section 321.430 – Brake, hitch, and control requirements.
- 133. Section 321.431 – Performance ability.
- 134. Section 321.432 – Horns and warning devices.
- 135. Section 321.433 – Sirens, whistles, and bells prohibited.
- 136. Section 321.434 – Bicycle sirens or whistles.
- 137. Section 321.436 – Mufflers, prevention of noise.
- 138. Section 321.437 – Mirrors.
- 139. Section 321.438 – Windshields and windows.
- 140. Section 321.439 – Windshield wipers.
- 141. Section 321.440 – Restrictions as to tire equipment.
- 142. Section 321.441 – Metal tires prohibited.
- 143. Section 321.442 – Projections on wheels.
- 144. Section 321.444 – Safety glass.
- 145. Section 321.445 – Safety belts and safety harnesses; use required.
- 146. Section 321.446 – Child restraint devices.
- 147. Section 321.449 – Motor carrier safety regulations.
- 148. Section 321.449A – Rail crew transport drivers.
- 149. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
- 150. Section 321.450 – Hazardous materials transportation.
- 151. Section 321.454 – Width of vehicles.
- 152. Section 321.455 – Projecting loads on passenger vehicles.
- 153. Section 321.456 – Height of vehicles; permits.
- 154. Section 321.457 – Maximum length.
- 155. Section 321.458 – Loading beyond front.

- 156. Section 321.460 – Spilling loads on highways.
- 157. Section 321.461 – Trailers and towed vehicles.
- 158. Section 321.462 – Drawbars and safety chains.
- 159. Section 321.463 – Maximum gross weight.
- 160. Section 321.465 – Weighing vehicles and removal of excess.
- 161. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 BRAKING DEVICES.

1. It is unlawful for any person in any part of the City to make or cause to make loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any vehicle. The City shall cause notices to be posted or signs to be erected indicating such prohibition.
2. Violations of this section shall be considered a civil offense and violators shall be fined as follows: first offense, \$30.00; second offense, \$100.00; third and subsequent offenses, \$200.00.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

63.06 Controlled Access Facilities

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 shall be the lawful speeds on roadways within the City, except as otherwise posted on primary roads or on extensions of primary roads within the City, and any speed in excess of the following, or as otherwise posted on primary roads or on extensions of primary roads within the City, is unlawful unless specifically designated otherwise in this chapter as a special speed zone. Each of the following districts shall be defined as set forth in Section 321.1 of the *Code of Iowa*:

1. Business District – 20 miles per hour.
2. Residence or School District – 25 miles per hour.
3. Suburban District – 45 miles per hour.

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

(Code of Iowa, Sec. 321.290)

1. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Summit Street from the intersection of Eastern Avenue and Summit Street to the eastern City limits.
 - B. On West Oak Street from the intersection of State Highway 48 and West Oak Street, westerly to the railroad crossing.

2. Special 20 MPH Speed Zones. A speed in excess of 20 miles per hour is unlawful on any street within 200 feet in either direction from a school house in the City.

A violation of any part of this section shall be punishable in accordance with the schedule of traffic violations established at Section 805.8(1) and 805.8A(5), *Code of Iowa*, as amended from time to time.

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)

63.06 CONTROLLED ACCESS FACILITIES. Speed limits on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

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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 and at intersections where there are automatic traffic signals.

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

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.

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CHAPTER 65

STOP OR YIELD REQUIRED

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

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

65.01 THROUGH STREETS. 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)

- NONE -

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

(Code of Iowa, Sec. 321.345)

1. Ann Street. Vehicles traveling north on Ann Street shall stop at Corning Street.
2. Birch Street. Vehicles traveling east on Birch Street shall stop at Eastern Avenue.
3. Ohio Avenue. Vehicles traveling west on Ohio Avenue shall stop at Broadway.
4. Park Avenue. Vehicles traveling west on Park Avenue shall stop at Broadway.
5. Third Avenue. Vehicles traveling east on Third Avenue shall stop at Broadway.
6. Short Street. Vehicles traveling west on Short Street shall stop at Broadway.
7. Market Street. Vehicles traveling west on Market Street shall stop at Broadway.
8. Second Avenue. Vehicles traveling east on Second Avenue shall stop at Broadway.
9. Nuckols Street. Vehicles traveling west on Nuckols Street shall stop at Broadway.
10. First Avenue. Vehicles traveling east on First Avenue shall stop at Broadway.
11. Grimes Street. Vehicles traveling west on Grimes Street shall stop at Broadway.
12. Washington Avenue. Vehicles traveling on Washington Avenue shall stop at Broadway.
13. Reed Street. Vehicles traveling on Reed Street shall stop at Broadway.
14. Hammond Street. Vehicles traveling west on Hammond Street shall stop at Broadway.

15. Market Street. Vehicles traveling east on Market Street shall stop at Eighth Street.
16. Joy Street. Vehicles traveling west on Joy Street shall stop at Broadway.
17. Valley Street. Vehicles traveling on Valley Street shall stop at Broadway.
18. Prospect Street. Vehicles traveling on Prospect Street shall stop at Broadway.
19. Bridge Street. Vehicles traveling east on Bridge Street shall stop at Broadway.
20. Elm Street. Vehicles traveling west on Elm Street shall stop at Broadway.
21. Maple Street. Vehicles traveling west on Maple Street shall stop at Broadway.
22. Linden Street. Vehicles traveling west on Linden Street shall stop at Broadway.
23. Walnut Street. Vehicles traveling west on Walnut Street shall stop at Broadway.
24. Cherry Street. Vehicles traveling west on Cherry Street shall stop at Broadway.
25. Alix Avenue. Vehicles traveling west on Alix Avenue shall stop at Broadway.
26. Cherry Street. Vehicles traveling east on Cherry Street shall stop at Eastern Avenue.
27. First Street. Vehicles traveling north on First Street shall stop at Cherry Street.
28. Second Street. Vehicles traveling north on Second Street shall stop at Cherry Street.
29. Third Street. Vehicles traveling north on Third Street shall stop at Cherry Street.
30. Miller Street. Vehicles traveling on Miller Street shall stop at Cherry Street.
31. First Street. Vehicles traveling on First Street shall stop at Coolbaugh Street.
32. Second Street. Vehicles traveling on Second Street shall stop at Coolbaugh Street.
33. Fourth Street. Vehicles traveling north on Fourth Street shall stop at Coolbaugh Street.
34. Fifth Street. Vehicles traveling on Fifth Street shall stop at Coolbaugh Street.
35. Sixth Street. Vehicles traveling on Sixth Street shall stop at Coolbaugh Street.
36. Coolbaugh Street. Vehicles traveling on Coolbaugh Street shall stop at Eighth Street.
37. First Street. Vehicles traveling on First Street shall stop at Corning Street.
38. Second Street. Vehicles traveling on Second Street shall stop at Corning Street.
39. Third Street. Vehicles traveling south on Third Street shall stop at Corning Street.
40. Fourth Street. Vehicles traveling north on Fourth Street shall stop at Corning Street.
41. Fifth Street. Vehicles traveling on Fifth Street shall stop at Corning Street.
42. Sixth Street. Vehicles traveling on Sixth Street shall stop at Corning Street.

43. Seventh Street. Vehicles traveling on Seventh Street shall stop at Corning Street.
44. Eighth Street. Vehicles traveling on Eighth Street shall stop at Corning Street.
45. Broad Street. Vehicles traveling on Broad Street shall stop at Corning Street.
46. Boundary Street. Vehicles traveling on Boundary Street shall stop at Corning Street.
47. Miller Avenue. Vehicles traveling on Miller Avenue shall stop at Corning Street.
48. Eighth Street. Vehicles traveling north on Eighth Street shall stop at the Viaduct Railroad Overpass.
49. Joy Street. Vehicles traveling west on Joy Street shall stop at Eighth Street.
50. Prospect Street. Vehicles traveling west on Prospect Street shall stop at Eighth Street.
51. Valley Street. Vehicles traveling west on Valley Street shall stop at Eighth Street.
52. Eighth Street. Vehicles traveling on Eighth Street shall stop at Sunset Avenue.
53. First Street. Vehicles traveling on First Street shall stop at Linden Street.
54. Grimes Street. Vehicles traveling on Grimes Street shall stop at Fourth Street.
55. Hammond Street. Vehicles traveling on Hammond Street shall stop at Second Street.
56. Hammond Street. Vehicles traveling on Hammond Street shall stop at Third Street.
57. Hammond Street. Vehicles traveling on Hammond Street shall stop at Fourth Street.
58. Hammond Street. Vehicles traveling on Hammond Street shall stop at Fifth Street.
59. Hammond Street. Vehicles traveling east on Hammond Street shall stop at Eastern Avenue.
60. Hammond Street. Vehicles traveling west on Hammond Street shall stop at Highland Street.
61. Eighth Street. Vehicles traveling on Eighth Street shall stop at Hillcrest Street.
62. Inman Drive. Vehicles traveling west on Inman Drive shall stop at Eighth Street.
63. Second Street. Vehicles traveling on Second Street shall stop at Linden Street.
64. First Street. Vehicles traveling south on First Street shall stop at Market Street.
65. Third Street. Vehicles traveling on Third Street shall stop at Market Street.
66. Market Street. Vehicles traveling on Market Street shall stop at Fourth Street.
67. Fifth Street. Vehicles traveling on Fifth Street shall stop at Market Street.

68. Sixth Street. Vehicles traveling south on Sixth Street shall stop at Market Street.
69. Chautauqua Street. Vehicles traveling east on Chautauqua Street shall stop at Miller Avenue.
70. Miller Avenue. Vehicles traveling on Miller Avenue shall stop at Cherry Street.
71. Nuckols Street. Vehicles traveling on Nuckols Street shall stop at Fourth Street.
72. First Street. Vehicles traveling on First Street shall stop at Oak Street.
73. Second Street. Vehicles traveling on Second Street shall stop at Oak Street.
74. Third Street. Vehicles traveling south on Third Street shall stop at Oak Street.
75. Fourth Street. Vehicles traveling on Fourth Street shall stop at Oak Street.
76. Fifth Street. Vehicles traveling on Fifth Street shall stop at Oak Street.
77. Sixth Street. Vehicles traveling on Sixth Street shall stop at Oak Street.
78. Seventh Street. Vehicles traveling on Seventh Street shall stop at Oak Street.
79. Eighth Street. Vehicles traveling on Eighth Street shall stop at Oak Street.
80. Second Street. Vehicles traveling on Second Street shall stop at Reed Street.
81. Third Street. Vehicles traveling south on Third Street shall stop at Reed Street.
82. Reed Street. Vehicles traveling west on Reed Street shall stop at Fourth Street.
83. Fifth Street. Vehicles traveling on Fifth Street shall stop at Reed Street.
84. Sixth Street. Vehicles traveling on Sixth Street shall stop at Reed Street.
85. Boundary Street. Vehicles traveling on Boundary Street shall stop at Reed Street.
86. Market Street. Vehicles traveling on Market Street shall stop at Second Street.
87. Nuckols Street. Vehicles traveling on Nuckols Street shall stop at Second Street.
88. Grimes Street. Vehicles traveling on Grimes Street shall stop at Second Street.
89. Sixth Street. Vehicles traveling on Sixth Street shall stop at Valley Street.
90. Boundary Street. Vehicles traveling north on Boundary Street shall stop at Summit Street.
91. Red Oak Boulevard. Vehicles traveling south on Red Oak Boulevard shall stop at Summit Street.
92. Miller Avenue. Vehicles traveling on Miller Avenue shall stop at Summit Street.
93. Division Street. Vehicles traveling north on Division Street shall stop at Summit Street.
94. Highland Avenue. Vehicles traveling on Highland Avenue shall stop at Summit Street.
95. Circle Drive. Vehicles traveling north on Circle Drive shall stop at Summit Street.

96. Eastern Avenue. Vehicles traveling on Eastern Avenue shall stop at Summit Street.
97. Third Street. Vehicles traveling on Third Street shall stop at Linden Street.
98. Boundary Street. Vehicles traveling on Boundary Street shall stop at Valley Street.
99. Miller Avenue. Vehicles traveling on Miller Avenue shall stop at Valley Street.
100. First Street. Vehicles traveling south on First Street shall stop at Washington Avenue.
101. Third Street. Vehicles traveling on Third Street shall stop at Washington Avenue.
102. Fourth Street. Vehicles traveling north on Fourth Street shall stop at Washington Avenue.
103. Fifth Street. Vehicles traveling on Fifth Street shall stop at Washington Avenue.
104. Sixth Street. Vehicles traveling on Sixth Street shall stop at Washington Avenue.
105. Seventh Street. Vehicles traveling on Seventh Street shall stop at Washington Avenue.
106. Eighth Street. Vehicles traveling on Eighth Street shall stop at Washington Avenue.
107. Broad Street. Vehicles traveling on Broad Street shall stop at Washington Avenue.
108. Boundary Street. Vehicles traveling south on Boundary Street shall stop at Washington Avenue.
109. West Second Street. Vehicles traveling on West Second Street shall stop at Washington Avenue.
110. Seventh Street. Vehicles traveling on Seventh Street shall stop at Coolbaugh Street.
111. Sixth Street. Vehicles traveling on Sixth Street shall stop at Hammond Street.
112. Reed Street. Vehicles traveling west on Reed Street shall stop at Eighth Street.
113. Senate Avenue. Vehicles traveling east on Senate Avenue shall stop at Eastern Avenue.
114. Marty Drive. Vehicles traveling east on Marty Drive shall stop at Sunny Slope Drive.
115. Green Willow Lane. Vehicles traveling west on Green Willow Lane shall stop at Sunny Slope Drive.
116. Sunny Slope Drive. Vehicles traveling west on Sunny Slope Drive shall stop at Eastern Avenue.
117. Oakridge Road. Vehicles traveling west on Oakridge Road shall stop at Eastern Avenue.

118. Woodfield Drive. Vehicles traveling north on Woodfield Drive shall stop at Oakridge Road.
119. East Prospect Street. Vehicles traveling on East Prospect Street shall stop at North Sixth Street.
120. Coolbaugh Street. Vehicles traveling west on Coolbaugh Street shall stop at Highland Avenue.
121. Highland Avenue. Vehicles traveling north on Highland Avenue shall stop at Coolbaugh Street.
122. East Prospect Street. Vehicles traveling east on East Prospect Street shall stop at North Eighth Street.
123. Valley Street. Vehicles traveling east on Valley Street shall stop at North Eighth Street.
124. Senate Avenue. Vehicles traveling west on Senate Avenue shall stop at North Fourth Street.
125. Senate Avenue. Vehicles traveling east on Senate Avenue shall stop at North Eighth Street.
126. Second Street. Vehicles traveling north on Second Street shall stop at Railroad Underpass.
127. Seventh Street. Vehicles traveling south on Seventh Street shall stop at Maple Street.
128. Second Street. Vehicles traveling on Second Street shall stop at Park Avenue.

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 Highland Avenue and Corning Street.
2. Intersection of Second Street and Washington Avenue.
3. Intersection of State Highway 34 and State Highway 48.
4. Intersection of West Washington Avenue and West Second Street.
5. Intersection of West Coolbaugh Street and West Second Street.
6. Intersection of Reed Street and Boundary Street.
7. Intersection of First Street and Cherry Street.
8. Intersection of Broad Street and Valley Street.
9. Intersection of Broad Street and Joy Street.
10. Intersection of Third Street and Nuckols Street.
11. Intersection of Miller Avenue and Irene Court.
12. Intersection of Eighth Street and Ratliff Road.
13. Intersection of Fourth Street and Ratliff Road.
14. Intersection of Eighth Street and Washington Avenue.

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

1. Intersection of Hillcrest Street and Eighth Street; vehicles traveling on Eighth Street and vehicles traveling east on Hillcrest Street shall stop.
2. Intersection of Sunset Avenue and Eighth Street; vehicles traveling on Eighth Street and vehicles traveling east on Sunset Avenue shall stop.
3. Intersection of Corning Street and Fourth Street; vehicles traveling on Corning Street and vehicles traveling north on Fourth Street shall stop.
4. Intersection of Sunset Avenue and Sixth Street; vehicles traveling on Sunset Avenue and vehicles traveling north on Sixth Street shall stop.

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

(Code of Iowa, Sec. 321.345)

1. East Coolbaugh Street. Vehicles traveling west on East Coolbaugh Street shall yield at Eastern/Coolbaugh Curve.
2. Bluegrass Road. Vehicles traveling north on Bluegrass Road shall yield at Nuckols Street.
3. West Second Street. Vehicles traveling on West Second Street shall yield at Coolbaugh Street.
4. Chautauqua Drive. Vehicles traveling west on Chautauqua Drive shall yield at Eighth Street.
5. West Third Street. Vehicles traveling on West Third Street shall yield at Coolbaugh Street.
6. West Fourth Street. Vehicles traveling north on West Fourth Street shall yield at Coolbaugh Street.
7. West Fifth Street. Vehicles traveling north on West Fifth Street shall yield at Coolbaugh Street.
8. Front Street. Vehicles traveling north on Front Street shall yield at Coolbaugh Street.
9. Forest Avenue. Vehicles traveling on Forest Avenue shall yield at Eastern Avenue.
10. Nuckols Street. Vehicles traveling on Nuckols Street shall yield at Eighth Street.
11. Grimes Street. Vehicles traveling on Grimes Street shall yield at Eighth Street.
12. Inman Drive. Vehicles traveling west on Inman Drive shall yield at Miller Street.
13. Hammond Street. Vehicles traveling on Hammond Street shall yield at Eighth Street.
14. Joy Street. Vehicles traveling east on Joy Street shall yield at Eighth Street.
15. Valley Street. Vehicles traveling east on Valley Street shall yield at Eighth Street.

16. Prospect Street. Vehicles traveling east on Prospect Street shall yield at Eighth Street.
17. Elm Street. Vehicles traveling east on Elm Street shall yield at Eighth Street.
18. Maple Street. Vehicles traveling east on Maple Street shall yield at Eighth Street.
19. Joy Street. Vehicles traveling on Joy Street shall yield at Fourth Street.
20. Valley Street. Vehicles traveling on Valley Street shall yield at Fourth Street.
21. Prospect Street. Vehicles traveling on Prospect Street shall yield at Fourth Street.
22. Elm Street. Vehicles traveling on Elm Street shall yield at Fourth Street.
23. Maple Street. Vehicles traveling on Maple Street shall yield at Fourth Street.
24. Linden Street. Vehicles traveling on Linden Street shall yield at Fourth Street.
25. Broad Street. Vehicles traveling on Broad Street shall yield at Reed Street.
26. Sunset Drive. Vehicles traveling west on Sunset Drive shall yield at Fourth Street.
27. Fifth Street. Vehicles traveling north on Fifth Street shall yield at Sunset Drive.
28. Sixth Street. Vehicles traveling north on Sixth Street shall yield at Sunset Drive.
29. Hillcrest Street. Vehicles traveling west on Hillcrest Street shall yield at Sixth Street.
30. Coolbaugh Street. Vehicles traveling west on Coolbaugh Street shall yield at Eastern Avenue.
31. Oak Street. Vehicles traveling east on Oak Street shall yield at Eighth Street.
32. First Street. Vehicles traveling south on First Street shall yield at Reed Street.
33. Seventh Street. Vehicles traveling north on Seventh Street shall yield at Reed Street.
34. Skyline Drive. Vehicles traveling east on Skyline Drive shall yield at Eighth Street.
35. Joy Street. Vehicles traveling on Joy Street shall yield at Third Street.
36. Valley Street. Vehicles traveling on Valley Street shall yield at Third Street.
37. Prospect Street. Vehicles traveling on Prospect Street shall yield at Third Street.
38. Elm Street. Vehicles traveling on Elm Street shall yield at Third Street.
39. Maple Street. Vehicles traveling on Maple Street shall yield at Third Street.
40. Coolbaugh Street. Vehicles traveling west on Coolbaugh Street shall yield at Highland Avenue.
41. Highland Avenue. Vehicles traveling north on Highland Avenue shall yield at Coolbaugh Street.

42. Montgomery County Memorial Hospital Parking Lot. Vehicles traveling south from the Montgomery County Memorial Hospital Parking Lot shall yield at Senate Avenue.
43. Regency Retirement Residence Driveway. Vehicles traveling south from the Regency Retirement Residence Driveway shall yield at Senate Avenue.
44. Red Coach Inn Driveways. Vehicles traveling south from the Red Coach Inn Driveways shall yield at Senate Avenue.
45. South Fourth Street. Vehicles traveling on South Fourth Street shall yield at Park Avenue.
46. South Sixth Street. Vehicles traveling on South Sixth Street shall yield at Park Avenue.
47. Park Avenue. Vehicles traveling east on Park Avenue shall yield at Eighth Street.
48. High Street. Vehicles traveling east on High Street shall yield at Eighth Street.
49. South Sixth Street. Vehicles traveling north on South Sixth Street shall yield at High Street.
50. Oakwood Avenue. Vehicles traveling north on Oakwood Avenue shall yield at South Fourth Street.
51. Seventh Street. Vehicles traveling on Seventh Street shall yield at Hammond Street.
52. First Street. Vehicles traveling on First Street shall yield at Hammond Street.
53. West Second Street. Vehicles traveling on West Second Street shall yield at First Avenue.
54. Sonya Circle. Vehicles traveling east on Sonya Circle shall yield at Sunny Slope Drive.
55. Shaun Circle. Vehicles traveling east on Shaun Circle shall yield at Sunny Slope Drive.
56. Shana Circle. Vehicles traveling west on Shana Circle shall yield at Sunny Slope Circle.
57. Marty Drive. Vehicles traveling west on Marty Drive shall yield at Eastern Avenue.
58. Redwood Circle. Vehicles traveling southwest on Redwood Circle shall yield at Woodfield Drive.
59. Woodfield Drive. Vehicles traveling south on Woodfield Drive shall yield at Green Willow Lane.
60. Prospect Street. Vehicles traveling on Prospect Street shall yield at Second Street.
61. First Street. Vehicles traveling on First Street shall yield at Prospect Street.

65.06 SCHOOL STOPS. At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 10 feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a

careful and prudent manner until the vehicle shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

1. Eighth Street. Vehicles traveling on Eighth Street shall stop at Inman Drive.
2. Corning Street. Vehicles traveling on Corning Street shall stop at Broad Avenue.

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

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

(Code of Iowa, Sec. 321.256)

1. Intersection of Oak Street and Broadway.
2. Intersection of Broadway and Coolbaugh Street.
3. Intersection of Broadway and Cherry Street.
4. Intersection of Broadway and Corning Street.

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

66.05 Exemptions

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

1. No person shall move any vehicle with the combined weight of vehicle and load exceeding 6,000 pounds on any street or public alley in any City park unless:
 - A. Such vehicle is on said street or public alley for the purpose of loading or unloading personal property.
 - B. Such vehicle is a motor home or travel trailer designed for overnight usage and for which the City park in question is equipped.
2. No person shall move a vehicle with a combined weight of vehicle and load exceeding 20,000 pounds on the following streets:
 - A. First Street, except from 140 feet north of the north line of Coolbaugh Street to Washington Avenue.
 - B. Second Street, except from Reed Street to Red Oak Creek.
 - C. Fifth Street, north of Hammond Street.
 - D. Sixth Street, south of Oak Street.
 - E. Seventh Street.
 - F. Broad Street.
 - G. Boundary Street.
 - H. Eastern Avenue.

- I. Eighth Street.
 - J. Miller Avenue.
 - K. Highland Avenue, from Summit Street to Coolbaugh Street.
 - L. Nuckols Street.
 - M. Grimes Street.
 - N. Washington Avenue, except from Broadway to Fifth Street.
 - O. Coolbaugh Street, except from west City limits to Fifth Street.
 - P. Reed Street, except from West Second Street to Fifth Street.
 - Q. Hammond Street, except from Broadway to Fifth Street.
 - R. Joy Street.
 - S. Valley Street.
 - T. Prospect Street.
 - U. Sunset Avenue.
 - V. Circle Drive.
3. No person shall move a vehicle with a combined weight of vehicle and load exceeding 10,000 pounds on the following streets:
- A. Cherry Street, from Broadway to Fourth Street.
 - B. Walnut Street, from Broadway to First Street.
 - C. Linden Street, from Broadway to Sixth Street.
 - D. Maple Street, from Broadway to Fifth Street.
 - E. Elm Street, from Broadway to Eighth Street.
 - F. High Street, from Fifth Street to Eighth Street.
 - G. Oakwood Avenue, from Second Street to Fourth Street.
 - H. Park Avenue, from Broadway to Sixth Street.
 - I. E Street.
 - J. C Street.
 - K. Third Street.
 - L. First Avenue.
 - M. Skyline Drive.
 - N. Fourth Street, north of Oak Street.
 - O. Fifth Street, High Street to Washington Avenue.
 - P. Sixth Street, Oak Street to Skyline Drive.
 - Q. Division Street.
 - R. Ann Street.
 - S. Valley Street from Miller Avenue to Highland Avenue.

T. Riverview Drive, except for the first 450 feet west of Highway 48.

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 Street Superintendent 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. No person shall drive upon said bridge any vehicle weighing, loaded or unloaded, in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

66.05 EXEMPTIONS. The following are exempted from the provisions of Section 66.03 of this chapter:

1. Emergency vehicles.
2. School vehicles traveling to and from school property and while operating in the course of picking up or delivering students to and from school or school activities.
3. Utility vehicles doing repair or construction work in an area which requires their travel on weight-restricted streets.
4. Moving and delivery vehicles hauling to or from a property in an area which requires their travel on weight-restricted streets.

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 Use of Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

1. Fourth Street shall be northbound only from Washington Avenue to Oak Street.
2. Third Street shall be southbound only from Oak Street to Washington Avenue, except that school buses may turn north on Third Street at the intersection of Third Street and Hammond Street and travel north on Third Street to Corning Street and park on the east side of Third Street while loading and unloading school passengers.
3. Coolbaugh Street shall be eastbound only from Broadway to Eighth Street.
4. Reed Street shall be westbound only from Eighth Street to Broadway.

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb	69.08 No Parking Zones
69.02 Parking on One-Way Streets	69.09 Truck Parking Limited
69.03 Angle Parking	69.10 Limited Parking Zones
69.04 Manner of Angle Parking	69.11 Snow and Ice Control Program
69.05 Parking for Certain Purposes Illegal	69.12 Fire Lanes
69.06 Parking Prohibited	69.13 Controlled Access Facilities
69.07 Persons with Disabilities Parking	

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Fifth Street, west side, from Coolbaugh Street to the first alley south of Coolbaugh Street.
2. Second Street, from Coolbaugh Street to Reed Street.
3. Washington Avenue, north and south sides, from Broadway to Fifth Street.
4. Highland Avenue, west side, in the portion widened for parking from a point 321 feet south of the south property line of Summit Street to a point 464 feet south of the south property line of Summit Street.
5. First Street, east side, in the portion widened for parking between the north alley of Maple Street and the south property line of Oak Street.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 48 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.
5. Trailer Parking. No trailer shall be left un-hitched from its towing vehicle on any public property, unless said trailer is a construction trailer for a contractor currently performing work on adjacent property, provided said construction trailer does not impede the flow of traffic, and provided said trailer does not remain in the same location more than 30 days. Contractor must still provide prior notification of the trailer being parked to the Police Department.

For the purpose of this section, the word “park” means leaving a vehicle unattended in one location for more than 48 consecutive hours. The word “location” means the place where the vehicle is parked, or within 50 feet of that place as witnessed on two separate occasions not separated by at least eight hours in time.

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. 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 that is properly placed under the provisions of Section 321L.2A[1] of the *Code of Iowa*.

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

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

1. Boundary Street, from Summit Street to Washington Avenue, west side.
2. Bridge Street, from Broadway to Burlington Northern Railroad tracks, north side.
3. Commerce Drive, east and south sides.
4. Coolbaugh Street, north side between West Second Street and west City limits.
5. Corning Street, from Broadway to Eastern Avenue, on the north side, and on both sides between Third Street and Fourth Street. on the south side, parking is allowed (except between Third Street and Fourth Street) from 6:00 p.m. to 8:00 a.m. on weekdays and at any time on Sundays and holidays.
6. Eastern Avenue, from Coolbaugh Street to north corporate limits, west side.
7. Eighth Street, from north corporate limits to south corporate limits, west side.
8. Fourth Street, east side from the intersection of Corning Street and Fourth Street north to Oak Street.
9. Fourth Street, west side, from Corning Street to the first alley south of Corning Street.

10. Highland Avenue, from Summit Street to Coolbaugh Street, east side.
11. Highland Avenue, west side, from Summit Street north to Irene Court.
12. Iowa Highway 48 (Broadway and West First Street) on the approach side of every minor street leading into Iowa Highway 48, for a distance of 35 feet in advance of the stop sign.
13. Oak Street.
14. On the exit side of every minor street leading from Iowa Highway 48, for a distance of 35 feet from crosswalk.
15. Prospect Street, north side, from Sixth Street to Eighth Street, and on the south side from Eighth Street to Boundary Street.
16. Reed Street, south side, from Eighth Street to Broad Street.
17. Second Street, from Washington Avenue to main line of Burlington Northern Railroad.
18. Sixth Street, from Corning Street to Hillcrest Drive, west side.
19. South Fifth Street, west side, from High Street to Oakwood.
20. Summit Street.
21. The east side of Third Street from the intersection of Corning Street and Third Street north a distance of 25 feet.
22. Third Street, west side, from the intersection of Oak Street and Third Street south to Corning Street.
23. Washington Avenue from east line of Towle Street to 75 feet west, south side.
24. Washington Avenue, from Fifth Street to Towle Street, north side.
25. Iowa State Highway 48, from the north property line of Oak Street north to the City limits.
26. Iowa State Highway 48, from the south property line of Short Street south to the City limits.
27. Nuckols Street, north side between Seventh Street and Eighth Street.
28. Second Street, west side, from Short Street south a distance of 65 feet.
29. Short Street, south side, between Second and Third Streets.
30. Coolbaugh Street, north side, from the east property line of Fifth Street to a point 110 feet east.
31. Fifth Street, west side, for one-half block north of Corning Street.
32. Prospect Street, north side, from the intersection of Sixth Street and Prospect Street, east to Eighth Street.
33. First Street, west side, 75 feet north from the north curb line at the intersection of First Street and Oak Street.
34. West Washington Avenue, south side, 100 feet west from the curb line at the intersection of Broadway and West Washington Avenue.

35. Sixth Street, from the intersection of Market Street and Sixth Street south to the railroad tracks, both sides.
36. South side of A Street and Second Avenue, from the railroad tracks to a point 150 feet east of the intersection of West Fifth Street and Second Avenue, south side.
37. Cherry Street, on both sides, from Broadway (State Hwy. 48) to Fourth Street.
38. Eighth Street, on the east side, a distance of 30 feet north from the intersection of Washington Street.
39. Washington Street, on the south side, a distance of 25 feet west from the intersection of Eighth Street.
40. West Second Street, on the west side, from West Coolbaugh Street to West Washington Avenue.
41. Miller Avenue, on both sides, a distance of 30 feet north from the intersection with Corning Street.
42. Prospect Street, on the north side, between Second Street and Third Street.
43. Highland Avenue, on the west side, from Summit Street south a distance of 175 feet.
44. Fifth Street, on the east side, from Oak Street south to the first alley south of Oak Street.
45. Second Street, east side, from Hammond Street to Joy Street.
46. Prospect Street, on the south side, from Third Street west a distance of 150 feet.
47. Eastern Avenue, on both sides, from State Highway 34 north to Ratliff Road.
48. Senate Avenue, on both sides, from Eastern Avenue west a distance of 1,575 feet.
49. East Nuckols Street, on the south side, from Eighth Street east to the Red Oak Creek bridge.
50. Prospect Street, on the south side, between Fourth Street and Fifth Street, Monday through Friday.
51. Reed Street, on the north side, between Miller Avenue and Highland Avenue.
52. Skyline Drive, on the north side, between Sixth Street and Eighth Street.

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

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

1. Residential Districts. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle, on any residential streets.
2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. and 7:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the

drive of a service station when actually being serviced, and then in no event for more than 30 minutes.

3. Parks. No such vehicle weighing more than 6,000 pounds shall be parked on a street or public alley in a City park unless:

- A. Such vehicle is parked in said park in order to load or unload personal property; or
- B. Such vehicle is a motor home or travel trailer designed for overnight usage and for which the City park in question is equipped.

68.10 LIMITED PARKING ZONES.

1. It is unlawful to park any vehicle for a continuous period of time longer than indicated, as follows:

- A. Thirty minutes, between 8:00 a.m. and 6:00 p.m., on all days except Sunday, in the first two parking spaces from the south corner of Washington Avenue on the east side of Second Street.
- B. Thirty minutes, between 8:00 a.m. and 5:00 p.m., Monday through Saturday, on both sides of Third Street from the alley south to Washington Avenue.
- C. One hour, between 8:00 a.m. and 6:00 p.m., on all days except Sunday, on Second Street, east side, from Washington Avenue to the first alley north of Washington Avenue.
- D. Ten minutes, between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Fridays, except holidays, in the first three parking spaces north of the intersection of Sixth Street and Reed Street on the west side of Sixth Street.

2. No person shall park a vehicle during the following times in the following places:

- A. Third Street from Hammond Street to Corning Street, during the hours of 3:00 p.m. to 4:00 p.m., Monday through Friday, east side, except school buses.
- B. West one-half of Hammond Street from Third Street to Fourth Street, during the hours of 8:00 a.m. to 9:00 a.m. and 3:00 p.m. to 4:00 p.m., Monday through Friday, north side, except school buses.
- C. North side of West Washington Avenue between Broadway and West Second Street, during the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday.
- D. Between the hours of 3:00 a.m. and 6:00 a.m., in the area bounded by Reed Street on the north, Fourth Street on the east, Coolbaugh Street on the south, and Third Street on the west.
- E. On the north side of Hammond Street, between Third Street and Fourth Street, during the hours of 8:00 a.m. to 6:00 p.m. on Monday, Tuesday, Wednesday, Thursday and Friday while school is in session, except public school buses, which shall be parked parallel to the curb.
- F. West side of Second Street from a point even with the south curb line of High Street, north a distance of 100 feet, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

3. No person shall park a vehicle during the following times in the following places, between the hours of 3:00 a.m. and 6:00 a.m., unless the person displays on the vehicle a permit issued by the City valid for the date and time in question, visible to law enforcement officers from the outside of the vehicle, and no temporary order of the City prohibiting parking in these places has otherwise been issued:

- A. Reed Street from Second Street to Third Street.
- B. Third Street from Reed Street to Hammond Street.
- C. Reed Street from Fourth Street to Fifth Street.
- D. Fourth Street from Reed Street to Hammond Street.
- E. Coolbaugh Street from Second Street to Third Street.
- F. Third Street from Coolbaugh Street to Washington Avenue.
- G. Coolbaugh Street from Fourth Street to Fifth Street.
- H. Fourth Street from Coolbaugh Street to Washington Avenue.

68.11 SNOW AND ICE CONTROL PROGRAM.

1. Snow Emergency Routes. The City Council shall designate snow emergency routes in the City and shall cause signs to be posted designating the routes as snow emergency routes. A snow emergency shall be declared by the Mayor by proclamation, and the Mayor shall direct the Police Chief to inform all available news media in the area to publicize the proclamation and the parking rules thereunder.

2. Formulation of Snow and Ice Control Program. It is the duty of the Street Superintendent and the Police Chief to formulate a snow and ice control program, which program shall be presented to and approved by the City Council by resolution.

3. Snow Emergencies. A snow emergency shall be automatically enacted any time snow accumulation of two inches or more occurs. In such event, no person shall park, abandon or leave unattended any vehicle on any designated snow emergency route, City-owned off-street parking area or alley unless the snow has been removed and the snow has ceased to fall. No person that has a driveway or parking area available to them on private property shall park, abandon, or leave unattended any vehicle on any City street during a snow emergency. Those persons without access to private off-street parking shall see that their vehicle is removed from east-west streets and Circle streets on even days of the month and from north-south streets on odd days of the month, except that parking shall be allowed after cleaning operations have been completed and the snow has ceased to fall.

4. Authority to Impound Vehicles. Members of the Police Department are authorized to remove or have removed a vehicle from a street, alley, highway or City-owned off-street parking area, to the nearest garage or other place of safety, or to a garage designated or maintained by the Police Department or otherwise maintained by the City, when such vehicle is left parked in violation of the ban on parking during a snow emergency, duly proclaimed by the Mayor.

5. Violation and Penalty. A violation of this section shall be a misdemeanor and shall be punishable as provided in this Code of Ordinances, and in addition thereto, the owner or driver, or either of them, of any vehicle impounded for a violation of the ban against parking during a snow emergency shall be required to pay the reasonable cost of towing and storage charges.

6. Construction. This section shall not be construed as suspending parking limitations or restrictions imposed by any other section of this Code of Ordinances.

69.12 FIRE LANES. No person shall stop, stand, or park a vehicle in a fire lane as provided herein.

(Code of Iowa, Sec. 321.236)

1. Fire Lanes Established. The Police Chief may designate fire lanes on any private road or driveway where deemed necessary to assure access to property or premises by authorized emergency vehicles.

2. Signs and Markings. Wherever a fire lane has been designated, the Police Chief shall cause appropriate signs and markings to be placed identifying such fire lanes and the parking prohibition established by this section.

3. Exception. The provisions of this section do not apply to authorized emergency vehicles.

69.13 CONTROLLED ACCESS FACILITIES. Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

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

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

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

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

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

70.06 IMPOUNDING VEHICLES. A peace officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the

nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

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

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

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

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

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

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

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

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

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

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CHAPTER 75

REGULATION OF BICYCLES AND OTHER DEVICES PROPELLED BY HUMAN POWER

75.01 Definitions	75.10 Restricted Riding or Operation of Devices Propelled by Human Power on Sidewalks
75.02 Scope of Regulations	75.11 Restricted Riding or Operation of Devices Propelled by Human Power on Streets
75.03 Traffic Code Applies	75.12 Yielding to Pedestrians
75.04 Double Riding Restricted	75.13 Towing
75.05 Single File	75.14 Equipment Requirements
75.06 Designated Lanes and Pathways	75.15 Penalty
75.07 Speed	
75.08 Carrying Articles	
75.09 Restricted Riding of Bicycles on Sidewalks	

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

1. “Assistive devices” means any item or piece of equipment which is used to increase, maintain, or improve the functional capabilities of individuals with disabilities concerning the manual task of travel from one place to another, not including a medical device attached directly to an individual or a device for which a certificate of title is issued by the State Department of Transportation.
2. “Bikeway” means the same as recreational trail or public pathway as defined herein.
3. “Bicycle” means either of the following:
 - A. A device having at least two wheels and having at least one saddle or seat for the use of a rider and which is propelled by human power.
 - B. A device having at least two wheels and having at least one saddle or seat for the use of a rider and which is equipped both with fully operable pedals and an electric motor of less than 750 watts (one horsepower).
(Code of Iowa, Sec. 321.1[40c])
4. “Business District” means the City square and one block in all directions off the City square, specifically including the area known as Fountain Square Park.
5. “Device propelled by human power” means and includes any device moved by applying human power, including electric personal assistive mobility devices and assistive devices as defined herein, and those devices commonly termed as scooters, roller blades, in-line skates, roller skates, skateboards or any similar devices, but not including bicycles as defined herein.
6. “Electric personal assistive mobility devices” means a self-balancing, non-tandem two-wheeled device powered by an electric propulsion system that averages 750 watts and is designed to transport one person.
7. “Public pathway” or “recreational trail” means a way or place, the use of which is controlled by the City, and is used by persons for pedestrian travel or for recreational pursuits, including walking, cross-country skiing, running, jogging, skateboarding, in-line skating, rollerblading, bicycling, or use of electric personal assistive mobility devices and assistive devices, and includes a bikeway as defined herein.

8. “School premises” means all those areas in the City established and used for school purposes, specifically including areas used for pre-school, primary school, intermediate school, middle school and high school purposes.

9. “Street” means the entire width between property lines of every way or place of whatever nature when any part thereof is open to use of the public as a matter of right for purposes of vehicular traffic, and includes alleyways within the City.

10. “Vehicle” and “vehicular traffic” means and refers to a device in, upon, or by which any person or property is or may be transported or drawn upon a street, not including devices propelled by human power.

75.02 SCOPE OF REGULATIONS. This chapter shall govern operation of bicycles and other devices propelled by human power upon any street, bikeway, recreational trail, alleyway, sidewalk controlled by the City or any other public pathway, subject to those exceptions stated herein.

(Code of Iowa, Sec. 364.1 and Sec. 321.236[10J])

75.03 TRAFFIC CODE APPLIES. Every person operating a bicycle upon a street, alleyway or other area open to use of vehicular traffic, shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under the laws of the State of Iowa declaring rules of the road applicable to vehicles, or by the traffic code of the City applicable to the driver of a vehicle, except those provisions which by their nature can have no application. A person who has dismounted a bicycle shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

75.04 DOUBLE RIDING RESTRICTED. A person riding a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto in the manner the device was intended to be ridden. No bicycle or other device propelled by human power shall be used to carry more persons at one time than the number for which it was designed and equipped.

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

75.05 SINGLE FILE. Persons either riding bicycles or operating devices propelled by human power upon streets shall ride or operate in single file.

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

75.06 DESIGNATED LANES AND PATHWAYS. For improved safety, the City may designate or mark a lane for use by bicycles or devices propelled by human power upon or adjacent to a street, alleyway, or other area open for purposes of vehicular traffic. When so designated or marked, bicycles and devices propelled by human power shall travel within the designated lane, and vehicles using the street, alleyway, or other public area, shall not enter this designated lane when traveling upon or along the street, alleyway or other public area, other than as necessary to park upon, enter or exit the street, alleyway or other public area, unless there is no other lane available for vehicular traffic.

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

75.07 SPEED. No person shall operate a bicycle or device propelled by human power at a speed greater than will allow the person to bring the bicycle or device to a stop within the assured clear distance ahead and that is reasonable and proper under the conditions then existing.

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

75.08 CARRYING ARTICLES. The operator of a bicycle or device propelled by human power equipped with a handlebar or similar device to provide control and stability to the operator, shall not carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handlebar or other such stabilizing device.

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

75.09 RESTRICTED RIDING OF BICYCLES ON SIDEWALKS. No person shall ride a bicycle upon a sidewalk controlled by the City within any of the following areas:

1. Business District.
2. School premises from 7:30 a.m. to 4:30 p.m. on days school is scheduled to be in session.
3. Where signs are erected prohibiting the riding or operation of bicycles upon sidewalks.

75.10 RESTRICTED RIDING OR OPERATION OF DEVICES PROPELLED BY HUMAN POWER ON SIDEWALKS. No person shall ride or operate a device propelled by human power, other than an electric personal assistive mobility device or assistive device, upon a sidewalk controlled by the City within any of the following areas:

1. Business District.
2. School premises from 7:30 a.m. to 4:30 p.m. on days school is scheduled to be in session.
3. Where signs are erected prohibiting the riding or operation of devices propelled by human power upon sidewalks.

75.11 RESTRICTED RIDING OR OPERATION OF DEVICES PROPELLED BY HUMAN POWER ON STREETS. No person shall ride or operate a device propelled by human power upon a street within any of the following areas:

1. Business District.
2. Where signs are erected prohibiting the riding or operation of devices propelled by human power.

75.12 YIELDING TO PEDESTRIANS. A person riding a bicycle or riding or operating a device propelled by human power upon a sidewalk controlled by the City, street, recreational trail, bikeway or public pathway, shall yield the right-of-way to any pedestrian traveling upon or along such sidewalk, street, recreational trail, bikeway or public pathway, and shall give an audible signal before overtaking and passing such person.

75.13 TOWING. A person riding a bicycle or riding or operating a device propelled by human power shall not be towed by any other vehicle or device upon the streets or sidewalks controlled by the City, nor shall a person either riding a bicycle or riding or operating a device propelled by human power tow any vehicle, bicycle or other device upon the streets of the City.

75.14 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 and operate both a lamp on the front which shall emit a white light visible

from a distance of at least 300 feet to the front and a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that a red reflector may be used instead of a rear lamp.

(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake which shall enable the operator to make the braked wheel skid on dry, level, clean pavement.

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

75.15 PENALTY. Any person found guilty of a violation of any of the provisions of this chapter shall upon conviction be subject to the standard penalty provisions of this Code. At the discretion of the City Attorney, any violation of the provisions of this chapter may be prosecuted as a municipal infraction under this Code of Ordinances in addition to the criminal prosecution.

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CHAPTER 76

BICYCLE LICENSING

76.01 License Required
76.02 License Plates or Decals

76.03 Maintenance of License Records

76.01 LICENSE REQUIRED. No person who resides within the City shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles unless such bicycle has been licensed and a license plate or decal is attached thereto as provided herein.

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

1. License Application. Application for a bicycle license and license plate or decal shall be made upon a form provided by the City. A license fee in an amount established by resolution of the Council shall be paid to the City before each license is granted.

2. Issuance of License. The City, upon receiving proper application, is authorized to issue a bicycle license, shall be effective immediately.

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

3. Transfer of License. Upon the sale or other transfer of ownership of a licensed bicycle, the license shall be transferred to the new owner and the records of the City changed to reflect the new ownership upon request.

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

76.02 LICENSE PLATES OR DECALS. License plates or decals are required as follows:

1. Issued. The City, upon issuing a bicycle license, shall also issue a license plate or decal bearing the license number assigned to the bicycle and the name of the City.

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

2. Attached to Bicycle. The owner of the bicycle shall cause such license plate or decal to be firmly attached to the bicycle for which issued in such position as to be plainly seen from the rear.

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

3. Removal. No person shall remove a license plate or decal from a bicycle during the period for which issued unless said bicycle is dismantled and no longer operated upon any street in the City.

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

4. Lost License. In the event a license plate or decal is lost, destroyed, or stolen, the owner shall report such to the City immediately. A new license shall be issued upon payment of a fee in an amount established by resolution of the Council.

76.03 MAINTENANCE OF LICENSE RECORDS. The City shall keep a record of the number of each license, the date issued, the name and address of the person to whom issued, and the number on the frame of the bicycle for which issued, and a record of all bicycle license fees collected.

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

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions	80.06 Disposal of Abandoned Vehicles
80.02 Authority to Take Possession of Abandoned Vehicles	80.07 Disposal of Totally Inoperable Vehicles
80.03 Notice by Mail	80.08 Proceeds from Sales
80.04 Notification in Newspaper	80.09 Duties of Demolisher
80.05 Fees for Impoundment	

80.01 DEFINITIONS. For use in this chapter, the following terms are defined:
(*Code of Iowa, Sec. 321.89[1] & Sec. 321.90*)

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

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity,

equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 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 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 10-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 10-day reclaiming period.

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

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

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay \$10.00 if claimed within five days of impounding, plus \$3.00 for each additional day within the reclaiming period plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.
(Code of Iowa, Sec. 321.89[3a])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.
(Code of Iowa, Sec. 321.89[4])

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

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

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 90 days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.
(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.
(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions

81.02 Obstructing Streets

81.03 Crossing Maintenance

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

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

(Code of Iowa, Sec. 321.1)

81.02 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of 10 minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.03 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

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CHAPTER 82

REGULATION OF AIRCRAFT

82.01 Definitions

82.02 Reckless or Careless Operation

82.03 Safe Operation Areas

82.04 Penalty

82.01 DEFINITIONS. The following terms shall have the following meanings for use in this chapter:

1. “Aircraft” means a vehicle which carries one or more persons and which navigates through the air. For purposes of this chapter, this term includes, but is not necessarily limited to, an airplane, helicopter, glider, blimp, dirigible, and hot air balloon.
2. “Helicopter” or “rotorcraft” means an aircraft that derives its lift from blades that rotate around an approximately vertical central axis. These terms include tiltrotor aircraft.
3. “Operator” means any person who drives or controls an aircraft.
4. “Operate” means to be in actual physical control of an aircraft which is moving or whose engine is running.

82.02 RECKLESS OR CARELESS OPERATION. It is unlawful for any operator to intentionally operate an aircraft within the City or in the airspace above the City in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property. Operation of an aircraft in any of the following ways shall be deemed a violation of this section:

1. Any maneuver deemed reckless or careless under regulations of the Federal Aviation Administration (FAA).
2. Any maneuver prosecuted as a reckless or careless operation by the Federal Aviation Administration (FAA).
3. Taking off or landing an aircraft within the City in any area other than an area designated as a safe operation area in this chapter.

82.03 SAFE OPERATION AREAS. It is not unlawful under this chapter for aircraft to take off from or land within areas designated as safe operation areas within the City. For this purpose, the following are designated as safe operation areas:

1. The municipal airport.
2. Designated landing pad or area at or upon the campus of a hospital or other public building.
3. Any place where an air ambulance must land, when responding to an emergency.
4. Any place temporarily designated as a safe operation area in the discretion of the City Administrator or on order of the City Council.

82.04 PENALTY. Any person found in violation of the provisions of this chapter may be punished under the standard penalty provision of Section 1.14 of this Code of Ordinances, and in the discretion of the City Attorney may also be prosecuted under the municipal infraction provisions of Chapter 4 of this Code of Ordinances.

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe and Stop Box
90.02 Superintendent's Duties	90.13 Failure to Maintain
90.03 Mandatory Connection to Public Water System and Use of Private Wells	90.14 Stop Box
90.04 Abandoned Connections	90.15 Interior Stop
90.05 Permit	90.16 Inspection and Approval
90.06 Connection Charge	90.17 Completion by the City
90.07 Compliance with Plumbing Code	90.18 Shutting Off Water Supply
90.08 Plumber Required	90.19 Operation of Curb Valve and Hydrants
90.09 Excavations	90.20 Cross Connection; Backflow Prevention
90.10 Tapping Mains	90.21 Water Service Outside City Limits
90.11 Installation of Water Service Pipe	90.22 City Water Utility Improvement Districts

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

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

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

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

90.03 MANDATORY CONNECTION TO PUBLIC WATER SYSTEM AND USE OF PRIVATE WELLS.

1. Connection to the Public Water System. Except as otherwise provided herein, all residences and business establishments within the City using water for human habitation or occupancy shall connect to the public water system. Water is used for

human habitation or occupancy if it is used in the plumbing system of a residence or a business occupied by humans.

2. Exceptions. A residence or business establishment within the City using water for human habitation or occupancy may obtain its water from a private well as follows:

A. Existing Wells. A well in existence on the effective date of the ordinance codified by this section may continue to obtain water from a private well as follows:

(1) For irrigation of grass and landscape plantings upon the property for so long as desired,

(2) For human habitation or occupancy until the date established at Subsection 6 herein.

B. New Wells. A well may be drilled only upon property which does not have access to the City water system within 200 feet of the property, and use of the well for human habitation or occupancy may continue until the date established at Subsection 6 herein.

3. Permit. No person shall install or maintain a private well after the date of enactment of the ordinance codified by this section, or own or use a private well within the City after such date, unless the person has registered such well and obtained a permit for same from the City. The registration and permit process shall be completed on forms provided by the City.

4. Contaminated Area. Notwithstanding anything to the contrary which permits a private well to remain in existence within the City, neither shall a new private well be drilled nor shall repairs to an existing private well be made after the date of enactment of the ordinance codified by this section if the well is located within a contaminated area.

5. Variance. The City Council, upon recommendation of the Superintendent of the City water system or the Superintendent's designated assistant or agent, may consider a variance or exception to this section on application to the City.

6. Termination of Use of Existing Wells. The use of any private well not permitted to continue under this section shall cease and the well shall be plugged in accordance with rules of the Iowa Department of Natural Resources on July 1, 2005, or 90 days after the date the public water system is extended to within 200 feet of the affected property, whichever is later.

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

A. "Private well" means any groundwater well, except a monitoring well used as a part of a remediation system, used both for drinking water and for non-drinking water purposes, including a groundwater well which is not properly plugged in accordance with rules of the Iowa Department of Natural Resources.

B. "Contaminated area" means a point within an area that has groundwater contamination or that in accordance with design models of the Iowa Department of Natural Resources may become contaminated due to percolation of groundwater contamination in the vicinity of the well site.

C. "Human habitation or occupancy" means use of water in the plumbing system of a residence or business used or occupied by humans.

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

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

90.06 CONNECTION CHARGE. A standard tapping fee shall be set by the City Council from time to time and shall apply until changed by ordinance or resolution. In the event a specific work of improvement requires a fee different from the standard tapping fee, the fee applicable to such specific work of improvement shall be as set by separate ordinance or resolution.

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

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

90.09 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

90.10 TAPPING MAINS. All taps into water mains shall be made by the Superintendent.

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

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

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 STOP BOX. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

90.15 INTERIOR STOP. 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 and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for 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. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

90.20 CROSS CONNECTION; BACKFLOW PREVENTION. When the Superintendent concludes that a possible cross connection exists in a private residence, business or industry, or that a backflow condition could result, that customer will take action deemed appropriate or install devices approved by the Superintendent to correct this problem. All costs will be borne by the owner, and any violation of this provision will result in immediate termination of City services until the problem is corrected.

90.21 WATER SERVICE OUTSIDE CITY LIMITS. The owners of property outside the corporate limits of the City so situated that it may be served by the City water system may connect to the public water system only upon submittal of a fully executed voluntary annexation petition to the City. The City shall then have the right to annex said property at that time or at

any later time without contest by the owner or owners of said property, and the owner or owners shall at that time execute and deliver to the City a document suitable for recording in the real estate records evidencing their petition for voluntary annexation of the property to the City. Agreement to voluntarily annex said property shall be binding upon the owner or owners, their successors-in-interest, heirs or assigns.

90.22 CITY WATER UTILITY IMPROVEMENT DISTRICTS. The City establishes the following City water utility improvement districts to provide for connection of private property to the City water utility system. Each property owner whose property will be served by connecting to the City water utility shall pay a connection fee to the City set by resolution, the amount of which will be the City's reasonable cost of extension of the water utility to the properties, and which may include interest charges established by the City from the date of construction to the date of payment, in the event the City allows the connection fee to be paid in installments. In addition to satisfaction of the requirements of any other ordinance applicable to addition of the property or properties involved to the City water utility system, in the event a property to be connected is located in an area outside the corporate limits of the City, a petition by at least one property owner affected by the proposed public improvement requesting addition of the owner's property and voluntarily agreeing to pay the connection fee to the City shall first be presented to the City Council before the City Council authorizes any contract for the public improvement. The districts established are as follows:

1. Water Improvement District I. Property to be served by a public water main to be constructed to serve an area comprised of lots and tracts abutting G Avenue between 200th Street on the south and U.S. Highway 34 on the north.
2. Water Improvement District II. Property to be served by a public water main to be constructed to serve an area comprised of Lots 1 through 25, inclusive, in Woodland Hills Subdivision, Phase I.
3. Water Utility Improvement District III. Property to be served by a public water main to be constructed to serve an area comprised of lots and tracts abutting on J Avenue between Fairview Drive on the north and Bluegrass Road on the south.

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CHAPTER 91

WATER METERS

91.01 Purpose	91.06 Meter Costs
91.02 Water Use Metered	91.07 Meter Repairs
91.03 Fire Sprinkler Systems; Exception	91.08 Right of Entry
91.04 Location of Meters	91.09 Meter Testing
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 Superintendent. No other open, unmetered connection shall be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

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

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

91.06 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

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

91.09 METER TESTING. The Superintendent shall have the power to examine and test any meter and cause defective meters to be repaired. If a meter fails to register properly, the customer will be charged with the average monthly consumption as shown by the meter for the 12 months previous, or fraction thereof, if the meter has not been used that long. The customer shall be assessed a \$20.00 meter test fee.

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CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Customer Deposits
92.10 Temporary Vacancy

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

1. Basic charge shall be \$7.45, to be charged on all bills.
2. From 0 to 4,000 cubic feet used per month, @ \$2.55 per 100 cubic feet.
3. Over 4,000 cubic feet used per month, @ \$1.95 per 100 cubic feet.

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. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts. Bills shall be deemed issued as of the date indicated on the bills.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk within 20 days of the date of issue.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of 10 percent of the amount due shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected 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 or disconnection.

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. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

3. Hearing. If a hearing is requested in writing and delivered to City Hall within 10 days of receipt of the shut-off notice, the City Administrator shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. If the City Administrator finds that discontinuance or disconnection is justified, then such discontinuance or disconnection shall be made, unless payment has been received.

4. Fees. A fee of \$50.00, plus any costs, all of which shall be payable in cash, cashier's check or money order only, 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 property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial 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 or commercial 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 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service

charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

3. **Written Notice.** The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.

4. **Mobile Homes, Modular Homes, and Manufactured Homes.** A lien for nonpayment of utility services described in Subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

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 30 days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer a \$75.00 deposit intended to guarantee the payment of bills for service.

(Code of Iowa, Sec. 384.84)

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be no fee collected for shutting the water off at the curb valve and no fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no minimum service charge; however, the property owner must remove the water meter and deposit the meter at City Hall for the period of time when the property is expected to be vacant. In the event that the City is hired to remove or reinstall the meter for such temporary vacancies, the property owner will be billed \$15.00 for such service.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required

95.06 Service Outside the City
95.07 Sewer Improvement Districts
95.08 Right of Entry
95.09 Use of Easements
95.10 Special Penalties

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

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

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 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 feet (one and one-half meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and 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 that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 90 days after date of official notice from the City to do so provided that said public sewer is located within 300 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 SEWER IMPROVEMENT DISTRICTS. The City establishes the following City sewer improvement districts to provide for connection of private property to City sewer systems. In the event the property to be connected is located in an area outside the corporate limits of the City, a petition by all property owners affected by the proposed public improvement waiving

notice of assessment shall first be presented to the City Council before the City Council authorizes any contract for the public improvement, in addition to satisfaction of the requirements of any other ordinance applicable to addition of the area involved to the City system. Each property owner whose property will be served by connecting to the City sewer shall pay a connection fee to the City, the amount of which will be the City's reasonable cost of extension of the utility to the properties, and which may include interest charges established by the City from the date of construction to the date of payment, in the event the City allows the connection fee to be paid in installments. The districts established are as follows:

1. Sewer Improvement District I. Property to be served by a public main sewer to be constructed to serve an area bounded by Valley Street on the north, Joy Street on the south, Seventh Street on the west and Eighth Street on the east.
2. Sewer Improvement District II. Property to be served by a public main sewer to be constructed to serve Lots 1 through 25, inclusive, in Woodland Hills Subdivision, Phase I.

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

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

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

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

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations

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

96.02 PERMIT FEE. The person who makes the application shall pay a fee in the amount of \$3.00 per front foot of the lot, not to exceed \$600.00, to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 of Superintendent
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 that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to 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 milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an

average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees to 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 inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

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

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

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

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

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

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CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Sewer Service Revenues
99.03 Sewer Service Charges
99.04 Special Rates

99.05 Private Water Systems
99.06 Payment of Bills
99.07 Lien for Nonpayment
99.08 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every lot, parcel of real estate, building or premises situated within the City that is connected with or uses the sanitary utilities of the City or that in any way uses or discharges sanitary sewage, industrial waste, water or other liquid, either directly or indirectly, into the sewage system of the City, shall pay a service charge to the City as herein after provided.

(Code of Iowa, Sec. 384.84)

99.02 SEWER SERVICE REVENUES. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works. User charges collected shall be deposited in a separate nonlapsing fund known as the Sewer Fund, which will be divided into two primary accounts, as follows:

1. Operation and Maintenance Account. An account designated for the specific purpose of defraying operation and maintenance costs (excluding replacement) of the treatment works.
2. Replacement Account. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works. Deposits in the Replacement Account shall be made annually from the operation, maintenance and replacement revenue in the amount of \$15,000.00 annually.

Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Moneys which have been transferred from other sources to meet temporary shortages in the Sewer Fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rate shall be adjusted such that the transferred moneys will be returned to their respective accounts within the fiscal year following the fiscal year in which the moneys were borrowed.

99.03 SEWER SERVICE CHARGES. Each user shall pay for sewer services provided by the City based on the amount and rate of water consumed.

1. For residential customers, monthly user charges will be based on average monthly water usage during the months of January, February, and March. This figure will be calculated annually and the average usage that results then establishes the residential customer's monthly bill for the following twelve-month period. If a residential customer has not established a January, February, and March average, the monthly user charge shall be the median charge of all other residential customers.
2. For industrial and commercial customers, user charges shall be based on actual water used during the current month. If a commercial or industrial customer has a

consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that customer may be based on a wastewater meter or separate water meter installed and maintained at the customer's expense, and in a manner acceptable to the City.

3. Rates for service are as follows:

A. Basic Sewer Service Charge. Each customer shall pay basic sewer service charges in the amount of \$8.60 per month. In no case shall minimum service charge be less than \$8.60 per month, which is necessary to retire the indebtedness, operating and maintenance and reserve necessary for maintaining the sanitary sewer facility.

B. Usage Charge. In addition to the basic sewer service charge, each customer shall pay a sewer use charge in the amount of \$3.12 per 100 cubic feet of water consumed, as calculated as provided in Section 99.03(1) above.

C. Surcharge. For those customers who contribute wastewater, the strength of which is greater than normal domestic sewage, a surcharge in addition to the normal user charge will be collected, as follows:

\$0.50 per pound B.O.D.

\$0.45 per pound SS

D. Other Charges. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City's treatment works or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works shall pay for such increased costs. The charge to each such user shall be as determined by the responsible plant operating personnel and approved by the Council.

E. Annual Review. The City shall review the service charge system annually and revise rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes. The City will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance including replacement of the treatment works.

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

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

(Code of Iowa, Sec. 384.84)

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

99.07 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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

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CHAPTER 100

STORM WATER DRAINAGE SYSTEM DISTRICT UTILITY

100.01 Purpose

100.02 Definitions

100.03 Storm Water Drainage System District Established

100.04 Rates

100.05 Payment of Bills

100.06 Lien for Nonpayment

100.01 PURPOSE. The purpose of this chapter is to establish a Storm Water Drainage System District Utility and provide a means of funding the construction, operation, and maintenance of storm water management facilities, including (but not limited to) detention and retention basins, storm water sewers, inlets, ditches and drains, and all aspects of flood mitigation and prevention, including construction, maintenance, and accreditation of the Nishna Botna River levy and any appurtenances thereto. The Council finds that the construction, operation, and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge, directly or indirectly, into the storm and surface water drainage system.

100.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.
2. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of the storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.
3. "Unit" means each household, each place of commerce, education, government or religion, or each industry, whether in a single building on a single lot or in a multiple-use building on a single lot or multiple lot complex. In the case of multi-family residential facilities, each individual dwelling unit shall be deemed a separate unit as herein defined. Each unit shall be charged individually, but where the complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex.
4. "User" means any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management.

The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

100.03 STORM WATER DRAINAGE SYSTEM DISTRICT ESTABLISHED.

Pursuant to the authority of Section 384.84[6] of the *Code of Iowa*, the entire City is hereby declared a Storm Water Drainage System District for the purpose of establishing, imposing, adjusting, and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water Drainage System District.

(Code of Iowa, Sec. 384.84[6])

100.04 RATES. Each user shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial, and industrial user within the City. The service charges shall be billed as part of a combined service account which means a customer service account for the provision of two or more utility services. The Council may adopt rules, charges, rates and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension, and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of \$2.50 on every residential unit; and \$7.50 on every commercial, industrial, educational, governmental, and religious unit. Agricultural use of land is exempt from the requirements of this chapter.

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

(Code of Iowa 384.84(3))

100.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such 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.

[The next page is 521]

CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.08 Toxic and Hazardous Waste
105.02 Definitions	105.09 Waste Storage Containers
105.03 Sanitary Disposal Required	105.10 Prohibited Practices
105.04 Health and Fire Hazard	105.11 Establishment of Assessments for Voluntary Recycling Program
105.05 Open Burning Restricted	105.12 Residential Solid Waste – Unit Based Pricing
105.06 Separation of Yard Waste Required	
105.07 Littering Prohibited	

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

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

1. “Clear wood” means wood free of any chemicals or additives.
2. “Collector” means any person authorized to gather solid waste from public and private places.
3. “Discard” means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[1])
4. “Dwelling unit” means any room or group of rooms located within a structure and forming a single habitable unit with facilities that are used or are intended to be used for living, sleeping, cooking, and eating.
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 not exceeding 10 pounds in weight or 15 cubic feet in volume. Litter includes but is not limited to empty beverage containers, cigarette butts, food waste packaging, other food or candy wrappers, handbills, empty cartons, or boxes.
(Code of Iowa, Sec. 455B.361[2])
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 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) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

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 Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

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

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

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

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

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

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

(Code of Iowa, Ch. 657)

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

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

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

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

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

(IAC, 567-23.2[3b])

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

(IAC, 567-23.2[3c])

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

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided the fire meets the following conditions:

A. The fire must have a total fuel area of two feet or less in diameter and two feet or less in flame height.

B. Fuel must be limited to clear wood or charcoal.

C. The fire must be located at least 25 feet away from a structure or combustible material, unless contained within an enclosed barbeque grill or commercially manufactured patio burner, which has legs elevating the unit off the ground and has the burning area completely enclosed with screen.

D. The fire must be fully extinguished by 12:00 midnight.

E. No fire shall burn between the hours of 12:00 midnight and 8:00 a.m.

F. A responsible person must be in attendance and an adequate source of fire extinguishment must be readily available at all times.

G. A property owner or responsible person in attendance must extinguish any fire deemed by the City Police or Fire Department to be in violation of this section upon demand and under the supervision of either such department or its or their officer or officers. If the property owner or responsible person in attendance fails or refuses to extinguish the fire, the City Police or Fire Department shall do so.

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

(IAC, 567-23.2[3f])

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

(IAC, 567-23.2[3g])

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

(IAC, 567-23.2[3h])

9. 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])

10. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or hauled to the City's yard waste disposal site. 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 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, “toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leak-proof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.
 - B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.
4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

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

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

105.11 ESTABLISHMENT OF ASSESSMENTS FOR VOLUNTARY RECYCLING PROGRAM. The Council hereby establishes an assessment necessary to fund the voluntary recycling program in the City. Said assessment shall be included on the City utility bill. The amount of the assessment is \$1.45 per month.

105.12 RESIDENTIAL SOLID WASTE – UNIT BASED PRICING. Each dwelling unit shall be allowed no more than three 33-gallon trash containers (or the equivalent thereof) per week, totaling not more than 150 pounds, for the base fee charged by the solid waste collector. The solid waste collector shall set the fee for additional containers and shall enforce said fee.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Rights and Privileges
110.03 Pipes and Mains
110.04 Construction and Maintenance
110.05 Excavations

110.06 Indemnification
110.07 Applicable Regulations
110.08 Quality and Quantity
110.09 Police Regulations

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell natural gas to the City and its inhabitants. This franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified by this chapter.[†]

110.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* or as subsequently amended or changed.

110.03 PIPES AND MAINS. The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing or extending gas pipes, mains, conduits and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s cost of relocation, the City will select the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

[†] **EDITOR’S NOTE:** Ordinance No. 386 adopting a gas franchise for the City was passed and adopted on May 26, 1998.

110.06 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

110.07 APPLICABLE REGULATIONS. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.08 QUALITY AND QUANTITY. During the term of this franchise the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

110.09 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Rights and Privileges
111.03 Poles and Wires
111.04 Construction and Maintenance
111.05 Excavations

111.06 Indemnification
111.07 Applicable Regulations
111.08 Quality and Quantity
111.09 Police Regulations

111.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. This franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified by this chapter.[†]

111.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* or as subsequently amended or changed.

111.03 POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The Company is authorized and empowered to cut and trim at its expense, any trees extending into any street, alley or public ground so as to prevent limbs or branches from interfering with the wires and facilities of the Company.

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements which alternative route would not cause the relocation of the Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s, the City shall select the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

[†] **EDITOR’S NOTE:** Ordinance No. 385 adopting an electric franchise for the City was passed and adopted on May 26, 1998.

111.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

111.06 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

111.07 APPLICABLE REGULATIONS. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

111.08 QUALITY AND QUANTITY. During the term of this franchise the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

111.09 POLICE REGULATIONS. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

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CHAPTER 115

CEMETERY

115.01 Definition
115.02 Trusteeship
115.03 Cemetery Superintendent Appointed
115.04 Duties of Superintendent
115.05 Records

115.06 Sale of Interment Rights
115.07 Perpetual Care
115.08 Rules and Regulations
115.09 Trespassing or Vandalism in Cemetery

115.01 DEFINITION. The term “cemetery” means the Red Oak Municipal Cemeteries, a continuous plot of ground containing the seven cemeteries owned by the City, which are municipal cemeteries under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter. The names of the seven cemeteries are as follows:

Red Oak Junction Cemetery
Northeast Section of Red Oak Junction Cemetery
Evergreen Cemetery
Section A Evergreen Cemetery
Section B Evergreen Cemetery
Calvary Cemetery
Evergreen Memorial Gardens Cemetery

An engineer’s plat of the contiguous plot of ground containing the seven cemeteries, and showing the dimensions of each cemetery, is on file in the City Hall.

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

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

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

115.03 CEMETERY SUPERINTENDENT APPOINTED. The Council shall appoint a Cemetery Superintendent who shall operate the cemetery in accordance with applicable rules and regulations and under the direction of the Council.

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

115.04 DUTIES OF SUPERINTENDENT. The duties of the Cemetery Superintendent are as follows:

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

1. Supervise Openings. Supervise the opening of all graves and be present at every interment in the cemetery.
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a monthly report of the cemetery operation to the Council.
3. Aid and assist the Park Board in its care and maintenance of City parks.

115.05 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.06 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

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

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

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

115.08 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for

interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

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

115.09 TRESPASSING OR VANDALISM IN CEMETERY. Any person who trespasses upon any cemetery under the jurisdiction of the City by destroying, injuring or defacing any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to the cemetery is guilty of a misdemeanor and liable for any and all damage. The City shall not be responsible for the care of any monument, marker or grave decoration or for any loss due to an act of vandalism or theft.

(Code of Iowa, Sec. 716.1)

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a liquor control license, a retail wine permit, or a retail beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee, and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person 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 an intoxicated person, or one simulating intoxication, any alcoholic beverage.

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

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a liquor control license or retail wine or beer permit granted the privilege of selling alcoholic liquor, wine, or beer on Sunday may sell or dispense alcoholic liquor, wine, or beer between the hours of 8:00 a.m. on Sunday

and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a Class “B” beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year’s Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year’s Day.

(Code of Iowa, Sec. 123.49[2b] & 123.150)

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

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

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold.

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

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee’s place of business.

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

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

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

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

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

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division.

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

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

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

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

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

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

12. Permit or allow any person under 21 years of age to remain upon licensed premises unless over 50 percent of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a Class “C” beer permit only.

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

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

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

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

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

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

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

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

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

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.10 Time Restriction
122.02 Definitions	122.11 Revocation of License
122.03 License Required	122.12 Hearing
122.04 Application for License	122.13 Record and Determination
122.05 License Fees	122.14 Appeal
122.06 Bond Required	122.15 Effect of Revocation
122.07 License Issued	122.16 Rebates
122.08 Display of License	122.17 License Exemptions
122.09 License Not Transferable	122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of \$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. For one day \$ 50.00
2. For one week \$ 150.00
3. For up to six months \$ 250.00
4. For one year or major part thereof \$ 500.00

Any licensee whose license is surrendered or revoked prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 5:00 p.m. There shall be no solicitation on Sundays or legal holidays.

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

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the local School 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.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit 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 122.14 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than 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 City Administrator. 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 City Administrator a penal bond in the minimum sum of \$5,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury – \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage – \$50,000.00 per accident.

123.06 PERMIT FEE. A permit fee of \$10.00 shall be payable at the time of filing the application with the City Administrator. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the City Administrator shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 12 hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09, the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one inch in width for each 1,000 pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 125

ADULT ENTERTAINMENT FACILITIES

125.01 Adult Entertainment Facility	125.11 Openings Covered
125.02 Definitions	125.12 Persons Under Legal Age Prohibited
125.03 License Required	125.13 Application Required
125.04 Prohibited Actions	125.14 Transfer Prohibited
125.05 Display by Employee	125.15 Fees
125.06 No Consideration Allowed	125.16 Denial, Suspension or Revocation of License
125.07 No Touching Allowed	125.17 Cause and Duration of Suspension
125.08 Defense to Prosecution	125.18 Cause and Duration of Revocation
125.09 Time When Established	125.19 Expiration of License
125.10 Determination of Distance	125.20 Penalty for Violation

125.01 ADULT ENTERTAINMENT FACILITY. It shall be unlawful to establish an adult entertainment facility within 1,000 feet from a business, school, church, public park, public playground, public plaza, day nursery, day care center, nursery school, regularly scheduled school bus stop or any dwelling within the City.

125.02 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. “Adult entertainment facility” means and includes any place offering persons adult amusement or adult entertainment, or which is any of the following facilities:

- A. Adult bookstore
- B. Adult hotel or adult motel
- C. Adult motion picture arcade
- D. Adult motion picture theater
- E. Adult photo studio
- F. Massage parlor
- G. Sexual encounter center
- H. Adult novelty store
- I. Adult video store
- J. Adult cabaret

2. “Adult amusement” or “adult entertainment” means an amusement or entertainment which is distinguished or characterized by a predominant usage of, display of or emphasis upon acts or material depicting, describing or relating to sex acts or specified anatomical areas, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators, or like amusement or entertainment by whatever name advertised.

3. “Adult bookstore” means an establishment having as a predominant portion of its stock in trade books, film, magazines and other periodicals or goods and items held for sale which are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.

4. “Adult hotel” or “adult motel” means a structure with accommodations used for the temporary occupancy of one or more persons in which material is presented which is distinguished or characterized by a predominant emphasis on depicting or describing sex acts or specified anatomical areas for observation by the persons therein.
5. “Adult motion picture arcade” means any place to which people are permitted or invited in which coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
6. “Adult video store” means a structure used predominately for offering or presenting to persons for purchase or rental and use off-site or on-site, material distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas.
7. “Adult motion picture theater” means an establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions presenting material distinguished or characterized by an emphasis on matter depicting or describing sex acts or specified anatomical areas are displayed.
8. “Adult photo studio” means an establishment which provides photographic equipment and/or models for the purpose of photographing sex acts or specified anatomical areas as a predominant part of its operation.
9. “Massage parlor” means any place where manipulated massage or manipulated exercise is practiced upon the human body with an emphasis on sex acts or specified anatomical areas for any kind of consideration by any person or persons not a duly-licensed physician, nurse operating under a physician’s direction, physical therapist, registered speech pathologist and physical or occupational therapist treating only patients recommended by a licensed physician and operating only under such physician’s direction, whether with or without the use of mechanical, therapeutic or bathing devices. This term shall not include a hospital, medical clinic, nursing home, beauty salon or beauty parlor or barber shop having a license issued by the State of Iowa, and shall further not include therapeutic massage which by the surrounding circumstances at the time and place does not bring the act within the above prohibited conduct.
10. “Sexual encounter center” means any establishment, agency, person or persons, who, for any kind of consideration or gratuity, provides a place where three or more persons may congregate, assemble or associate for the primary purpose of engaging in sex acts or exposing or using specified anatomical areas.
11. “Adult cabaret” means a nightclub, bar, juice bar, restaurant, bottle club or similar establishment, whether or not alcoholic beverages are served, which displays to or for persons coming therein sex acts or specified anatomical areas.
12. “Sex act” means any sexual contact, actual or simulated, either natural or deviate, either by one person alone or between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of a person and the genitalia of the same or another person, or by use of artificial sexual organs or substitute thereof in contact with the genitalia or anus.

13. “Specified anatomical areas” includes the following: human genitals, pubic region, buttocks and female breast below a point immediately above the top of the areola.

14. “Dwelling” means one family, two family, or multiple family residences, including nursing homes, care centers, and assisted living centers and group homes

125.03 LICENSE REQUIRED. It is unlawful for any person to operate an adult entertainment facility in the City of Red Oak without a valid license.

125.04 PROHIBITED ACTIONS. It is unlawful for any person to engage in any sex act in an adult entertainment facility, and it shall be unlawful for any licensee to allow any sex act in any adult entertainment facility. This section will not apply to an adult hotel or adult motel, unless the person or licensee performed or allowed the sex act to occur either: (i) in exchange for money or other consideration; or (ii) within public view.

125.05 DISPLAY BY EMPLOYEE. It is unlawful for a person to display any specified anatomical areas within an adult entertainment facility and it is unlawful for any licensee to allow display of any specified anatomical areas within an adult entertainment facility, unless such person is an employee of the facility who shall be at least six feet from any customer of the facility and on a raised stage at least two feet from the floor. Provided, this shall not be construed to permit display of any specified anatomical area prohibited by Section 728.5, *Code of Iowa*. Provided further, this section will not apply to an adult hotel or adult motel, unless the person or licensee displayed or allowed display of the specified anatomical area to occur either: (i) in exchange for money or other consideration; or (ii) within public view.

125.06 NO CONSIDERATION ALLOWED. It shall be unlawful for an employee of an adult entertainment facility while displaying any specified anatomical areas to receive any money or other consideration from any customer, or for any customer to pay, give or otherwise transfer money or consideration to or for any employee of the adult entertainment facility while the employee displays any specified anatomical areas.

125.07 NO TOUCHING ALLOWED. It shall be unlawful for an employee of an adult entertainment facility while displaying any specified anatomical areas to knowingly touch a customer of the adult entertainment facility, or to knowingly touch the clothing of such customer. This section will not apply to an adult hotel or adult motel, unless the person or licensee performed or allowed the touching to occur either: (i) in exchange for money or other consideration; or (ii) within public view.

125.08 DEFENSE TO PROSECUTION. It is a defense to prosecution for any violation of this chapter that a person displaying specified anatomical areas did so in a modeling class operated by a college, junior college or university supported in whole or in part by taxation of the public, or to which credits are transferable to a college, junior college or university supported in whole or in part by such taxation, and where, in order to participate in a class, a person must enroll at least three days in advance of the class.

125.09 TIME WHEN ESTABLISHED. An adult entertainment facility shall be considered established when the facility is either open as a new facility, relocated as an existing facility or converted from an existing location to any of the uses described as an adult entertainment facility.

125.10 DETERMINATION OF DISTANCE. Measurement of the 1,000 foot distance restriction shall be made on a direct line from the closest point on the property line of such adult entertainment facility to a similar point on the closest property line of the other business, school, church, public park, public playground, public plaza, day nursery, day care center, nursery school, regularly scheduled school bus stop or dwelling.

125.11 OPENINGS COVERED. All structures and establishments used for adult entertainment shall have their openings, entries, and windows constructed, located, covered or screened in such a manner as to prevent a view into the interior of such building from any pedestrian sidewalk, walkway, street or other area open to the public. Advertisements, displays or other promotional materials shall not be shown or exhibited in such a manner as to be visible to the public from the pedestrian sidewalks, walkways, streets or other areas open to the public.

125.12 PERSONS UNDER LEGAL AGE PROHIBITED. No person under legal age under the laws of the State of Iowa shall be permitted to enter or remain in any adult entertainment facility.

125.13 APPLICATION REQUIRED. An applicant for an adult entertainment facility license shall file in person with the City Clerk a completed application form provided by the Clerk which shall bear the signature of the applicant and shall be considered complete when it contains all of the following information:

1. The applicant's full name and all other names or aliases used in the preceding five years.
2. Current residence and business addresses, or other mailing address of the applicant.
3. Documentary proof of age in the form of a birth certificate copy and a picture identification document issued by a governmental agency.
4. Planned business name, location, legal description of real estate, mailing address and telephone number of the adult entertainment facility.
5. The name and address of the registered agent or other person authorized to receive service of process on behalf of the applicant.
6. A statement of whether the applicant has either pleaded guilty to or been found guilty of any violation of *Code of Iowa* Chapters 728, 709, 709C, 711, and 725, and if so, the specified criminal activity involved, including the date, place, and disposition of each such guilty plea, finding of guilt, deferred or suspended sentence, deferred judgment, or other disposition. This information shall be supplemented in writing to the City Clerk within 10 days of a change of circumstances that would render the information originally submitted false or incomplete.

125.14 TRANSFER PROHIBITED. It shall be unlawful for the holder of a license for operation of an adult entertainment facility to transfer such license or a controlling interest in the adult entertainment facility, whether by sale, exchange, or otherwise, or to lease or sublease any part or all of the adult entertainment facility to any person, firm or entity not holding a valid license issued by the City for operation of such facility.

125.15 FEES. The City shall charge and collect a fee of \$500.00 for issuance of a license to an applicant for an adult entertainment facility. This fee shall apply to new as well as renewed licenses.

125.16 DENIAL, SUSPENSION OR REVOCATION OF LICENSE. The City, acting by and through the City Administrator or acting upon request and direction of the Police Chief or City Council may deny, suspend or revoke a license issued under this chapter. Written notice of such action shall be given to the applicant or licensee and the licensee may appeal such determination to the City Council upon written request for review directed to the City Clerk within 10 days from the date of mailing the notice of denial, suspension or revocation to the applicant or licensee. All mailed notices addressed to the applicant's or licensee's address shown on the original application, or as thereafter supplemented by the applicant or licensee, shall be deemed validly delivered. Notice shall be deemed given upon the date of deposit in a mail receptacle, properly addressed with proper postage.

125.17 CAUSE AND DURATION OF SUSPENSION. The City shall issue a letter of intent addressed to the licensee at the licensee's address as shown on the original application or as subsequently amended, to suspend an adult entertainment facility license for a period not to exceed 30 days if the licensee has violated this chapter or has knowingly allowed any person to violate this chapter.

125.18 CAUSE AND DURATION OF REVOCATION. The City shall issue a letter of intent addressed to the licensee at the licensee's address as shown on the original application or as subsequently amended, to revoke an adult entertainment facility license if the licensee does any of the following:

1. Commits a violation of this chapter and has a prior violation of this chapter within a 12-month period, whether or not there was a suspension of the licensee's license for the prior violation;
2. A licensee gives false, misleading or incorrect information in the material submitted during the application process;
3. A licensee has knowingly allowed possession, use or sale of controlled substances within the adult entertainment facility;
4. A licensee has knowingly allowed a person within the adult entertainment facility to sell or offer for sale the person's services as a participant in a sex act;
5. A licensee knowingly operates the adult entertainment facility during a period of time when the licensee's license was suspended;
6. A licensee has knowingly allowed any sex act to occur within the adult entertainment facility. Provided, this subsection shall not apply to an adult hotel or adult motel, unless the licensee knowingly allowed a sex act to occur either: (i) in exchange for money or other consideration; or (ii) within public view.

The fact that a conviction under this chapter is being appealed shall have no effect on the revocation of the licensee's license. When the City revokes the license, the revocation shall be effective for one year and the licensee shall not be issued an adult entertainment facility license for one year from the effective date of the revocation. However, in the case of revocations under Subsection 2 of this section, after 90 days of revocation, the City may review the revocation on its own determination and may amend the period of revocation if the City finds that the basis for the revocation has been corrected.

125.19 EXPIRATION OF LICENSE. Each license shall remain valid for a period of five calendar years from the date of issuance unless otherwise suspended or revoked. The license may be renewed only by making application and payment of the fee provided for in this chapter

as for new licenses. Application for renewal shall be made at least 90 days before the license expiration date.

125.20 PENALTY FOR VIOLATION. Any person found guilty of a violation of any of the provisions of this chapter shall upon conviction be subject to the penalty provisions of Section 1.14 of this Code of Ordinances, and each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the discretion of the City Attorney, any violation of the provisions of this chapter may be prosecuted as a municipal infraction according to the terms of Chapter 4, in addition to criminal prosecution.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices	135.08 Burning Prohibited
135.02 Obstructing or Defacing	135.09 Excavations
135.03 Placing Debris On	135.10 Property Owner's Responsibility for Maintenance
135.04 Playing In	135.11 Failure to Maintain
135.05 Traveling on Barricaded Street or Alley	135.12 Dumping of Snow
135.06 Use for Business Purposes	135.13 Driveway Culverts
135.07 Washing Vehicles	135.14 Driveway Approaches

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$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 administration of this section. In lieu of a surety bond, a cash deposit of \$10,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

11. Permit Fee. A permit fee of \$10.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

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

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be 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])

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.14 DRIVEWAY APPROACHES. There shall be no construction, reconstruction or repair of any driveway approach to the street except in accordance with the following:

1. Permit. A permit must first be obtained from the City prior to any construction, reconstruction or repair. The cost of such permit is \$10.00.
2. Width of Driveway. The driveway approach shall consist of all that part of the driveway lying between the curb and the property line and shall be a minimum width of 18 feet at the curb and 10 feet at the property line.
3. Driveway in Existing Pavement. A driveway approach to existing pavement shall be made by removing the entire separate curb or curb and gutter or by saw-cutting and removing a strip one foot wide in the case of integral curbs.
4. Expansion Joint. An expansion joint one inch thick and the full depth of the concrete shall be placed against the street pavement, in line with the back of the curb.
5. Materials. A driveway approach to a street shall be paved of reinforced Portland cement concrete five inches in thickness and have a minimum 28-day compressive strength of 3,500 pounds per square inch. All materials used in constructing a driveway approach shall be subject to testing by the City.

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice, and Accumulations	136.13 Encroaching Steps
136.04 Property Owner's Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:
 - A. Vertical separations equal to three-fourths inch or more.
 - B. Horizontal separations equal to one inch or more.
 - C. Holes or depressions equal to three-fourths inch or more and at least four inches in diameter.
 - D. Spalling over 50 percent of a single square of the sidewalk with one or more depressions equal to one-half inch or more.
 - E. Spalling over less than 50 percent of a single square of the sidewalk with one or more depressions equal to three-fourths inch or more.
 - F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
 - G. A sidewalk with any part thereof missing to the full depth.
 - H. A change from the design or construction grade equal to or greater than three-fourths inch per foot.
3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
5. "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.

6. “Portland cement” means any type of cement except bituminous cement.
7. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
8. “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.
9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 48 hours, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER’S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall repair, replace, or reconstruct, or cause to be repaired, replaced, or reconstructed, all broken or defective sidewalks and maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2d & 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. A written application for such permit shall be filed with the City and shall be accompanied by a permit fee of \$10.00.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four inches thick, and each section shall be no more than four feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be no more than six feet in length.
 - C. Driveway areas shall be not less than five inches in thickness.
 - D. All sidewalks shall be of the widths provided as follows:
 - (1) Around the public square and within one block thereof and leading directly thereto, they shall cover the full width from the lot line to curb.
 - (2) On all other streets the width shall be not less than four and one-half feet, except on Coolbaugh, Reed, Hammond and Corning Streets; from Fourth to Eighth Streets and on Fourth, Fifth, Sixth, Seventh and Eighth Streets from Corning to Coolbaugh Streets, the widths shall be not less than five and one-third feet.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, except on Second Street from Washington Avenue to Grimes Street, with the outer edge at the curb line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal

requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 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 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 feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 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 feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(*Code of Iowa, Sec. 364.12[2a]*)

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.
(*Code of Iowa, Sec. 392.1*)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7 of the *Code of Iowa*.
(*Code of Iowa, Sec. 364.7*)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.
(*Code of Iowa, Sec. 174.15[2] & 364.7[3]*)

EDITOR'S NOTE			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
27	1964		
39	1965		
79	1969		
103	1970		
131	1973		
132	1973		
159	1975		
169	1975		
182			
187			
221	1980		
236			
238			
239			
240			
242			
250	1983		
325	1992		
326	1992		
364	1995		
372	1996		
382	1997		
388	7-20-98		
389	11-2-98		
404	6-5-00		
492	6-20-05		
496	9-6-05		
544	11-1-10		
547	5-2-11		
549	6-6-11		
587	10-3-16		

CHAPTER 138

STREET GRADES

138.01 Established Grades
138.02 Record Maintained

138.03 Datum Plane

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

138.03 DATUM PLANE. For the purpose of establishing and maintaining the grade of the streets within the City, the following point with the following elevation is used to establish a datum plane:

The datum plane for establishing the grades of streets and alleys within the City shall be 16 feet below the City bench mark, which bench mark is the top face of the stone set at the south end of the straight curb along the west side of the public square park. All grades established for streets and alleys shall be calculated from the datum plane, and shall be estimated in feet and hundredths.

EDITOR'S NOTE			
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
Ch. 41 of 1926 Code			
44			
92	November 18, 1929		
118			
147			
184	September 7, 1953		
274	January 15, 1962		
243	1982		

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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 Red Oak, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed

140.05 Unlawful Use of Controlled Access Facility
140.06 Speed Limits
140.07 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. F-1128. On the Primary Road System extension improvement, Project No. F-1128, Primary Road Relocated U.S. No. 34, within the City, described as follows:

*From Station 451+88.7 to Station 465+26 and on Iowa No. 48 from Rt.
Station 25+00 to Rt. Station 38+00*

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-1128, on file in the office of the Clerk.

2. Project No. UG-856(4). On the Primary Road System extension improvement, Project No. UG-856(4), Primary Road No. 48, within the City, described as follows:

From Station 357+70 to Station 373+23

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. UG-856(4), on file in the office of the Clerk.

3. Project No. F-408. On the Primary Road System extension improvement, Project No. F-408, Primary Road No. 48, within the City, described as follows:

From Station 0+00 (Oak Street) northerly to Station 25+00

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project F-408, on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation, or line.
3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section, or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line that separates such service road from the controlled access facility property.

140.07 SPEED LIMITS. The maximum speed limit on relocated U.S. No. 34 from Station 451+88.7 (WCL) to Station 465+26 (ECL) shall be 50 miles per hour.

140.07 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of 35 feet in advance of the stop sign.
2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of 35 feet.
3. Diagonal Parking on Minor Street. Where diagonal parking is permitted, on the minor street approach, parking shall be restricted so that a 55-foot stop sign distance is maintained.
4. Intersection. Parking shall be prohibited on the Primary Road Extensions a distance of 55 feet in advance of the near crosswalk and a distance of 22 feet beyond the far crosswalk.
5. Project No. F-1128. Parking of any nature is prohibited on relocated U. S. No. 34 from Station 451+88.7 to Station 465+26.0, on Iowa No. 48 from Rt. Station 25+00 to Rt. Station 38+00.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Fire Chief is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of three months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF RED OAK, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Procedure for Numbering

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 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 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 PROCEDURE FOR NUMBERING. For the purpose of numbering, Market Street and First Street shall be the base streets. In Blocks number 27, 28, 29, 36, 38, 43, 44, and 45, respectively, according to the original plat, there shall be one number apportioned to and reserved for each 22½-foot front. Throughout the remaining portion of the City, one number shall be apportioned and reserved for each 45-foot front.

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CHAPTER 151

TREES

151.01 Purpose	151.08 Duty to Trim Trees
151.02 Definitions	151.09 Dead or Diseased Tree Removal on Private Property
151.03 Authority of Board	151.10 Removal of Stumps
151.04 Street Tree Species Permitted and Prohibited	151.11 Interference with City Tree Board
151.05 Street Tree Planting Specifications	151.12 Insurance Certificate
151.06 Public Tree Care	151.13 Appeal
151.07 Tree Topping	

151.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring street trees to be uniformly located and maintained. Under this chapter, the primary responsibility for maintaining street trees is placed upon the abutting property owner. The Board shall supervise the cutting or trimming of street trees.

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

1. “Board” means the Red Oak Park and Tree Board.
2. “Parking” means that part of the public property or street located outside the lot and property lines and inside the curb lines. On unpaved streets it refers to the area between the lateral lines of the street and the adjacent lot and property lines.
3. “Park trees” means trees, shrubs, bushes, and all other woody vegetation located in public parks or other public areas owned by the City to which the public is granted access either as a matter of right or by permit.
4. “Person” means every natural person, firm, partnership, association, or corporation.
5. “Street” 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 either as a matter of right or by permit, for purposes of pedestrian or vehicular traffic, whether self-propelled or moved by human power, including those areas typically referred to as streets, avenues, highways, ways, alleys and recreational trails.
6. “Street trees” means those trees, shrubs, bushes, or any other woody vegetation located in any part of a street within the City, including the parking.
7. “Stump” means the portion of a tree, shrub, bush or other woody vegetation left in the ground after the upper part and branches of the plant have been removed.
8. “Top” or “topping” means to severely cut back limbs of a tree to stubs larger than three inches in diameter within the tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

151.03 AUTHORITY OF BOARD. The Board shall study, investigate, develop, update and administer a plan for the care, preservation, planting, removal and disposition of street trees and park trees, and trees, shrubs, bushes and all other woody vegetation located in any other public area in the City. Such plan will be presented annually to the City Council and upon acceptance and approval shall constitute the official comprehensive City tree plan; however, if

a new plan is not presented, the existing plan will remain in effect until a new plan is presented and accepted by the City Council, or until the existing plan is formally rescinded by the Council. The Board, when requested by the Council, shall consider, investigate, make findings and report and recommendation to the Council upon any special matter or question coming within the scope of work defined in this chapter.

151.04 STREET TREE SPECIES PERMITTED AND PROHIBITED.

1. Permitted Trees. The City Council, upon advice and consent of the Board, shall adopt by resolution a list of trees, shrubs, bushes, and other woody vegetation allowed to be planted as street trees within the City. This list may be amended from time to time but will be adopted pursuant to the authority granted in this chapter and will be maintained for public use and inspection at City Hall, and at such other places designated either by the Board or City Council.
2. Prohibited Trees. The City Council, upon advice and consent of the Board, shall establish by resolution a list of trees, shrubs, bushes and other woody vegetation prohibited from being planted in any street in the City. This list may be amended from time to time but will be adopted pursuant to the authority granted in this chapter and will be maintained for public use and inspection at City Hall and at such other places designated either by the Board or Council.
3. Variation. Upon approval of the Board, an abutting property owner or the City may obtain consent to a variation from either permitted or prohibited street tree planting upon conditions established by the City Council upon advice and consent of the Board if such planting has been designed and approved by a landscape architect licensed under the laws of the State of Iowa or other state. Such variance shall be by permit of the Board and shall include consent to type of species planted and location.
4. Distance from Curbs and Sidewalks. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size class, and no tree may be planted closer to any curb, curb line, or the lateral line of a roadway where no curb is present, than the following distances:
 - A. Small tree, two feet.
 - B. Medium tree, three feet.
 - C. Large tree, four feet.
5. Distance from Street Corners and Fire Hydrants. No street tree shall be planted closer than 35 feet to any street corner measured from the point of the nearest intersecting curb, curb line, or the lateral lines of the intersecting roads or roadways. No street tree shall be planted closer than 10 feet to any fire hydrant.
6. Distance from Utilities. No street tree, other than those of the species listed as small trees in the resolution adopted by the City Council pursuant to this chapter, may be planted under or within 10 lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line, or other utility. The abutting property owner shall have the responsibility to assure compliance with this section.

151.05 STREET TREE PLANTING SPECIFICATIONS. No trees, shrubs, bushes, or other woody vegetation shall be planted in any street, except in accordance with the following specifications:

1. All trees, shrubs, bushes or other woody vegetation planted in any street shall be planted in the parking midway between the outer line of the sidewalk (line of sidewalk furthest from property line) and the curb line. In the event a curb line is not established, this vegetation shall be planted on a line parallel to and 10 feet from the property line.
2. Spacing. The planting of street trees will be in accordance with the species size classifications adopted in the resolution of the City Council establishing street trees permitted to be planted. No tree species may be planted closer to another tree than is permitted by the following:
 - A. Small trees, 30 feet.
 - B. Medium trees, 40 feet.
 - C. Large trees, 50 feet.

151.06 PUBLIC TREE CARE.

1. The City shall have the right to plant, prune, maintain, remove and replace trees, shrubs, bushes and any other vegetation within any street, public park, or any other areas owned by the City, or to which the public has access as a matter of right, as may be necessary to ensure public safety or to preserve, protect or enhance the symmetry and beauty of such public areas. To facilitate this provision, the Board or the City, acting on advice and consent of the Board, may remove or cause or order to be removed, any tree, shrub, bush or other woody vegetation, or any part thereof, which is either in an unsafe condition or by reason of its nature is or may be injurious to utilities located either above ground or underground, or to other public improvements within the street, or which is affected with any disease or injurious insect or other pest.
2. Any property owner desiring to plant a street tree in the street abutting the property owner's property, shall do so in accordance with this chapter and in accordance with the resolutions adopted by the City Council setting forth those species which are permitted and those which are prohibited, as provided for in Sections 151.04(1) and 151.04(2) of this chapter.

151.07 TREE TOPPING. It is unlawful for any person to top any street tree, park tree, or other tree on public property within the City. Trees damaged by storms or other causes, or trees located under utility installations or nearby other obstructions where pruning practices are impractical may be exempted from this section upon order of the Board on application by an abutting property owner or other interested person.

151.08 DUTY TO TRIM TREES.

1. The abutting property owner of any street tree or tree located on the abutting property owners property overhanging in a street within the City shall prune the branches so that the branches shall neither cover all or any portion of any street land, nor obstruct the view of any street intersection. The abutting property owner shall keep the trees on or overhanging the street trimmed so that all branches are at least 15 feet above the highest surface of the abutting street and eight feet above the sidewalk.
2. The City shall notify the owner of private property to prune any tree, bush, shrub or other woody vegetation located on private property when such plant interferes with the proper diffusion of light along the street from a street lamp, or interferes with

visibility of any street intersection, or with visibility of any traffic control device or sign governing traffic moving on or along the street.

3. The City shall notify the abutting property owner, by written notification letter or by warning citation (fix-it-ticket), of the tree trimming/removal code violation. The initial notification shall give 30 days for performance of the necessary trimming or removal. At the conclusion of the 30 days a follow-up review will be done by the City. If the abutting property owner fails to trim the tree or trees on or adjacent to the abutting property owner's property, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If the action is not taken within that time, the City may perform the required action and assess the costs thereof against the abutting property for collection in the same manner as a property tax. The City may accumulate individual assessments under this section and may periodically certify the assessments to the county treasurer under one or more assessment schedules.

4. Without advance permission from the Board, no oak tree species shall be pruned during the period from April 1 to October 1 of any calendar year in order to prevent the spread of oak wilt disease.

5. The City, upon advice and consent of the Board, may from time to time issue additional orders prohibiting pruning or other maintenance activities on street trees or park trees when necessary to prevent the spread of disease or for other public purpose.

6. It shall be the duty of the City to remove all dead, diseased, or dangerous trees, or broken or decayed limbs within the street or upon other public areas when necessary to protect the safety of the public.

151.09 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY. The City shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, bush, shrub or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease. The Board or City upon advice and consent of the Board shall notify in writing the property owner of the property on which such tree, shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within 60 days. Notice shall either be given by ordinary mail, by hand delivery, by personal service or by certified mail with return receipt barring the signature of the property owner. In the event the property owner fails to comply with the notice, the City may force compliance by legal process and if granted authority to perform the required action, may there after assess the costs against the property for collection in the same manner as a property tax.

151.10 REMOVAL OF STUMPS. Any stump of any street tree or park tree shall be removed below the surface of the ground so that the top of the portion of the stump does not project above the surface of the surrounding grade.

151.11 INTERFERENCE WITH CITY TREE BOARD. No person shall prevent, delay or interfere with the Board or any of its designees, or the City or any of its employees, designees, or agents while engaged in planting, cultivating, mulching, pruning, spraying, removing, replacing, or otherwise maintaining or repairing any street tree or park tree within the City.

151.12 INSURANCE CERTIFICATE. Any person desiring to engage in the business or occupation of pruning, treating, removing, or replacing street trees or park trees within the City shall first provide to the City evidence of liability insurance with minimum limits of \$1,000,000.00 each occurrence and \$2,000,000.00 annual aggregate for bodily injury or

property damage endorsed to protect the City, the Board, and each of its officers and members, from claims of personal injury or property damage caused by or resulting from acts of the person in the performance of any such tasks.

151.13 APPEAL.

1. If the Board receives a request for hearing on the issue of whether a violation of this chapter exists on any property within the City, the Board shall schedule same for hearing at any regular or special meeting and shall provide at least 10 days' advance notice of the hearing to the person making the request for hearing. Notice of hearing shall be given by certified mail with return receipt, hand delivery, personal service in the manner of original notices under the Iowa Rules of Civil Procedure, or regular mail with written acknowledgment or acceptance of notice signed by the person requesting hearing.
2. Upon hearing, the Board shall issue a written order which may require abatement or which may modify the abatement notice. The owner or the owner's representative shall be given the opportunity to present evidence at the hearing, both in writing or by testimony. A copy of the order of the Board upon hearing shall be given to the property owner either by hand delivery, certified mail with return receipt, personal service under in the manner of original notices under the Iowa Rules of Civil Procedure, or by regular mail with written acknowledgement or acceptance of service of the order signed by the recipient.
3. The Board shall keep an accurate summary of the testimony of any witness at the hearing and shall cause the hearing to be audio recorded. Either the Board or the property owner may cause the hearing to be reported by a certified shorthand reporter, if desired. The cost of a certified shorthand reporter shall be paid by the party requesting that service.
4. The property owner may have an adverse decision reviewed by the City Council upon written request delivered to the City Clerk, within 10 days after the date of delivery of a copy of the decision of the Board. Upon request, the City Council shall be delivered a copy of the summary of testimony, audiotape or transcript of the hearing and shall make a final determination based on the record submitted. The decision of the City Council on review of the Board's determination shall be final and if adverse to the property owner, the property owner shall have 10 days following the determination of the City Council to perform the act or acts required of the Board, or the property owner may be prosecuted for a violation of this chapter.

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CHAPTER 155

BUILDING PERMITS

155.01 Permit Required
155.02 Issuance of Permit
155.03 Permit Fees

155.04 Lapsed Permits
155.05 Appeals

155.01 PERMIT REQUIRED. No person shall proceed with the erection, construction, conversion, alteration, enlargement, extension, raising or demolition or moving of any building or structure or of any portion thereof without first having received a building permit from the City Administrator.

155.02 ISSUANCE OF PERMIT. Every application for a building permit shall be made to the City Administrator in writing, and shall be accompanied by a detailed set of plans in duplicate showing the size of the proposed building or structure, its location on the lot, the materials of which it is to be constructed and the details and type of construction to be employed. On the issuance of a permit, one set of the plans shall be retained by the City Administrator as a permanent record and one set shall be returned to the applicant.

155.03 PERMIT FEES. The fees to be charged for a building permit and accompanying inspections, including alterations and remodeling, are as follows in Fee Table 1. For purposes of calculating fees, the value of new construction or addition to the footprint of an existing structure shall be calculated at \$70.00 per square foot with square footage calculated as the floor space of all cumulative levels of a structure, exclusive of unfinished attics or crawlspaces. The value of renovations, alterations, or remodeling to an existing structure that do not alter the square footage of the structure shall be valued at the estimated actual cost of the renovation, alteration, or remodel. Physical inspections shall be carried out on work that:

1. Is new construction or an addition to the footprint of an existing structure in excess of 120 square feet.
2. Is renovation work to an existing structure and the estimated actual cost of renovation, alteration, or remodel exceeds \$10,000.00.

The building permit for renovations, alterations, or remodels to an existing structure that do not alter the square footage of the structure shall be assessed as outlined in Fee Table 1, minus 30 percent of the total building permit fee.

Fee Table 1

Total Valuation	Permit Fee
\$0 to \$1,000	\$10.00 flat fee
\$1,001 to \$25,000	\$15.00 per \$1,000 of value or fraction thereof, including \$25,000.
\$25,001 to \$50,000	\$375 for the first \$25,000, plus \$10.00 per additional \$1,000 of value or fraction thereof, including \$50,000.
\$50,001 to \$100,000	\$625 for the first \$50,000, plus \$7.00 per additional \$1,000 of value or fraction thereof, including \$100,000.
\$100,001 to \$500,000	\$975 for the first \$100,000, plus \$5.00 per additional \$1,000 of value or fraction thereof, including \$500,000.
\$500,001 to \$1,000,000	\$2,975 for the first \$500,000, plus \$4.00 per additional \$1,000 of value or fraction thereof, including \$1,000,000.
\$1,000,001 and up	\$4,975 for the first \$1,000,000, plus \$2.00 per additional \$1,000 of value or fraction thereof

Other Fees Include:

Failure to appear for a scheduled inspection shall result in an additional \$40.00 charge.

Re-inspections for any reason shall be at a rate of \$100.00 per inspection.

155.04 LAPSED PERMITS. Any building permit under which no construction work has been commenced within six months after the date of issue of the permit, or under which the proposed construction has not been completed within two years of the date of issue, shall expire by limitation; and no work or operations shall take place under any building permit after such expiration. Upon payment of \$0.10 per month on each \$1,000.00 of the construction cost on which the original permit was issued, but not less than \$1.00 per month in any case, a building permit may be extended once for a period not exceeding six months, upon the approval of the Council.

155.05 APPEALS. If the City Administrator refuses to issue a building permit duly applied for, the party aggrieved may appeal to the Board of Adjustment, as provided by Chapter 165.

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CHAPTER 156

FIRE CODE

156.01 Adopted
156.02 Inspections
156.03 Enforcement

156.04 Modifications
156.05 Appeal

156.01 ADOPTED. There is adopted by the City for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion that certain code known as the State Fire Code, published by the State of Iowa, together with all additions and revisions thereof, the whole of which is now on file at the Fire Station in the City and which is included herein by reference as fully as if set out at length in this chapter, and the provisions thereof shall be controlling within the limits of the City.

156.02 INSPECTIONS.

1. Inspections Authorized.
 - A. The Fire Chief or a designated agent or representative who is trained in fire prevention safety standards (hereinafter referred to as the examining officer) may enter a building, as defined in 661 IAC 16.122, at a reasonable hour to examine the building and its contents.
 - B. The examining officer may order the correction of a condition that is in violation of State, federal or City Fire Code.
 - C. The order shall be in writing and signed by the examining officer.
 - D. If, in the opinion of the examining officer, the condition of the building places it in danger, the examining officer may immediately issue an oral order and, within 24 hours, reduce said oral order to writing.
 - E. At the request of the examining officer, the State Fire Marshal may assist in the enforcement action.
2. Compliance Orders.
 - A. The written order set forth pursuant to Subsection 1 of this section shall order that said Fire Code violations be cured within 30 to 60 days from the date of the written order.
 - B. If, in the sole discretion of the examining officer, the violation creates an imminent danger to life or property, the property owner or occupier shall correct said violation before the examining officer is allowed to leave said property.
 - C. If, in the sole discretion of the examining officer, the violation is of a complex nature, the Fire Chief may grant an extension of time to correct said problem.
3. Request for Hearing. Any person ordered to correct said fire violation may have a hearing with the Council as to whether a violation exists. A request for a hearing must be made in writing and delivered to the Clerk within 10 days from the date of the written compliance order, or it will be conclusively presumed that a fire violation exists

and it must be corrected 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 fire violation is found to exist, it shall be ordered corrected within a reasonable time under the circumstances.

4. Failure to Correct. Any person who shall fail or refuse to correct said Fire Code violation within the reasonable time required as set forth in the order is in violation of this Code of Ordinances and shall be subject to the provisions of Chapter 4 of this Code.

156.03 ENFORCEMENT. The Fire Code as adopted shall be enforced by the Fire Chief or a designated agent for the enforcement thereof.

156.04 MODIFICATIONS. The Fire Chief shall have power to modify any of the provisions of the Fire Code as adopted in this chapter upon the application of any person affected thereby when there are practical difficulties in the way of carrying out the strict letter of the Code. Any modifications so made should be done in a manner to enforce the spirit of the Code and secure the public safety and to see that substantial justice is done.

156.05 APPEAL. Whenever the Fire Chief or designated agent disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the Fire Code do not apply, or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant aggrieved may appeal from the decision of the Fire Chief to the Council within 30 days after the date of the decision so appealed. The appeal shall be taken by filing written notice thereof with the Mayor.

CHAPTER 157

STORAGE OF COMBUSTIBLE MATERIALS

157.01 Liquid Fuel Tanks

157.02 Bulk Storage Plants

157.01 LIQUID FUEL TANKS. No person shall install or maintain any tank or receptacle for the purpose of containing or storing liquid fuel designed to burn within any building unless the tank is located away from the building and in such a place as to be easily accessible and in a plainly visible location. A valve or cut-off shall be located outside the building by means of which the liquid fuel can be shut off from the pipes or burner located inside the building.

157.02 BULK STORAGE PLANTS. For use in this chapter, “bulk storage plant” means that portion of a property where combustible liquids are received by tank vessel, pipelines, tank cars or tank vehicles and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipeline, tank car, tank vehicle or container. No person shall erect or establish any bulk storage plants for the storage of oil, gasoline, propane or butane or other combustible materials without first having obtained the consent of the Council. The Clerk shall not issue a permit for the construction of any bulk plant without submission by the applicant of the consent of the Council as to its location. The City may maintain an action to enjoin the construction of such plant and to remove any part or parts thereof constructed in violation of this chapter.

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CHAPTER 158

PROPERTY MAINTENANCE CODE

158.01 Purpose

158.02 International Property Maintenance Code Adopted

158.03 Authority for Enforcement

158.04 Amendments to the Property Maintenance Code

158.01 PURPOSE. The purpose of this chapter is to designate the responsibilities of persons for maintenance of structures, equipment, and exterior property within the City, to define health and safety hazards as a result of the failure to perform such maintenance and to provide for the abatement of such hazards in order to provide for the safety and preserve the health and welfare of the citizens of the City.

158.02 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED. Except as hereinafter added to, deleted, modified or amended, there is hereby adopted as the Property Maintenance Code of the City that certain Code known as the *International Property Maintenance Code*, 2015 Edition, as published by the International Code Council, and the provisions of said Property Maintenance Code shall be controlling in maintaining minimum requirements and standards of structures and properties within the corporate limits of the City and shall be known as the Red Oak Property Maintenance Code.

158.03 AUTHORITY FOR ENFORCEMENT. The City Administrator, as the Code Enforcement Officer, shall be responsible for the enforcement of this chapter and shall have all the necessary authority to carry out such enforcement. The Code Enforcement Officer may designate an inspector and/or such persons as necessary to carry to the provisions of this chapter.

158.04 AMENDMENTS TO THE PROPERTY MAINTENANCE CODE. The following sections are hereby revised:

1. Title. Section 101.1. Insert: "The City of Red Oak" as name of jurisdiction.
2. Fees. Section 103.5 shall be deleted and replaced as follows:

103.5 Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be adopted by resolution of the City Council.
3. Permits. New sections 103.6 through 103.12, shall be added to read as follows:

103.6 Permit Required.

1. No owner or operator shall rent, or offer for rent, any dwelling unit for use in whole or in part for human habitation, unless a valid residential rental permit has been issued, or is pending, subject to inspection approval.

103.7 Permit Application.

1. Permit application shall be made by the owner or owner's representative on forms provided by the City, and submitted to the Code Enforcement Officer. Applications will not be approved without submittal of all required information, payment of required fees, and compliance with the requirements of this chapter. Residential rental properties in existence at the time of the adoption of the ordinance codified herein shall not be required to pay fees until such time as their property inspection is scheduled.

2. Applicant shall provide the following information:
 - a. Address of property
 - b. Number and type of dwelling units in the dwelling structure
 - c. Zoning district in which the property is located
 - d. Owner's name and contact information:
 - i. Mailing address
 - ii. Contact telephone number during normal business hours
 - iii. Alternate telephone number
 - iv. Email address, if applicable
 - e. If management responsibility has been delegated by the owner to a different party:
 - i. Name of property manager
 - ii. Mailing address
 - iii. Contact telephone number during normal business hours
 - iv. Alternate telephone number
 - v. Email address, if applicable
3. The owner or property manager is responsible to inform the Code Enforcement Officer of any subsequent changes to any permit information, at the time of such changes, and at any such time that changes occur after initial permit application submission or permit approval.

103.8 Duration of Permit. Residential Rental Permits shall be issued for terms of three years, shall expire at the end of that term, and shall not be renewed without inspection. Notice of expiration shall be issued by the City to the owner or property manager.

103.9 Permit Fees. Fees shall be due within 30 days of date of notice to the owner or property manager. Failure to pay require fees shall constitute a violation of this Code, and may result in penalties in the form of revocation of the Residential Rental Permit; issuance of tenant notice to vacate; and/or issuance of municipal infraction citations. Fees shall be authorized by resolution.

103.10 Transfer of Permit. Residential Rental Permits may not be transferred from one owner to another in the event of property sale. It is the responsibility of the current owner to inform the Code Enforcement Officer of the buyer's name and contact information. It is the responsibility of the property buyer to register the property in his/her name or company name, and furnish appropriate contact information to the Code Enforcement Officer.

103.11 Sale of Property. It is unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Inspector and shall furnish to the Code Enforcement Officer a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

103.12 Denial and/or Revocation of Permit.

1. If a dwelling unit is found in violation of any requirements of this chapter, the Inspector shall notify the owner, and if applicable property manager, of the deficiencies in writing. All cited deficiencies must be corrected within the time limits specified in the Inspector's notice. The residential rental permit shall be denied or revoked if the dwelling is not in compliance at the end of the period specified by the Inspector.

2. Upon denial or revocation of the residential rental permit the City shall notify the owner and the occupants in writing. The notice shall state the reason for revocation, statement of required corrective actions, that the dwelling must be vacated within 30 days of the date of notice unless compliance is achieved prior to that date and that the owner may appeal to decision as outlined in Section 111.

4. **Residential Rental Inspections.** Add Sections 104.7 through 104.15.

104.7 Residential Rental Inspection Required. Inspection of residential rental property is required to secure compliance with all relevant codes and standards.

104.8 Initial Inspections.

1. During the initial, or first three-year cycle, inspections shall occur in accordance with a phased-in systematic inspection program to be prepared by the City. A minimum 30 days' written notice shall be given for all initial inspections. Inspections for residential rental units may also be scheduled upon a transfer of ownership, upon receipt of written complaints, alterations, modifications, or for any other reasonable cause.

2. The initial or first inspection shall be scheduled by the City with the owner or property manager. The owner or property manager is responsible to provide a minimum 24-hour advance notice to tenants prior to the scheduled inspection. The owner, property manager, or his/her designated representative shall be present at the inspection. The inspector shall not perform the inspection if it is discovered the tenants have not received the required advance notice or if the owner, property manager, or his/her designated representative is not present. Additionally, a re-inspection will be scheduled, and the owner will be charged a re-inspection fee in accordance with a fee schedule set by resolution of the City Council.

104.9 Re-inspections. Re-inspections are required to verify correction of code deficiencies identified at a prior inspection. If Code deficiencies are found on a first inspection, each succeeding re-inspection shall be charged a fee in accordance with a fee schedule set by resolution of the City Council.

104.10 Regular Periodic Inspection. Regular periodic inspection is required prior to expiration of a current Rental Permit. Registered owners or property managers shall receive advance notice of required periodic inspection appointments from the City. An owner's or property manager's or his/her designated representative's failure to appear at a scheduled periodic inspection is a violation of this Code subject to penalties as provided herein. Penalties include, but may not be limited to fees in accordance with a fee schedule set by resolution of the City Council.

104.11 Noted and cited code violations.

1. Noted code violations are not considered life safety issues and are not of a severity to cause structural deterioration. Noted items shall not prevent the issuance of a Residential Rental Permit.

2. Cited code violations must be repaired prior to the issuance of a Residential Rental Permit. Cited items may lead to further enforcement actions by the City of Red Oak.

104.12 Reasonable time limits for compliance. General compliance time limits for cited items shall be as follows:

1. Imminent life safety - requires immediate corrective action;
2. Routine/normal maintenance - must be completed within 30 days;
3. Seriously deferred maintenance/medium-large project - 90 days;
4. Weather/seasonal dependent item - 180 days or as negotiated with the Inspector.

104.13 Time Extensions for Compliance. Applications for time extensions may be submitted to the Code Enforcement Officer with a progress report and estimated schedule for completion. Such applications will be reviewed and approved or denied in writing on an individual case basis by the Code Enforcement Officer. Appeals of the determination of the Code Enforcement Officer may be made in accordance with Section 111.

104.14 Right to Access by Inspector. The Building Inspector and his/her authorized representative may enter any premises on proof of authority for the purpose of inspecting any building, at such times as may be reasonably necessary to protect the public health, safety, and welfare.

104.15 Emergency Orders.

1. Whenever the inspector, in the enforcement of the housing code, finds that a condition exists which requires immediate action to protect the health or safety of the occupants and/or the general public, the inspector may, without notice or hearing, issue an order reciting the existence of such a condition and requiring that action be taken such as the inspector deems necessary to abate the condition. If necessary, the Code Enforcement Officer may order that the premises be vacated forthwith, and said premises shall not be reoccupied until the order to make repairs has been complied with. Notwithstanding other provisions of the code, such order shall be effective immediately or in the time and manner prescribed by the order itself.

2. No dwelling, dwelling unit, rooming unit or portion thereof which has been determined to be unfit for human habitation shall be used for human habitation again until written approval is secured from the Inspector and the Code Enforcement Officer.

5. Stop Work Order. Section 112.4. Replace with the following:

112.4 Stop Work Order. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a municipal infraction under Chapter 4 of the Red Oak Code of Ordinances.

6. Weeds. Section 302.4 Replace with the following:

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of six inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

7. Insect Screens. Section 304.14. Delete the following:

During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

8. Interior Surfaces. Section 305.3 Replace with the following:

305.3 Interior Surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. (The presence of lead-based paint shall constitute a noted deficiency.) Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

9. Heat Supply. Section 602.3. Delete the following:

Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.

2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

10. Occupiable Work Spaces. Section 602.4. Delete the following:

Indoor occupiable work spaces shall be supplied with heat during the period from [DATE] to [DATE] to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.

2. Areas in which persons are primarily engaged in vigorous physical activities.

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CHAPTER 159

BUILDING CODE

159.01 Purpose
159.02 Adoption of Building Code

159.03 Amendments, Modifications, Additions and Deletions
159.04 Administration

159.01 PURPOSE. The purpose of this chapter is to designate the responsibilities of persons for new construction, additions, and modifications of structures within the City in order to provide for the safety and preserve the health and welfare of the citizens of the City.

159.02 ADOPTION OF BUILDING CODE. Except as hereinafter added, deleted, modified or amended, there is hereby adopted the following building codes as well as any amendments adopted to these codes heretofore by the State of Iowa:

1. *International Building Code, 2015 Edition*
2. *International Residential Code, 2015 Edition*
3. *International Fire Code, 2015 Edition*
4. *National Electrical Code, 2017 Edition*
5. *International Mechanical Code, 2015 Edition*
6. *Uniform Plumbing Code, 2015 Edition*
7. *International Energy Conservation Code, 2012 Edition*

The provisions of said Building Codes shall be controlling in maintaining minimum requirements and standards of structures and properties within the corporate limits of the City and shall be known inclusively as the Red Oak Building Code.

159.03 AMENDMENTS, MODIFICATIONS, ADDITIONS, AND DELETIONS. The following sections to the *2015 International Building Code* and *2015 International Residential Code* are hereby revised:

1. Title. Section 101.1 and Section R101.1 Insert “City of Red Oak” as name of jurisdiction.
2. Permit Required. Section 105.1 and Section R105.1 shall be amended to read as follows:

Any owner or owner’s authorized agent who intends to erect, construct, convert, alter, enlarge, extend, raise or demolish or move any building or structure or any portion thereof shall first make application to the City and obtain the required building permit.
3. Application for Permit. Section 105.3 and Section R 105.3 shall read as follows:

Section 105.3. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the City Administrator for that

purpose. Such application shall include sufficient documentation to ensure compliance with the building code.

1. Action on Application. The City Administrator shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the City Administrator shall reject such application in writing, stating the reasons therefor. If the City Administrator is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the City Administrator shall issue a permit therefor as soon as practicable.

4. Expiration. Section 105.5 and Section R 105.5 shall read as follows:

Any building permit under which no construction work has been commenced within six months after the date of issue of the permit, or under which the proposed construction has not been completed within two years of the date of issue, shall expire by limitation; and no work or operations shall take place under any building permit after such expiration.

5. Reinspection Fees. Add a new Section 109.7 and Section R 109.7 to read as follows:

A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made or incorrectly completed. Re-inspection fees may be assessed when the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the City Administrator.

6. Violations and Penalties. Section 113.4 and Section R113.4 shall read as follows:

Any person, firm or corporation violating any of the provisions of this Code shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provisions of this Code is committed, continued, or permitted and upon conviction of any such violations such person shall be penalized in accordance with Chapter 4 of the Red Oak Code of Ordinances.

7. Establishment of Flood Hazard Areas. Section 1612.3 shall refer to the Flood Insurance Rate Map (FIRM) for Red Oak, Iowa, dated January 3, 1990, or any other FIRM or amendments thereto adopted by the City Council.

159.04 ADMINISTRATION. The City Administrator is charged with the administration of this chapter.

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CHAPTER 160

FLOODPLAIN MANAGEMENT

160.01 Definitions	160.08 General Floodplain (Overlay) District FP
160.02 Statutory Authority, Findings of Fact and Purpose	160.09 Shallow Flooding (Overlay) District (SF)
160.03 General Provisions	160.10 Appointment and Duties of Board of Adjustment
160.04 Administration	160.11 Nonconforming Uses
160.05 Establishment of Zoning (Overlay) Districts	160.12 Penalties for Violation
160.06 Floodway (Overlay) District (FW)	160.13 Amendments
160.07 Floodway Fringe (Overlay) District FF	

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

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year and is also commonly referred to as the “100-year flood.”
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any man-made change to improved or unimproved real estate, including (but not limited to) buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 160.07(2)(D)(1) of this chapter.
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking, or storage.
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation.
 - D. The enclosed area is not a basement as defined in this section.
7. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.

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

20. "Floodway fringe" means those portions of the special flood hazard area outside the floodway.
21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. "Historic structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register.
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved State program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of enclosed area below lowest floor are met.
24. "Maximum damage potential development" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.
26. "New construction" (new buildings, factory-built home parks, accessory structures) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.
28. "Recreational vehicle" means a vehicle which is:
- A. Built on a single chassis.

- B. Four hundred (400) square feet or less when measured at the largest horizontal projection.
 - C. Designed to be self-propelled or permanently towable by a light duty truck.
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding.
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - C. Basement sealing.
 - D. Repairing or replacing damaged or broken windowpanes.
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
30. "Special flood hazard area" (SFHA) means the land within a community subject to the base flood. This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
32. "Structure" means anything constructed or erected on the ground or attached to the ground, including (but not limited to) buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.
33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

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

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of a historic structure, provided the alteration will not preclude the structure’s designation as a historic structure.

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

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

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

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 414, *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

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

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

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

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges, and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents

by minimizing those flood losses described in Paragraph 2(A) of this section with provisions designed to:

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

160.03 GENERAL PROVISIONS.

1. **Lands to Which Chapter Applies.** The provisions of this chapter shall apply to all lands within the jurisdiction of the City shown on the Official Floodplain Zoning Map as being within the boundaries of the Floodway, Floodway Fringe, General Floodplain, and Shallow Flooding (Overlay) Districts, as established in this section.
2. **Establishment of Official Floodplain Zoning Map.** The Flood Insurance Rate Maps (FIRM) for Montgomery County and Incorporated Areas, City of Red Oak, Panels 19137C0188D, 19137C0189D, 19137C0301D, and 19137C0302D, dated May 2, 2016, which were prepared as part of the Flood Insurance Study for Montgomery County are hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this chapter.
3. **Rules for Interpretation of District Boundaries.** The boundaries of the zoning district areas shall be determined by scaling distances on the Official Floodplain Zoning Map. When an interpretation is needed as to the exact location of a boundary, the Floodplain Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.
4. **Compliance.** No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
5. **Abrogation and Greater Restrictions.** It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
6. **Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in

favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

7. Warning and Disclaimer of Liability. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

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

160.04 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Local Official. The Zoning Administrator is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Floodplain Administrator. Duties and responsibilities of the Floodplain Administrator shall include (but not necessarily be limited to) the following:

A. Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

B. Review floodplain development applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

C. Record and maintain a record of: (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures; or (ii) the elevation to which new or substantially improved structures have been floodproofed.

D. Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

E. Keep a record of all permits, appeals, and such other transactions and correspondence pertaining to the administration of this chapter.

F. Submit to the Federal Insurance Administration an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration.

G. Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

H. Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the Board of Adjustment of potential conflict.

I. Maintain the accuracy of the community's Flood Insurance Rate Maps when:

(1) Development placed within the Floodway (Overlay) District results in any of the following:

- a. An increase in the Base Flood Elevations; or
- b. Alteration to the floodway boundary;

(2) Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or

(3) Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

J. Perform site inspections to ensure compliance with the standards of this chapter.

K. Forward all requests for variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit.

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

B. Application for Permit. Application shall be made on forms furnished by the Floodplain Administrator and shall include the following:

(1) Description of the work to be covered by the permit for which application is to be made.

(2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address, or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all structures and additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structure or of the level to which a structure is to be floodproofed.

(7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.

(8) Such other information as the Floodplain Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Floodplain Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Floodplain Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain development permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The floodplain areas within the jurisdiction of this chapter are hereby divided into the following districts:

1. Floodway (Overlay) District (FW) – those areas identified as Floodway on the Official Floodplain Zoning Map.
2. Floodway Fringe (Overlay) District (FF) – those areas identified as Zone AE on the Official Floodplain Zoning Map but excluding those areas identified as Floodway.
3. General Floodplain (Overlay) District (GF) – those areas identified as Zone A on the Official Floodplain Zoning Map.
4. Shallow Flooding (Overlay) District (SF) – those areas identified as Zone AO or AH on the Official Floodplain Zoning Map.

The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as permitted uses are prohibited unless a variance to the terms of this chapter is granted after due consideration by the Board of Adjustment.

160.06 FLOODWAY (OVERLAY) DISTRICT (FW).

1. Permitted Uses. All development within the Floodway District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway District.

2. Performance Standards. All Floodway District uses allowed as a permitted use shall meet the following standards.

- A. No development shall be permitted in the Floodway District that would result in any increase in the base flood elevation. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
- B. All development within the Floodway District shall:
 - (1) Be consistent with the need to minimize flood damage.
 - (2) Use construction methods and practices that will minimize flood damage.
 - (3) Use construction materials and utility equipment that are resistant to flood damage.
- C. No development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or any other drainage facility or system.
- D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
- E. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.
- F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
- G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
- H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
- I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.07 FLOODWAY FRINGE (OVERLAY) DISTRICT FF.

- 1. Permitted Uses. All development within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.
- 2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevation data has not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such

data. Until a regulatory floodway is designated, no development may increase the Base Flood Elevation more than one foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. All development shall:

- (1) Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
- (2) Use construction methods and practices that will minimize flood damage.
- (3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed, subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Floodplain Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

C. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Floodplain Administrator.

D. All New and Substantially Improved Structures:

- (1) Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this

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

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

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

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

(3) New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities elevated or floodproofed to a minimum of one foot above the base flood elevation.

E. Factory-Built Homes:

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

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

F. Utility and Sanitary Systems:

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

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

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be

provided with a level of protection equal to or greater than one foot above the base flood elevation.

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

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

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

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

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

K. Accessory Structures to Residential Uses.

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

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

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

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to resist flotation, collapse, and lateral movement.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

f. The structure's walls shall include openings that satisfy the provisions of Paragraph D(1) of this subsection.

(2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. **Recreational Vehicles.** Recreational vehicles are exempt from the requirements of Paragraph E of this subsection regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Paragraph E of this subsection regarding anchoring and elevation of factory-built homes.

M. **Pipeline Crossings.** Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

N. **Maximum Damage Potential Development.** All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Floodplain Administrator. Where a two-tenths percent chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

160.08 GENERAL FLOODPLAIN (OVERLAY) DISTRICT FP.

1. Permitted Uses. All development within the General Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the General Floodplain District.

A. Any development which involve placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

B. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

(1) The bridge or culvert is located on a stream that drains less than two square miles; and

(2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2b, Iowa Administrative Code.

2. Performance Standards.

A. All development, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway (Overlay) District (Section 160.06).

B. All development, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway Fringe (Overlay) District (Section 160.07).

160.09 SHALLOW FLOODING (OVERLAY) DISTRICT (SF).

1. Permitted Uses. All development within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District.

2. Performance Standards. The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

A. In shallow flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of two feet if no number is specified) above the highest natural grade adjacent to the structure.

B. In shallow flooding areas designated as an AH Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the elevation as specified on the FIRM.

C. In shallow flooding areas designated as either an AH or AO Zone on the Flood Insurance Rate Map, drainage paths are required around structures on slopes to adequately guide floodwaters around and away from proposed structures.

160.10 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT.

1. Appointment and Duties of Board of Adjustment. A Board of Adjustment, hereinafter referred to as the Board, is hereby established which shall hear and decide: (i) appeals; and (ii) requests for variances to the provisions of this chapter, and shall take any other action which is required of the Board.

2. Appeals. Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the Board all the documents constituting the record upon which the action appealed from was taken.

3. Variance. The Board may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Floodplain Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board.

A. Hearings. Upon the filing with the Board of an appeal or a request for a variance, the Board shall hold a public hearing. The Board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The Board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

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

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

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

- j. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.
- m. Such other factors which are relevant to the purpose of this chapter.

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

- a. Modification of waste disposal and water supply facilities.
- b. Limitation of periods of use and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
- e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

5. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

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

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

2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
3. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter.

Except as provided in Subsection 2 of this section, any use which has been permitted as a variance shall be considered a conforming use.

160.12 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

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

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CHAPTER 165

ZONING REGULATIONS

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165.01 TITLE. This chapter shall be known and may be cited as the Zoning Ordinance of Red Oak, Iowa.

165.02 PURPOSE AND AUTHORITY. The provisions of this chapter are designed to regulate and restrict the location and use of buildings and land for business, industry, residence and other purposes; regulate and restrict the heights, number and size of buildings, establish minimum lot areas; limit the density of population; require off-street parking and provide for the administration and enforcement of the provisions of this chapter, all in accordance with Chapter 414, *Code of Iowa*, all for the purpose of promoting the orderly and harmonious development and use of land within the City; to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to facilitate the provision of transportation, water, sewage and other public requirements; to conserve and protect agricultural lands, woodlands, and natural and manmade environmental features; and to encourage the most appropriate use of land throughout the City, all in accordance with comprehensive land use and zoning plans for the City.

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

1. “Accessory use or structure” means a use or structure subordinate to the principal use of a structure or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal structure or use of land.
2. “Agriculture” means the use of land for agricultural purposes, including farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for treating or storing the produce; provided, however, that any such accessory uses shall be secondary to that of normal agricultural activities. “Agriculture” does not include commercial animal or poultry feeding or raising.

3. "Alley" means a public thoroughfare which affords only a secondary means or access to abutting property.
4. "Alteration, structural" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.
5. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.
6. "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.
7. "Billboard" means an advertising sign for a business, commodity or service located or offered elsewhere than upon the premises where such sign or billboard is located.
8. "Board" means the Zoning Board of Adjustment of the City.
9. "Boardinghouse" means a building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three or more persons.
10. "Building" or "structure" means anything constructed, erected, or built, the use of which requires a 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 of persons.
11. "Campground" means an area providing spaces for two or more travel trailers, camping trailers, motor homes or tent sites for temporary occupancy, with necessary incidental service, sanitation, and recreation facilities to serve the traveling public.
12. "Commission" means the Planning and Zoning Commission of the City.
13. "Drive-in restaurant" means any place or premises used for the sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.
14. "Dwelling" means any building or portion thereof which is designed for or used exclusively for residential purposes.
 - A. "Multiple dwelling" means a building designed for or occupied exclusively by more than two families.
 - B. "Single-family dwelling" means a building designed for or occupied exclusively by one family.
 - C. "Two-family dwelling" means a building designed for or occupied exclusively by two families.
15. "Dwelling unit" means one room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.
16. "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, marriage or

adoption, as distinguished from a group occupying a boardinghouse, lodging house or hotel. A family, as defined in this section, includes not more than three unrelated persons.

17. "Farm" means an area of ten acres or more 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 operation of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce; provided, however, the operation of any such accessory uses shall be secondary to that of the normal farming activities and such accessory uses do not include commercial feedlots.

18. "Floor area" means the square feet of floor space within the outside line of walls, including the total of all space on all floors of a building. "Floor area" does not include porches, garages or space in a basement or cellar which is used for storage or incidental use.

19. "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.

20. "Garage, private" means an accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory. For single-family dwellings, a private garage may be used for the storage of not more than three motor vehicles, one of which may be a commercial vehicle of not more than two-ton capacity. For two and multi-family dwellings, the accessory garage shall contain not more than two parking spaces per dwelling unit.

21. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

22. "Height of a building" 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.

23. "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;
- B. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
- C. Is carried on by a member of the family residing in the dwelling unit;
- D. Does not employ more than one person outside the immediate family on the premises;
- E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building other than one sign not exceeding three square feet in area;
- F. Does not occupy more than 20 percent of the area of the main floor of the dwelling unit or an equivalent area in an accessory building; and

G. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such buildings or premises objectionable or detrimental to the residential character of the neighborhood.

24. “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 machinery, used lumber yards and places or yards for storage of salvaged building materials and structural steel materials and equipment, but not including areas where such uses are conducted entirely within completely enclosed building and not including the storage yards of contractors, public and private utilities or highway departments, and not including the storage or handling of salvaged materials incidental and necessary to manufacturing operations.

25. “Kennel” means an establishment where dogs are boarded for compensation or where dogs are bred or raised for commercial purposes or sale.

26. “Loading space” means a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks, having a minimum dimension of 12 by 35 feet and vertical clearance of at least 14 feet.

27. “Lot” means a parcel of land occupied or intended for occupancy by one or more main buildings together with accessory buildings, officially approved and having its principal frontage upon a dedicated street or an approved private street. The boundaries of the lot shall be determined by its lot lines. The adjoining street or road right-of-way, whether established by easement or under public or private ownership, shall not be considered as part of the lot area for the purposes of this chapter.

A. “Corner lot” means a lot abutting upon two or more streets at their intersection.

B. “Depth of lot” means the mean horizontal distance between the front and rear lot lines.

C. “Double frontage lot” means a lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

D. “Interior lot” means a lot other than a corner lot.

E. “Lot of record” means a lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder.

F. “Lot width” means the width of a lot measured at the rear of the required front yard and at right angles to its depth.

28. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

29. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

30. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available. The term “mobile home park” is not to be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The mobile home park shall meet the requirements of any zoning regulations that are in effect.

31. “Mobile home subdivision” means a subdivision created for the purpose of, and restricted to the sale or lease of individual lots for occupancy by independent mobile homes, or mobile homes converted to real estate and having public streets, utilities, and other public facilities installations approved by the Council in accordance with the subdivision regulations of the City.

32. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the *State Building Code* for modular factory-built structures, and must display the seal issued by the State Building Code Commissioner.

33. “Nursing home” means a home for the aged, chronically ill or incurable persons in which three 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.

34. “Parking space” means a surfaced area, enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than 180 square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

35. “Place” means a public or private thoroughfare, other than a street or alley, permanently reserved as the principal means of access to abutting property.

36. “Premises” means the land together with any buildings or structures located thereon.

37. “Sign” means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, the following are not included in the application of the regulations herein:

A. Signs not exceeding two square feet in area and bearing only property numbers; post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.

B. Flags and insignia of any government except when displayed in connection with commercial promotion.

C. Legal notices, identification, informational, or directional signs erected or required by governmental bodies.

D. Signs directing and guiding traffic and parking on public or private property but bearing no advertising matter.

E. Warning signs, “No Trespassing,” “No Hunting” and similar signs, not to exceed two square feet in area located on the premises.

F. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

G. Temporary signs relating to construction on the same site not to exceed 32 square feet.

38. “Special exception” means a use or structure that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as special exceptions, if specific provisions for such special exceptions are made in this chapter.

39. “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.

40. “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 or his or her family, or by a family occupying the floor immediately below it, shall be deemed a full story.

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

42. “Street line” means the right-of-way line of a street.

43. “Trailer camp” or “tourist campground” 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.

44. “Travel trailer” or “camping trailer” means a vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. The vehicle may be up to eight feet in width and any length provided its gross weight does not exceed four thousand five hundred pounds, which shall be the manufacturer’s shipping or the actual weight of the vehicle fully equipped, or any weight provided its overall length does not exceed 32 feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes and not used as a place of human habitation for more than ninety days in any twelve-month period, or it shall be classed as a mobile home, regardless of the size and weight limitation provided in this section. This definition also includes motor homes and camp cars of any weight or length having motive power and designed for temporary occupancy as defined in this section.

45. “Variance” means a relaxation of the terms of this zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship. As used in this chapter, a variance may be authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of

the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

46. “Yard” means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from two and one-half feet above the ground upward except as otherwise provided in this chapter. 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.

A. “Front yard” means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projection thereof, other than the projection of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension except where the owner shall elect to front the building on the street parallel to the lot line having the greater dimension.

B. “Rear yard” means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

C. “Side yard” means a yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof, except on the street side of a corner lot, the side yard shall extend from the required front yard to the rear lot line.

165.04 ESTABLISHMENT OF DISTRICTS. The City is divided into districts which shall be designated as follows:

- A-1 Limited Agricultural
- R-1 Residential
- R-2 Residential
- R-3 Residential
- R-4 Mobile Home Park
- C-1 Highway Commercial
- C-2 Planned Commercial
- C-3 Central Business District
- M-1 Limited Industrial
- M-2 General Industrial

The locations and boundaries of these districts are shown on the official zoning map.

165.05 ADOPTION OF OFFICIAL ZONING MAP. The official zoning map, together with the explanatory material thereon, is adopted by reference and declared to be a part of this chapter.

165.06 IDENTIFICATION OF OFFICIAL ZONING MAP. The official zoning map shall be identified by the signature of the Mayor and attested to by the Clerk under the following statement:

“This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Red Oak, Iowa, as adopted on _____.”

The official zoning map is 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.

165.07 CHANGES IN THE OFFICIAL ZONING MAP. No changes in the official zoning map shall be made except as may be required by amendments to this chapter. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, with the signature of the Mayor approving such change in the official zoning map. No amendment to this chapter which involves matters portrayed on the official zoning map shall become effective until after such change and entry have been made on the map. Any unauthorized change of any kind whatsoever in the official zoning map by any person or persons shall constitute a violation of this chapter. *(See EDITOR’S NOTE at the end of this chapter for ordinances amending the zoning map.)*

165.08 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following township lines or section lines shall be construed as following said lines.
4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shore lines of rivers or streams shall be construed to follow such shore lines, and in the event of change in the shore line, shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines, and in the event of change in the centerline, shall be construed as moving with the actual centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 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.
7. 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 6 of this section, the Board of Adjustment shall interpret the district boundaries.
8. Where a district boundary line divides a lot of record which was a single ownership at the time of the effective date of the ordinance codified in this chapter, the Board of Adjustment may permit, as a variance, the adjustment of the district boundary in either direction into the remaining portion of the lot, not to exceed 50 feet.

165.09 A-1 LIMITED AGRICULTURAL DISTRICT REGULATIONS. It is the intent of the A-1 District to accommodate and protect agricultural and other rural land uses near or adjacent to urban development from encroachment by incompatible uses. It is further the intent of this district to protect urban development from encroachment by incompatible agricultural uses.

1. Permitted Principal Uses and Structures and Required Parking. In the A-1 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Agriculture, horticulture, farms, farming and the usual farm buildings including farm dwellings	None
B. Grain storage bins	None
C. Single-family dwellings	2 spaces per unit
D. Railroads, utilities and public maintenance garages and equipment and materials, storage yards, but not including administrative or sales offices	1 space for each employee on side plus 1 space for each company vehicle.
E. Elementary and secondary schools	1 space per classroom or office
F. Churches	1 space for every 5 seats in main auditorium
G. Cemeteries	20 spaces off the public right-of-way on drives or parking areas
H. Public parks, fairgrounds, playgrounds, campgrounds and recreation areas	5 spaces for each acre developed for active usage
I. Golf courses and clubhouses but not including miniature courses operated for a profit	3 spaces per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater
J. Kennels and riding stables	2 spaces plus 1 space for every 100 square feet of floor area

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the A-1 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses and structures of this district not involving the conduct of business except home occupations and located on the same lot or a contiguous lot under the same ownership.

- B. Farm dwellings under the same ownership as the farming operation which are occupied or maintained for use and occupancy by persons employed on the farm.

- C. Private swimming pools, garages, tennis courts, gardens and greenhouses.

- D. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the work.

- E. Roadside stands for the sale of produce, provided that access to such stands is so located so as to afford a minimum site distance of 750 feet to motor vehicles on adjacent roads, that no parking space is located closer than 20 feet to the road right-of-way and that not less than four parking spaces are provided.

3. Special Exception Uses and Structures. Subject to Section 165.32 and the other requirements contained herein, the Board of Adjustment may permit the following:
 - A. Agricultural service businesses involving the processing, storage, and sale of grain for seed or feed; trenching, terracing, or well drilling, provided that the business produces no offensive noise, vibration, smoke, dust, odor, heat, glare or electrical interference detectable within the limits of the nearest dwelling.
 - B. Concrete or asphalt mixing or batching plants for temporary use during the construction, repair or maintenance of public roads, highways, or other public facilities, provided that the area is restored to a suitable condition free of refuse and debris.
 - C. Communications stations and towers, provided that they are not closer to a dwelling or place of public assembly than a distance equal to one-half their height, that they will not interfere with the operation of any airport or landing strip, and that one off-street space for each company vehicle is provided.
 - D. Airports and landing fields approved by the Federal Aviation Agency.
 - E. Temporary permits not to exceed 60 days for the location of car crushers or similar equipment used in the processing, removal or disposal of junk. Such permit may be granted for the purpose of facilitating the removal of junk from nonconforming junkyards, but shall not be granted for the purpose of establishing new junkyards or serve as a basis for the permanent expansion of nonconforming junkyards. In considering such permit, the Board shall determine the positive and negative effects on the environment anticipated both during and after the conclusion of such operation.
4. Minimum Lot Area and Width. Minimum lot area and width in the A-1 District are as follows:
 - A. Dwellings and institutional uses:

Area	3 acres
Width.....	200 feet
 - B. Other uses: no minimum.
5. Minimum Yard Requirements. Minimum yard requirements in the A-1 District are as follows:

Front	40 feet
Rear	30 feet
Side.....	15 feet
Street side, corner lot.....	30 feet
6. Maximum Height. Maximum height in the A-1 District shall be two and one-half stories or 35 feet. The height may be increased to a maximum of 50 feet, provided the front and side yards are each increased one foot for every foot of height over 35 feet.
7. Signs. See Chapter 171 for Sign Regulations.

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165.10 R-1 RESIDENTIAL DISTRICT REGULATIONS. The R-1 Residential District is intended to provide areas for medium density, single-family residential development together with necessary and incidental accessory uses.

1. Permitted Principal Uses and Structures and Required Parking. In the R-1 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Single-family dwellings	2 spaces per unit
B. Public parks, playgrounds and recreation areas	5 spaces for each acre developed for active usage
C. Golf courses and clubhouses but not including miniature courses operated for a profit	3 spaces per green or 1 space for every 100 square feet of clubhouse floor area, whichever is greater
D. Elementary and secondary schools	1 space per classroom or office
E. Churches	1 space for every 5 seats in main auditorium
F. Cemeteries	20 spaces off the public right-of-way on drives or parking areas

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the R-1 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership;

- B. Private swimming pools, garages, tennis courts, gardens and greenhouses;

- C. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

3. Special Exception Uses and Structures. Subject to Section 165.32 and the other requirements contained herein, the Board of Adjustment may permit the following: railroads and public utilities, but not including equipment storage or maintenance yards and buildings or administrative and sales offices, provided that any substation or building meets the front and rear yard requirements for dwellings and that side yards of not less than 25 feet are provided, and that two parking spaces per substation (or one per employee at the site) are provided.

4. Minimum Dwelling Requirements. Minimum requirements for any single-family or two-family dwelling are as follows:

- A. Minimum roof pitch of 3 to 1.

- B. Minimum roof overhang of 12 inches.

- C. Minimum outside dimensions of 20 feet in width by 20 feet in length.

- D. All dwellings must have a permanent perimeter foundation.

5. Minimum Lot Area and Width. Minimum lot area and width in the R-1 District are as follows:
- A. Dwellings:
 - Area 9,600 square feet
 - Width..... 80 feet
 - B. Other uses: no minimum.
6. Minimum Yard Requirements. Minimum yard requirements in the R-1 District are as follows:
- Front 30 feet
 - Rear 35 feet
 - Side..... 10 feet
 - Street side, corner lot..... 25 feet
7. Maximum Height. Maximum height in the R-1 District shall be two and one-half stories or 35 feet. The height may be increased to a maximum of 50 feet, provided the front and side yards are each increased one foot for every foot of height over 35 feet.
8. Signs. See Chapter 171 for Sign Regulations.

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165.11 R-2 RESIDENTIAL DISTRICT REGULATIONS. The R-2 Residential District is intended to provide area for a medium density residential development community of one-family and two-family residences together with other incidental uses typically found in residential areas such as schools, parks and churches.

1. Permitted Principal Uses and Structures. In the R-2 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Single-family dwellings	2 spaces per unit
B. Two-family dwellings	2 spaces per unit
C. Public parks, playgrounds and recreation areas	5 spaces for each acre developed for active usage
D. Community meeting or recreation buildings	1 space for every 100 square feet of floor area
E. Elementary and secondary schools	1 space per classroom or office
F. Churches	1 space for every 5 seats in main auditorium
G. Cemeteries	20 spaces off the public right-of-way on drives or parking areas

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the R-2 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership;

- B. Private swimming pools, garages, tennis courts, gardens and greenhouses;

- C. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

3. Special Exception Uses and Structures. Subject to Section 165.32 and the other requirements contained herein, the Board of Adjustment may permit the following:

- A. Garages and storage buildings as the principal structure and use on a lot not otherwise occupied by a normally permitted principal use of structure. Said garage or storage building must meet all yard setback requirements for principal structures permitted in the district.

- B. Railroads and public utilities but not including equipment storage or maintenance yards and buildings or administrative and sales offices, provided that any substation or building meets the front and rear yard requirements for dwellings and provided that side yards of not less than 25 feet are provided and that two parking spaces per substation (or one per employee at the site) are provided.

4. Minimum Dwelling Requirements. Minimum requirements for any single-family or two-family dwelling are as follows:

- A. Minimum roof pitch of 3 to 1.

- B. Minimum roof overhang of 12 inches.
 - C. Minimum outside dimensions of 20 feet in width by 20 feet in length.
 - D. All dwellings must have a permanent perimeter foundation.
5. Minimum Lot Area and Width. Minimum lot area and width in the R-2 District shall be as follows:
- A. Single-family dwellings:
 - Area 7,200 square feet
 - Width..... 65 feet
 - B. Two-family dwellings:
 - Area 9,600 square feet
 - Width..... 80 feet
 - C. Other uses: no minimum.
6. Minimum Yard Requirements. Minimum yard requirements in the R-2 District are as follows:
- A. Dwellings:
 - Front 25 feet
 - Rear 30 feet
 - Side..... 8 feet
 - Street side, corner lot..... 20 feet
 - B. Churches, schools and other public buildings:
 - Front 35 feet;
 - Rear 35 feet;
 - Side..... 20 feet;
 - Street side, corner lot..... 30 feet.
7. Maximum Height. Maximum height in the R-2 District shall be two and one-half stories or 35 feet. The height may be increased to a maximum of 50 feet, provided the front and side yards are each increased one foot for every foot of height over 35 feet.
8. Signs. See Chapter 171 for Sign Regulations.

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165.12 R-3 RESIDENTIAL DISTRICT REGULATIONS. The R-3 Residential District is intended to provide areas for the development of one-family, two-family and multi-family dwellings, together with various accessory and institutional uses similar in character.

1. Permitted Principal Uses and Structures and Required Parking. In the R-3 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Single-family dwellings	2 spaces per unit
B. Two-family dwellings	2 spaces per unit
C. Multiple-family dwellings	1½ spaces per unit
D. Rooming and boardinghouses	1 space for every two beds
E. Public parks, playgrounds and recreation areas	5 spaces for each acre developed for active usage
F. Community meeting or recreation buildings	1 space for every 100 square feet of floor area
G. Elementary and secondary schools	1 space per classroom or office
H. Private kindergartens and day nurseries	1 space, plus 1 space per employee
I. Churches	1 space for every 5 seats in main auditorium
J. Mortuaries	1 space for every 5 seats in main auditorium
K. Cemeteries	20 spaces off the public right-of-way on drives or parking areas

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the R-3 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, not involving the conduct of business on the premises, except home occupations located on the same lot or a contiguous lot under the same ownership.

- B. Private swimming pools, garages, tennis courts, gardens and greenhouses.

- C. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

3. Special Exception Uses and Structures. Subject to Section 165.32 and the other requirements contained herein, the Board of Adjustment may permit the following:

- A. Hospitals; sanitariums; rest, nursing and convalescent homes; homes for orphans and aged on sites of one acre or more, provided that yards comparable for other institutional uses of this chapter are provided and that off-street parking of not less than one space for every three beds plus one space for every two employees is provided.

- B. Railroads and public utilities but not including equipment storage or maintenance yards and buildings or general administrative and sales offices, provided that any substation or building meets the front and rear yard requirements for dwellings and that side yards of not less than 25 feet are

provided, and that two parking spaces per substation (or one per employee at the site) are provided.

4. Minimum Dwelling Requirements. Minimum requirements for any single-family or two-family dwelling are as follows:

- A. Minimum roof pitch of 3 to 1.
- B. Minimum roof overhang of 12 inches.
- C. Minimum outside dimensions of 20 feet in width by 20 feet in length.
- D. All dwellings must have a permanent perimeter foundation.

5. Minimum Lot Area and Width. Minimum lot area and width in the R-3 District are as follows:

- A. Single-family dwellings:
Area 7,200 square feet
Width..... 65 feet
- B. Two-family dwellings:
Area 8,400 square feet
Width..... 70 feet
- C. Multi-family dwellings: The minimum area is 10,800 square feet for 3 units plus 2,400 square feet for each additional unit up to 12 and 1,500 square feet for each additional unit over 12. The minimum width is 80 feet.

6. Minimum Yard Requirements. Minimum yard requirements in the R-3 District are as follows:

- A. Dwellings:
Front 25 feet
Rear 25 feet
Side..... 8 feet
Street side, corner lot..... 20 feet
- B. Schools, churches and other institutional buildings:
Front 30 feet
Rear 30 feet
Side..... 20 feet
Street side, corner lot..... 25 feet

7. Maximum Height. Maximum height in the R-3 District is two and one-half stories or 35 feet. The height may be increased to a maximum of 50 feet, provided the front and side yards are each increased one foot for every foot of height over 35 feet.

8. Signs. See Chapter 171 for Sign Regulations.

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165.13 R-4 MOBILE HOME PARK DISTRICT REGULATIONS. It is the intent of the R-4 Mobile Home Park District to permit the development of mobile home parks where such use will be compatible with surrounding development.

1. Permitted Principal Uses and Structures and Required Parking. In the R-4 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Mobile home parks	2 spaces per mobile home plus 1 space for every 200 square feet of floor area in administrative, recreational and service buildings
B. Public parks, playgrounds and recreation areas	None

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the R-4 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district, including but not limited to administrative offices, service buildings having laundry or toilet facilities, recreation buildings, swimming pools, garages and storage and maintenance buildings.

- B. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

- C. Public utilities, but not including equipment storage, yards, buildings or administrative offices.

3. Special Exception Uses and Structures. There are no special exception uses and structures in the R-4 District.

4. Minimum Lot Area and Width. Minimum lot area and width in the R-4 District are as follows:

Area.....5 acres
Width.....200 feet

5. Minimum Yard Requirements. Minimum yard requirements in the R-4 District are as follows:

Front.....25 feet
Rear15 feet
Side.....15 feet
Street side, corner lot.....25 feet

6. Maximum Height. Maximum height in the R-4 District is two and one-half stories or 35 feet.

7. Signs. See Chapter 171 for Sign Regulations.
8. Special Requirements. Special requirements in the R-4 District are as follows:
 - A. Mobile home parks shall contain not less than five acres and shall have a maximum density of eight mobile homes per acre.
 - B. No mobile home shall be closer than 20 feet to another mobile home or any building in the park except where mobile homes are parked end to end, the end clearance shall be at least 15 feet.
 - C. Any addition built onto any mobile home other than a porch or entryway shall not be closer than 15 feet from the nearest mobile home.
 - D. All mobile home spaces shall abut on a hard-surfaced roadway of not less than 22 feet in width which shall be adequately lighted and drained and which shall have unobstructed access to a public street or highway.
9. Procedure for Rezoning. The procedure for considering a request for rezoning in the R-4 Mobile Home Park District is the same as for zoning changes as set forth in Section 165.36, except that the following requirements also apply: the application shall be accompanied by four copies of a plot plan of the proposed mobile home park showing all proposed buildings, mobile home spaces, roadways, points of ingress and egress from public streets, parks, playgrounds, proposed sign locations and sizes, yards and other pertinent features of the development.

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165.14 C-1 HIGHWAY COMMERCIAL DISTRICT REGULATIONS. The C-1 Highway Commercial District is intended to accommodate commercial development which primarily serves the traveling public and to accommodate certain other uses which ordinarily require access to a major street or highway, or which have substantial land area requirements.

1. Permitted Principal Uses and Structures and Required Parking. In the C-1 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Automotive, truck, farm implement and mobile home display, sales, service, repair and storage	1 space for every 300 square feet of sales, service or office floor area
B. Motorcycle, boat, travel trailer, and other recreational vehicle display, sales, service, repair and storage	
C. Lumber yard and building material sales and distribution	
D. Plumbing, heating and air-conditioning contractor's office and shop	
E. Printing, publishing and engraving	
F. Professional offices	
G. Drive-in banks and financial institutions	3 spaces plus storage for 3 vehicles outside each teller lane
H. Hotels and motels	1 space per unit
I. Drive-in restaurants and refreshment stands	5 spaces per 100 feet of floor area
J. Greenhouses, plant nurseries & garden centers	1 space per 100 square feet of floor area
K. Antique shops	
L. Truck, trailer and equipment rental	
M. Animal hospitals, kennels & veterinary clinics	
N. Skating rinks and dancehalls	
O. Restaurants, nightclubs and taverns	
P. Dry cleaners and laundries	
Q. Personal service and repair shops	
R. Grocery store	
S. Convenience store typically selling groceries, sundries and gasoline	
T. Recreational and amusement facilities such as bowling alleys, miniature golf courses and driving ranges	Bowling alleys — 5 spaces per lane; Golf — 2 spaces per green
U. Drive-in theaters	Lanes outside ticket booth to accommodate 5% of theater capacity
V. Mortuary	1 space for every 5 seats in main auditorium
W. Railroads and public utilities	1space per employee
X. Building or construction contractor office, shop and storage yard	
Y. Sporting goods sales and services	1 space for every 300 square feet of sales, service or office floor area
Z. Liquor stores	1 space for every 300 square feet of sales, service or office floor area
AA. Can and bottle redemption centers	1 parking space for every 300 square feet of sales, service or office floor area

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the C-1 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses of 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 that such buildings are removed promptly upon completion of the construction work.
- D. Dwelling units in a commercial structure, provided that an open yard of at least 2,400 square feet is reserved and maintained for each dwelling unit and that two off-street parking spaces per unit be provided.

3. Special Exception Uses and Structures. Subject to Section 165.32 and the requirements contained herein, the Board of Adjustment may permit the following:

- A. Communications stations and towers, provided that they are not closer to a dwelling or place of public assembly than a distance equal to one-half their height, that they will not interfere with the operation of any airport or landing strip, and that one off-street parking space per employee and one off-street space for each company vehicle are provided;
- B. Commercially operated campgrounds or tourist camps on sites of not less than five acres, provided that no campsite is located within 100 feet of a residential district and that water and sewer disposal facilities are approved by City.
- C. Mini storage units, provided that one off-street parking space per storage unit is provided, and subject to such conditions and safeguards as deemed appropriate by the Board of Adjustment in accordance with Section 165.32 of this chapter.

4. Minimum Lot Area and Width. There are no minimum lot area and width requirements in the C-1 District except that where dwelling units are located in a commercial structure, an open yard of at least 2,400 square feet shall be provided for each unit.

5. Minimum Yard Requirements. Minimum yard requirements in the C-1 District are as follows:

Front.....	30 feet*
Rear.....	25 feet
Side	20 feet
Street side, corner lot	30 feet

*Properties within the C-1 District fronting on Broadway will be allowed to reduce the required front yard setback to 10 feet if they can demonstrate that the following minimum public right-of-way exists:

East side of Broadway	25 feet from back of curb
West side of Broadway	35 feet from back of curb

All required front and side yards shall be open lawn or landscaped areas except for signs and lighting fixtures as may be permitted elsewhere in this chapter.

6. Maximum Height. Maximum height in the C-1 District is two and one-half stories or 35 feet.

7. Signs. See Chapter 171 for Sign Regulations.
8. Supplemental Site Control Requirements. The following additional requirements shall be complied with for all new construction in the C-1 District:
 - A. All mechanical equipment (e.g., heating and cooling equipment, generators, and, for the purpose of this section, trash cans and dumpsters) shall be located in a manner not visible from Broadway or shielded from view with screening constructed of wood, masonry or decorative concrete, consistent with materials used in construction of the primary structure.
 - B. There shall be no outside storage of products visible from Broadway. This includes raw material for the operation of the business, retail product for sale to the public and any trash or byproducts from the operation of the business. This does *not* include automobiles for sale that are located on car lots permitted under these regulations. Additionally, this does *not* apply to seasonal displays including nursery stock or lawn and garden type products provided that said display is at least 60 feet back from the public right-of-way.

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165.15 C-2 PLANNED COMMERCIAL DISTRICT REGULATIONS. The C-2 Planned Commercial District is intended to accommodate certain general retail and personal service uses which would generally be inappropriate outside the Central Business District except when developed as part of a shopping center complex and developed in accordance with high standards. It is further the intent of this district to accommodate various professional office uses at locations where other commercial classifications and the uses permitted therein would be inappropriate.

1. Permitted Uses and Structures and Required Parking. In the C-2 District, permitted uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
<p>A. Shopping centers on sites of 5 acres or more containing 2 or more of the following:</p> <ul style="list-style-type: none"> • Automotive service station, but not including automotive or farm machinery display or sales; • Beauty and barber shops; • Business and professional offices and studios; • Grocery, apparel, appliance, hardware, toy and drugstores and retail stores similar in nature; • Department stores and garden centers; • Gift and specialty shops; • Personal service and repair shops; • Dry cleaners or laundry; • Real estate, insurance and financial institutions, including drive-in banks; • Dance or music schools; • Commercial amusements contained within a building; • Clubs and lodges; • Medical, dental and chiropractic clinics; • Restaurants, cafés and nightclubs, but not including drive-in eating or drive-in drinking establishments; • Liquor store; • Public utilities, but not including storage or maintenance yards or buildings 	<p>1 parking space for every 300 square feet of sales, service or office floor area</p>
<p>B. Professional offices including medical, dental and chiropractic clinics; law, real estate, finance, insurance, engineering and architecture offices</p>	<p>1 parking space for every 300 square feet of floor area</p>

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the C-2 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
- B. Storage in conjunction with the permitted principal uses or structures of this district, but only when contained within the same building.

C. Temporary buildings and equipment used in conjunction with construction work, provided that such buildings and equipment are removed promptly upon completion of the construction work.

3. Special Exception Uses and Structures. There are no special exception uses and structures in the C-2 District.

4. Minimum Lot Area and Width. Minimum lot area and width in the C-2 District are as follows:

A. Shopping Center:

Area 5 acres

Width..... 200 feet

B. Professional Offices:

Area 10,000 square feet

Width..... 100 feet

5. Minimum Yard Requirements. Minimum yard requirements in the C-2 District are as follows:

Front 25 feet*

Rear 25 feet

Side..... 20 feet

Street side, corner lot..... 25 feet

*Properties within the C-2 District fronting on Broadway will be allowed to reduce the required front yard setback to 10 feet if they can demonstrate that the following minimum public right-of-way exists:

East side of Broadway25 feet from back of curb

West side of Broadway35 feet from back of curb

All required front and side yards shall be open lawn or landscaped areas except for signs and lighting fixtures as may be permitted elsewhere in this chapter.

6. Maximum Height. Maximum height in the C-2 District is two and one-half stories or 35 feet.

7. Signs. See Chapter 171 for Sign Regulations.

8. Special Requirements. Special requirements for shopping centers are as follows:

A. An application for a change in zoning to the C-2 District for a shopping center shall be accompanied by a preliminary development plan of the proposed shopping center showing the approximate number and type of businesses to be housed in the shopping center.

B. No shopping center shall be located closer than one-half mile to a C-3 District or other shopping center zoned C-2.

C. An area equivalent to not less than five percent of the gross developed area shall be devoted to landscaped amenities such as malls, planters, and parking area islands.

D. All mechanical equipment (e.g., heating and cooling equipment, generators, and, for the purpose of this section, trash cans and dumpsters) shall be located in a manner not visible from Broadway or shielded from view with screening constructed of wood, masonry or decorative concrete, consistent with materials used in construction of the primary structure.

E. There shall be no outside storage of products visible from Broadway. This includes raw material for the operation of the business, retail products for sale to the public and any trash or byproducts from the operation of the business. This does *not* include automobiles for sale that are located on car lots permitted under these regulations. Additionally, this does *not* apply to seasonal displays including nursery stock or lawn and garden type products provided that said display is at least 60 feet back from the public right-of-way.

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165.16 C-3 CENTRAL BUSINESS DISTRICT REGULATIONS. The C-3 Central Business District classification is intended to accommodate various retail, governmental and service uses in a compact, centralized location that is convenient to users and where such uses benefit from being in close proximity to one another.

1. Permitted Principal Uses and Structures and Required Parking. In the C-3 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Automotive display, sales, service, repair and storage	No off-street parking required
B. Retail businesses such as those dealing with food, beverages, clothing, dry goods, medical supplies, drugs, furniture, appliances, paint, hardware, automotive parts and supplies, sporting goods and office supplies	
C. Specialty shops such as those dealing with books, cameras, antiques, magazines, gifts, curios, jewelry, confectionery, flowers, luggage, music, sound equipment, electronics, hobbies and crafts	
D. Personal service and repair shops	
E. Business and professional offices and studios	
F. Medical, dental and chiropractic clinics and offices	
G. Bus terminal	
H. Mortuary	
I. Restaurants, nightclub, café or tavern	
J. Public buildings	
K. Public garages, storage garages and parking lots	
L. Plumbing and heating sales, services and repair shops	
M. Hotels and motels	
N. Printing, publishing and engraving	
O. Dance, music and business schools	
P. Commercial amusements	
Q. Wholesale display and salesroom	
R. Public and private utilities	
S. Churches, clubs and lodges	

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the C-3 District 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 that such buildings are removed promptly upon completion of the construction work.

D. Dwelling units in a commercial structure.

3. Special Exception Uses and Structures. There are no special exception uses and structures in the C-3 District.

4. Minimum Lot Area and Width. There are no minimum lot area and width requirements in the C-3 District.

5. Minimum Yard Requirements. Minimum yard requirements in the C-3 District are as follows:

Front	None
Rear	20 feet
Side.....	None [†]

6. Maximum Height. Maximum height in the C-3 District is four stories or 50 feet.

7. Signs. See Chapter 171 for Sign Regulations.

[The next page is 891]

[†] Where adjacent to a residential district, a side yard of 20 feet shall be provided.

165.17 M-1 LIMITED INDUSTRIAL DISTRICT REGULATIONS. The M-1 Limited Industrial District is intended principally for manufacturing, processing, storage, wholesaling, distribution and related uses that are primarily contained within a building in order to minimize potential adverse effects on the human and natural environment.

1. Permitted Principal Uses and Structures and Required Parking. In the M-1 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Manufacturing and processing uses that are wholly contained within a building and have no exterior storage, create no offensive noise, dust, odor, vibration or electrical interference	1 space for every two employees on the maximum shift plus 1 space for each company vehicle
B. Animal hospitals, kennels and veterinary clinics	1 space for each employee
C. Contract construction office, maintenance shop and storage yards	
D. Automotive, truck, farm implement display, sales, service and repair or storage	
E. Mobile home, motorcycle, boat and recreational vehicle display, sales, service, repair or storage	
F. Lumber yards and building material sales & storage	
G. Wholesaling and warehousing, but not including the bulk storage of liquid fertilizer or petroleum products under pressure, explosives or highly volatile chemicals or materials	1 space for each employee plus 1 space for each company vehicle
H. Truck and freight terminals	
I. Grain storage bins, elevators and feed mills	
J. Welding, machine and repair shops	
K. Automobile paint and body shops	
L. Plumbing, heating, air conditioning and sheet metal shops	
M. Railroads and public utilities including storage and maintenance yards	1 space per unit
N. Mini storage units	
All uses: Loading space	1 space per 10,000 square feet of floor area or fraction thereof

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the M-1 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
- B. Temporary buildings used in conjunction with construction work, provided that 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 2,400 square feet is reserved and maintained for use by the occupants.

3. Special Exception Uses and Structures. Subject to Section 165.32 and the requirements contained herein, the Board of Adjustment may permit the following:

A. The aboveground storage of one thousand gallons or more of gasoline, oil, petroleum products under pressure, liquid fertilizer or other volatile or toxic chemicals or materials, provided that measures are taken to minimize potential danger to life and property in the event of leakage, spillage or fire; that such use is located so that prevailing winds will not cause gases or odors to create a nuisance or hazard for properties in the vicinity, and that one parking space for each employee and each company car is provided;

B. Communications stations and towers, provided that they are not closer to a dwelling or place of public assembly than a distance equal to one-half their height, that the height and location do not interfere with the operation of any airport or landing strip, and that one off-street space for each employee and for each company vehicle is provided.

C. Meat lockers, provided that there shall be no outside storage of live animals, and subject to such conditions and safeguards as deemed appropriate by the Board of Adjustment in accordance with Section 165.32 of this chapter.

4. Minimum Lot Area and Width. There are no minimum lot area and width requirements in the M-1 District.

5. Minimum Yard Requirements. Minimum yard requirements in the M-1 District are as follows:

Front	30 feet*
Rear	25 feet
Side.....	20 feet
Side street, corner lot.....	25 feet

*Properties within the M-1 District fronting on Broadway will be allowed to reduce the required front yard setback to 10 feet if they can demonstrate that the following minimum public right-of-way exists:

East side of Broadway	25 feet from back of curb
West side of Broadway	35 feet from back of curb

All required front and side yards shall be open lawn or landscaped areas except for signs and lighting fixtures as may be permitted elsewhere in this chapter. Where adjacent to an operating railroad, no yard is required along such lot line.

6. Maximum Height. Maximum height in the M-1 District is four stories or 50 feet.

7. Signs. See Chapter 171 for Sign Regulations.

8. Special Requirements.

A. No raw material, finished product or waste product which may cause dust or odor which would adversely affect adjoining properties shall be stored outside a building, nor shall any other debris or waste product be permitted to accumulate on the site.

B. In granting special exceptions for uses which pose a potential threat to the health, safety and well-being of persons or property in the area, the Board of Adjustment shall take into account the location and proximity of existing and proposed residential areas, schools, places of public assembly and any other

pertinent factors and shall require that adequate safeguards be taken to minimize the potential danger. In the event adequate safeguards and precautions cannot be met or complied with, the Board of Adjustment shall not grant approval for such use.

C. All mechanical equipment (e.g., heating and cooling equipment, generators, and, for the purpose of this section, trash cans and dumpsters) shall be located in a manner not visible from Broadway or shielded from view with screening constructed of wood, masonry or decorative concrete, consistent with materials used in construction of the primary structure.

D. There shall be no outside storage of products visible from Broadway. This includes raw material for the operation of the business, retail products for sale to the public and any trash or byproducts from the operation of the business. This does *not* include automobiles for sale that are located on car lots permitted under these regulations. Additionally, this does *not* apply to seasonal displays including nursery stock or lawn and garden type products provided that said display is at least 60 feet back from the public right-of-way.

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165.18 M-2 GENERAL INDUSTRIAL DISTRICT REGULATIONS. The M-2 General Industrial District is intended primarily for heavy manufacturing and closely related uses while providing protection against harmful effects to existing and future uses in other districts.

1. Permitted Principal Uses and Structures and Required Parking. In the M-2 District, permitted principal uses and structures and their required parking are as follows:

PERMITTED USE/STRUCTURE	PARKING
A. Manufacturing and processing, except that certain uses shall be permitted only as special exceptions	1 space for every 2 employees on the maximum shift, plus 1 space for each company vehicle
B. Contract construction office, maintenance shop or storage yard	1 space for every 300 square feet of sales, service or office floor area
C. Farm implement or truck sales, service and repair	
D. Lumber yards and building materials sales and storage, concrete products, ready-mix plants	
E. Wholesaling and warehousing, but not including the bulk storage of liquid fertilizer, petroleum products under pressure, explosives or highly volatile chemicals or materials	1 space for each employee plus 1 space for each company vehicle
F. Truck and freight terminals	
G. Grain storage bins, elevators and feed mills	
H. Welding, machine and repair shops	
I. Automobile paint and body shops	
J. Plumbing, heating, air conditioning and sheet metal shops	
K. Railroads and public utilities including storage and maintenance yards	1 space per unit
L. Mini storage units	
All uses: Loading space	1 space per 10,000 square feet of floor area or fraction thereof

2. Permitted Accessory Uses and Structures. Permitted accessory uses and structures in the M-2 District are as follows:

- A. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.

- B. Temporary buildings used to conjunction with construction work, provided that 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 2,400 square feet is reserved and maintained for use by the occupants.

3. Special Exception Uses and Structures. Subject to Section 165.32 and the requirements contained herein, the Board of Adjustment may permit the following:

- A. The following uses, provided that they are not closer than 1,000 feet to any dwelling unit other than that of the owner or operator, or any park, school,

church or place of public assembly; that one off-street parking space is provided for every two employees and one off-street space for each company vehicle:

- (1) Chemical plants
- (2) Explosives manufacture or storage
- (3) Fertilizer manufacture, storage or distribution
- (4) Sale barn
- (5) Refining of petroleum and natural gas and their products
- (6) Meat lockers, provided that there shall be no outside storage of live animals, and subject to such conditions and safeguards as deemed appropriate by the Board of Adjustment in accordance with Section 165.32 of this chapter.

B. Auto wrecking yards and junkyards on sites of five acres or more, provided that the front yard is maintained as an open space free of weeds and debris; that the site is enclosed with a fence or a suitable landscape planting that will screen the operation from the view of adjacent public streets and places of public assembly, parks, recreation areas and residential properties; and that a minimum of one off-street parking space for each employee and one off-street space for each vehicle used by the facility are provided.

C. Communications stations and towers, provided that they are not closer to a dwelling or place of public assembly than a distance equal to one-half their height, that they will not interfere with the operation of any airport or landing strip, and that one off-street parking space per employee and one off-street space for each vehicle used by the facility are provided.

4. Minimum Lot Area and Width. There are no minimum lot area and width requirements in the M-2 District.

5. Minimum Yard Requirements. Minimum yard requirements in the M-2 District are as follows:

Front	30 feet*
Rear	25 feet
Side.....	20 feet
Side street, corner lot.....	25 feet

*Properties within the M-2 District fronting on Broadway will be allowed to reduce the required front yard setback to 10 feet if they can demonstrate that the following minimum public right-of-way exists:

East side of Broadway	25 feet from back of curb
West side of Broadway	35 feet from back of curb

All required front and side yards shall be open lawn or landscaped areas except for signs and lighting fixtures as may be permitted elsewhere in this chapter. Where adjacent to an operating railroad, no yard is required along such lot line.

6. Maximum Height. Maximum height in the M-2 District is five stories or 60 feet.

7. Signs. See Chapter 171 for Sign Regulations.

8. Special Requirements.

A. All mechanical equipment (e.g., heating and cooling equipment, generators, and, for the purpose of this section, trash cans and dumpsters) shall be located in a manner not visible from Broadway or shielded from view with screening constructed of wood, masonry or decorative concrete consistent with materials used in construction of the primary structure.

B. There shall be no outside storage of products visible from Broadway. This includes raw material for the operation of the business, retail products for sale to the public and any trash or byproducts from the operation of the business. This does *not* include automobiles for sale that are located on car lots permitted under these regulations. Additionally, this does *not* apply to seasonal displays including nursery stock or lawn and garden type products provided that said display is at least 60 feet back from the public right-of-way.

C. In granting special exceptions for uses which pose a potential threat to the health, safety and well-being of persons or property in the area, the Board of Adjustment shall take into account the location and proximity of existing and proposed residential areas, schools, places of public assembly and any other pertinent factors and shall require that adequate safeguards be taken to minimize the potential danger. In the event adequate safeguards and precautions cannot be met or complied with, the Board of Adjustment shall not grant approval for such use.

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165.19 REGULATIONS APPLICABLE TO ALL DISTRICTS. Subject to Sections 165.09 through 165.18, the provisions, regulations, or exceptions set out in this section apply equally to all districts except as hereinafter provided.

1. **Visibility at Intersection.** On a corner lot in any district except the C-3 Commercial District, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two and one-half feet and 10 feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are 25 feet distance from the intersection of the right-of-way lines, and measured along the right-of-way lines.
2. **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 feet of any lot line.
3. **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.
4. **Height Regulation Exceptions.** The height limitations contained in Sections 165.09 through 165.18 do not apply to grain storage bins, grain elevators, feed mills, or to spires, belfries, cupolas, chimneys, antennas, water tanks, utility poles or towers, ventilators, elevator housing or other structures placed above the roof level and not intended for human occupancy.
5. **Use of Public Right-of-way.** No portion of the public road, street or alley right-of-way shall be used, or occupied by an abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.
6. **Proposed Use Not Covered.** Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Commission for a recommendation as to the proper district in which such use should be permitted and the chapter amended as provided in Section 165.36 before a permit is issued for such proposed use.
7. **Buildings to Have Access.**
 - A. Every building hereafter erected or structurally altered shall be on a lot or parcel having frontage on a public street or on a private road established and approved as part of an approved and recorded subdivision plat.
 - B. Construction compliance certificates shall not be issued for structures abutting a half-street and located on that side from which the required dedication has not been secured.
8. **Mobile Homes or Trailers.** Mobile homes shall be located only in an approved mobile home park or mobile home subdivision unless converted to real estate in accordance with State Code. Occupied travel trailers and camping trailers shall be located only in an approved tourist or trailer campground.
9. **Hedges and Fences.** Fences or hedges in any district shall not exceed four feet in height in any required front yard, and fences shall not exceed six feet in height in any required side or rear yard, in any residential district, subject to further restriction of Subsection 1 of this section. No fence shall be constructed or erected without first

acquiring a building permit. Fences must be constructed out of commercially available products specifically designed and recommended by the manufacturer for fencing in a residential application, not to include agricultural and livestock type fencing. Fence design and materials must be approved by the zoning official before a permit can be issued and construction practices need to meet industry standards and manufacturer's recommendations.

10. Off-Street Parking. No parking space required in a residential district by this chapter shall be provided in any required front yard, within a required side yard along the street side of a corner lot or within five feet of an interior side or rear lot line. No required parking space, driveway, or any merchandise, display or exterior storage shall be provided in any required front yard or in the first five feet inside the property line of any required side or rear yard in a commercial or industrial district. Whenever a structure is erected, converted or structurally altered within a commercial or industrial district, any required parking, along with its access to the street, shall be surfaced with concrete, asphalt, or other similar permanent, hard-surface, dust-free surfacing.

11. Application of District Regulations. Subject to Sections 165.09 through 165.18, the regulations and restrictions of this chapter apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.

12. All Uses and Structures to Conform. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations specified in this chapter for the district in which it is located.

13. Height, Density or Yards Shall Not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards, or other open spaces than required in this chapter or in any other manner contrary to the provisions of this chapter.

14. Separate Yards, Open Space and Off-Street Parking. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with 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 or use.

15. Minimum Yard and Lot Areas May Not Be Reduced. 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 established by this chapter.

16. New Areas. All territory which may hereafter be annexed to the City shall be classified in the A-1 Agricultural District until otherwise classified; provided, however, the Commission may recommend the appropriate district classification prior to the annexation of the territory, 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.

165.20 FLOODPLAIN REGULATIONS. (See Chapter 160 of this Code of Ordinances.)

165.21 NONCONFORMITIES. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures

which were lawful before the zoning ordinance was passed or amended but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. Subject to Sections 165.09 through 165.18, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after the effective date of the zoning ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. 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 zoning ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

165.22 NONCONFORMING LOTS OF RECORD.

1. 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. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements, not involving area or width 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 of the Board of Adjustment.
2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of the ordinance codified in this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

165.23 NONCONFORMING USES OF 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 regulations imposed by 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 twelve months, any subsequent use of land shall conform to the regulations specified by this chapter for the district in which such land is located.

165.24 NONCONFORMING 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 lots, 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 a way which increases its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

165.25 NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of 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 the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance codified in this chapter, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specified cases, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.
4. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination is discontinued or abandoned for 12 consecutive months, the structure, thereafter, shall not be used except in conformity with the regulations of the district in which it is located.

6. Where nonconforming use status applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

165.26 REPAIRS AND MAINTENANCE.

1. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10 percent of the current replacement cost 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.
2. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

165.27 USES UNDER EXCEPTION PROVISIONS. Any use permitted as a special exception in this chapter shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

165.28 NONCONFORMING USES TO REGISTER. The owner or operator of any use of land or use of a structure, or use of land and structure in combination, which shall become nonconforming on the effective date of the ordinance codified in this chapter, shall complete and file with the administrative officer a nonconforming use registration form, describing the use, the nature of its nonconformity, and the area of land or structure occupied on said date.

165.29 CERTIFICATES OF COMPLIANCE.

1. Construction Compliance Certificate. Subsequent to the adoption of the ordinance codified in this chapter, a construction compliance certificate shall be obtained from the administrative officer before any building or structure shall be erected, reconstructed, or structurally altered to increase the exterior dimensions, height, floor area, number of dwelling units or to accommodate a change in use of the building and/or premises or part thereof. The construction compliance certificate shall state that the proposed construction complies with all provisions of this chapter, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this chapter.
2. Occupancy Compliance Certificate. Subsequent to the effective date of the ordinance codified in this chapter, no change in the use or occupancy of an existing building, other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than a single-family dwelling until an occupancy compliance certificate has been issued by the administrative officer. Every occupancy compliance certificate shall state that the new occupancy complies with all provisions of this chapter and no subsequent modifications shall be made to the occupancy, use, or method of operation that would be in violation of this chapter.
3. Application For Compliance Certificates. Applications for compliance certificates shall be made prior to beginning construction or assuming occupancy on fully completed application forms obtained from the administrative officer, accompanied by such plans and information necessary to determine that the proposed construction or occupancy complies with all applicable provisions of this chapter. The administrative officer shall, within seven days thereof, approve or deny the applications.

If denied, the administrative officer shall submit reasons thereof in writing to the applicant.

4. Fees. The administrative officer is directed to issue a construction compliance certificate and/or occupancy compliance certificate as required by this chapter for proposed construction, reconstruction or alteration which complies with all provisions contained herein and to charge a fee of \$15.00 for each construction compliance certificate or occupancy compliance certificate issued separately. Only one \$15.00 fee shall be charged for a construction compliance certificate and occupancy compliance certificate issued jointly. There shall be no fees charged to the United States government, the State of Iowa, or any political subdivision thereof. All fees shall be paid to the administrative officer, 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.

165.30 BOARD OF ADJUSTMENT.

1. Board of Adjustment Created. A Board of Adjustment is established. The Board shall consist of five members to be appointed by the Council for staggered terms of five years. Members of the Board 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. Proceedings of the Board of Adjustment.

A. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the absence of the Chairperson the acting Chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public.

B. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

3. Hearings; Appeals; Notice.

A. Appeals to the Board of Adjustment concerning the 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 administrative officer. Such appeals shall be taken within a reasonable time, not to exceed 60 days, or such lesser period as may be provided by the rules of the Board, by filing with the administrative officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

B. 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.

C. A fee of \$50.00 shall be paid to the administrative officer at the time the notice of appeal is filed, which the administrative officer shall forthwith pay over to the credit of the General Revenue Fund of the City.

4. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with such officer, that by reason of facts stated in the certificate, a stay would, in the opinion of such officer, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application and notice to the administrative officer from whom the appeal is taken and on due cause shown.

5. Powers and Duties Generally. The Board of Adjustment shall have the powers and duties set out in Sections 165.31, 165.32 and 165.33.

165.31 ADMINISTRATIVE REVIEW. The Board of Adjustment shall have the power and duty to hear and decide appeals where it is alleged there is error in any order, requirement decision, or determination made by the administrative officer in the enforcement of this chapter.

165.32 SPECIAL EXCEPTIONS.

1. The Board of Adjustment shall have the power and duty to hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; 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.

2. 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 and/or complete such action within the time limit set shall void the special exception.

3. 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 not less than seven or more than 20 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. In reviewing an application for a special exception, the Board of Adjustment shall consider the most appropriate use of the land; the conservation and stabilization of property values; adequate open spaces for light and air; the protection and preservation of historic sites, woodlands, streams and other physical and environmental features; concentration of population; congestion of public streets; the promotion of the public safety,

morals, health, convenience and comfort; and the general welfare of the persons residing or working in the general area.

E. The Board of Adjustment shall make a finding that it is empowered to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

4. Before any special exception is granted, the Board shall make written findings certifying compliance with any specific regulations governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:

A. Ingress and egress to property with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

B. Off-street parking, loading and service areas where required.

C. Economic, noise, dust, heat, glare, or odor effects of the special exception on surrounding properties.

D. Utilities, with reference to location, availability, adequacy and compatibility.

E. Screens and buffers with reference to type, dimensions, character and adequacy.

F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with surrounding properties.

G. Required yards and other open spaces.

H. General compatibility with surrounding properties.

165.33 VARIANCES. The Board of Adjustment shall have the power and duty to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance may be authorized only for height, area, and size of yards or open spaces. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating that:

A. 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.

B. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

C. The special conditions and circumstances do not result from the actions of the applicant.

D. 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 other districts shall be considered grounds for the issuance of a variance.

2. Notice of public hearing shall be given as in Section 165.32.
3. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.
4. The Board of Adjustment shall make findings that the requirements of Subsection 1 of this section have been met by the applicant for a variance.
5. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that will make possible the reasonable use of the land, building or structure.
6. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
7. 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 a variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board grant a variance to allow a use not permitted in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the district.

165.34 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the aforementioned powers, 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 administrative officer 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 administrative officer, 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.

165.35 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.

165.36 CHANGES AND AMENDMENTS.

1. Generally. 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 until a report has been made upon the amendment by the Commission. Not less than seven or more than 20 days' notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City. 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 20 percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within two hundred 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.
2. Change of Zoning District Boundaries. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning map.

A. Such application shall be filed with the administrative officer accompanied by a fee of \$100.00 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) The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
- (5) A plat showing the locations, dimensions and use of the applicant's property and all property within 200 feet thereof, including streets, alleys, railroads, and other physical features.
- (6) A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

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.

B. Upon receipt of the application by the administrative officer, a copy shall be forwarded immediately to the Commission for study and recommendation. The Commission shall give notice of a public hearing of the proposed change to be held before the Commission. Not less than seven or more than 20 days' notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City. Upon holding the hearing, but prior to making a recommendation, the Commission shall determine the following:

- (1) Whether or not the current district classification of the property to be rezoned is valid.
- (2) Whether there is a need for additional land zoned for the purpose requested.
- (3) Whether the proposed change is consistent with the current land use plan of the City.
- (4) Whether the proposed change would result in a population density or development which would in turn cause a demand for services or utilities in excess of the capacity planned for the area.
- (5) Whether the proposed change would generate traffic in excess of the capacity of existing planned streets in the vicinity.
- (6) Whether the proposed change would pose a threat to the woodlands, streams, flood plain, agricultural land or other features of the environment.

C. The Commission shall submit its recommendations to the Council within 45 days after receipt of the application stating the reasons therefor, except that when no report issues within that time, the application will be deemed approved by the Commission. The Council may then consider the matter as provided in Subsection 1 of this section.

165.37 ADMINISTRATION AND ENFORCEMENT.

1. **Administrative Officer.** An administrative officer designated by the Council shall administer and enforce this chapter. Such officer may be provided with the assistance of such other persons as the Council may direct. If the administrative officer 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 ordering the action necessary to correct it. The administrative officer shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.
2. **Appeals From Decision of Administrative Officer.** Appeals from any decision of the administrative officer may be taken to the Board of Adjustment as provided in Section 165.30(3).
3. **Interpretation of Provisions.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion and protection of the public health, safety and general welfare. Whenever 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.
4. **Violation and Penalties.** Any person who violates or fails to comply with the provisions of this chapter shall be guilty of a misdemeanor, and each day such violations continue shall constitute a separate offense.
5. **Separate Offenses May Be Charged.** The owners or tenant of any building, structure, land or part thereof, or 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.
6. **Other Remedies.** Nothing contained in this chapter shall prevent the City from taking other lawful action as is necessary to prevent or remedy any violation.

EDITOR'S NOTE			
The following ordinances have been adopted amending the Official Zoning Map of the City and have not been codified herein, but are specifically saved from repeal and are in full force and effect.			
ORDINANCE	ADOPTED	ORDINANCE	ADOPTED
210	1980	362	1995
216		366	1995
217		369	1-15-96
218		375	5-6-96
223		376	6-96
224		379	6-26-97
225		380	7-7-97
227		387	6-1-98
229		393	8-16-99
231		408	7-17-00
237	1981	409	8-21-00
241		410	8-21-00
245		411	10-2-00
247		417	12-18-00
248		443	4-1-02
254		444	4-15-02
256		447	5-6-02
259		457	9-16-02
261		458	11-18-02
262		463	5-5-03
264		484	9-7-04
265		518	3-19-07
266		523	7-2-07
267		536	4-20-09
272		542	3-5-10
274		556	3-5-12
275		562	3-4-13
285		566	1-6-14
286		590	12-5-16
287		594	6-5-17
290		597	8-21-17
291		598	8-21-17
292		599	8-21-17
293		608	10-15-18
301		614	11-18-19
305			
310	5-21-90		
311	5-21-90		
314	3-4-91		
315	5-20-91		
319	7-1-91		
327	8-17-92		
328	8-17-92		
329	1-4-93		
333	7-7-93		
334	10-4-93		
343	4-18-94		
351	6-28-94		

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CHAPTER 166

AIRPORT TALL STRUCTURE ZONING REGULATIONS

166.01 Definitions

166.02 Conflicting Regulations

166.03 Airport Zones and Airspace Height Limitations

166.04 Use Restrictions

166.05 Obstruction Marking and Lighting

166.06 Variances and Special Exceptions

166.07 Administrative Agency

166.08 Penalties

166.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. “Airport” means the Red Oak Municipal Airport.
2. “Airport elevation” means the highest point of an airport’s usable landing area measured in feet above mean sea level, which elevation is established to be 1,045 feet.
3. “Airport hazard” means any structure or tree or use of land which would exceed the Federal obstruction standards as contained in Chapter 14, Code of Federal Regulations, Sections 77.21, 77.23 and 77.25 (14 C.F.R. 77.21, 77.23 and 77.25), as revised March 4, 1972, and which obstructs the airspace required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
4. “Airport primary surface” means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the *Federal Aviation Regulations* (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
5. “Airspace height” means for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
6. “Control zone” means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five statute miles in radius, with extensions where necessary to include instrument approach and departure paths.
7. “Instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.
8. “Minimum descent altitude” means the lowest altitude expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.
9. “Minimum en route altitude” means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.

10. "Minimum obstruction clearance altitude" means the specified altitude in effect between radio fixes on VOR airways, off-airways routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within 22 miles of a VOR.

11. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

12. "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, military services approved military airport layout plan, or any planning document submitted to the FAA by competent authority.

13. "Structure" when used in this chapter means and includes both animate and inanimate objects.

166.02 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and the regulations or limitations prescribed in any other chapter applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

166.03 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Red Oak Municipal Airport Height Zoning Map. A structure located in more than one zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. Horizontal Zone. The land lying under a horizontal plane 150 feet above the established airport elevations, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of runways 5 and 23 and connecting those arcs by lines tangent to those arcs. No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Red Oak Municipal Airport Height Zoning Map.

2. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 feet to one for a horizontal distance of 4,000 feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Red Oak Municipal Airport Height Zoning Map.

3. Approach Zone. The land lying under the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

A. The inner edge of the approach surface is 250 feet wide for runways 13 and 31.

B. The inner edge of the approach surface is 500 feet wide for runways 17, 35, 5 and 23.

C. The outer edge of the approach zone is:

- (1) 1,250 feet wide for runways 13 and 31.
 - (2) 2,000 feet wide for runways 17 and 35.
 - (3) 3,500 feet wide for runways 5 and 23.
- D. The approach zone extends for a horizontal distance of 5,000 feet at a slope of 20 to one for runways 17, 35, 13 and 31.
- E. The approach zone extends for a horizontal distance of 10,000 feet at a slope of 34 to one for runways 5 and 23.
- F. No structure shall encroach upon the approach zone to any runway, as those zones are depicted on the Red Oak Municipal Airport Height Zoning Map.
4. **Transitional Zone.** The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one from the sides of the airport primary surface and from the sides of the approach surfaces. No structures shall encroach upon the transitional surface of any runway, as those surfaces are depicted on the Red Oak Municipal Airport Height Zoning Map.
5. **Increase in Elevation of Structures.** No structure shall be erected in the County that raises the published minimum descent altitude or decision height for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any Federal airway in the County.

166.04 USE RESTRICTIONS. Notwithstanding any other provisions of this chapter, no use may be made of land or water within the City or County in such a manner as to interfere with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. **Lighting.** All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Red Oak Municipal Airport or in the vicinity thereof.
2. **Visual Hazards.** No operation from any use shall produce smoke, glare or other visual hazards within three statute miles of any usable runway of the Red Oak Municipal Airport.
3. **Electronic Interference.** No operation from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

166.05 OBSTRUCTION MARKING AND LIGHTING.

1. Notwithstanding the provisions of Section IV, the owner of any structure over 200 feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-2K and amendments. Additionally, any structure, constructed after the effective date of this chapter (November 14, 2006) and exceeding 949 feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 70-7460-2K and amendments.

2. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain upon it, at the owner's expense, such markings and lights as may be deemed necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the City and County at its own expense, to install, operate, and maintain upon it the necessary markings and lights.

166.06 VARIANCES AND SPECIAL EXCEPTIONS. Any person occupying property within an area affected by this chapter desiring to erect a new structure or increase the height of any existing structure, or permit the growth of any tree, or use property other than in accordance with the regulations prescribed in this chapter, must apply to the Zoning Board of Adjustment of the City for a special exception or a variance from such regulations. The application for special exception or for variance must be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. The special exception or variance shall be allowed where it is found that the conditions for granting a special exception or variance as set forth in the zoning ordinances of the City have been satisfied, and additionally, that granting the special exception or variance will not create a hazard to air navigation and will be in accordance with the spirit of this chapter. Additionally, no application for either a special exception or for a variance from the requirements of this chapter may be considered by the Board of Adjustment unless and until a copy of the application has first been furnished to the Red Oak Airport Commission for advice and comment. If the Red Oak Airport Commission does not respond to the application within 45 days after receipt, the Board of Adjustment may act on its own to either grant or deny the application.

166.07 ADMINISTRATIVE AGENCY. It is the duty of the Zoning Administrator of each local government entity having jurisdiction to administer the regulations prescribed herein. Applications for permits shall be made to the applicable Zoning Administrator upon a form furnished by the Administrator. However, applications for special exceptions or variances shall be made to the Zoning Administrator of the City of Red Oak upon a form furnished by the Administrator. Applications submitted to the applicable Zoning Administrator shall be promptly considered and either granted or denied. Applications for action to the Board of Adjustment shall be forthwith transmitted by the Zoning Administrator.

166.08 PENALTIES. Each person violating this chapter or any regulation, order, or ruling promulgated hereunder shall commit a simple misdemeanor and a municipal infraction, and upon conviction may be punished accordingly under City or County ordinances or State law. If punished under ordinances of the City of Red Oak, Sections 1.14 and Chapter 4 of this Code of Ordinances, as amended, shall apply. Each day a violation continues to exist shall constitute a separate offense.

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CHAPTER 167

AIRPORT ZONING REGULATIONS

167.01 Definitions	167.07 Lighting
167.02 Prohibitions in Airport Hazard Areas	167.08 Variances
167.03 Nonconforming Uses	167.09 Administrative Agency
167.04 Removal of Hazards After Notice	167.10 Conflicting Regulations
167.05 Airport Zones and Airspace Height Limitations	167.11 Penalties
167.06 Use Restrictions	

167.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Airport" means the Red Oak Municipal Airport.
2. "Airport elevation" means the highest point of an airport's usable landing area measured in feet above mean sea level, which elevation is established to be 1,042 feet.
3. "Airport hazard" means any structure or tree or use of land which would exceed the Federal obstruction standards as contained in 14 Code of Federal Regulations Sections 77.21, 77.23 and 77.25 and which obstructs the airspace required for the flight of aircraft and landing or takeoff at an airport or is otherwise hazardous to such landing or taking off of aircraft.
4. "Airport hazard area" means the following described four parcels of real estate situated in Montgomery County, Iowa, and lying adjacent to or near the Airport:
 - A. Parcel 1. The west 850 feet of the West Half of the SE $\frac{1}{4}$ lying north of the C. B. & Q. R.R., except the north 1,400 feet thereof, in Section 30, Township 72 North, Range 38 West of the 5th P.M.
 - B. Parcel 2. The east 600 feet of the south 850 feet of the north 1,150 feet of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 30, Township 72 North, Range 38 West of the 5th P.M.
 - C. Parcel 3. The east 150 feet of the south 500 feet of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the east 350 feet of the south 500 feet of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, all in Section 19, Township 72 North, Range 38 West of the 5th P.M.
 - D. Parcel 4. The west 600 feet of the north 750 feet of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 29, Township 72 North, Range 38 West of the 5th P.M.
5. "Airport primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the *Federal Aviation Regulations* (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
6. "Airspace height" means for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

7. “Control zone” means airspace extending upward from the surface of the earth which may include one or more airports and is normally a circular area of five statute miles in radius, with extensions where necessary to include instrument approach and departure paths.
8. “Instrument runway” means a runway having an existing instrument approach procedure utilizing air navigation facilities or area type navigation equipment, for which an instrument approach procedure has been approved or planned.
9. “Minimum descent altitude” means the lowest altitude expressed in feet above mean sea level, to which descent is authorized on final approach or during circle-to-land maneuvering in execution of a standard instrument approach procedure, where no electronic glide slope is provided.
10. “Minimum en route altitude” means the altitude in effect between radio fixes which assures acceptable navigational signal coverage and meets obstruction clearance requirements between those fixes.
11. “Minimum obstruction clearance altitude” means the specified altitude in effect between radio fixes on VOR airways, off-airways routes, or route segments which meets obstruction clearance requirements for the entire route segment and which assures acceptable navigational signal coverage only within 22 miles of a VOR.
12. “Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
13. “Visual Runway” means a runway intended solely for the operation of aircraft using visual approach procedures with no straight-in instrument approach procedure and no instrument designation indicated on a FAA approved airport layout plan, military services approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

167.02 PROHIBITIONS IN AIRPORT HAZARD AREAS. The following are prohibited in the Airport Hazard Areas:

1. To erect, maintain or allow to be placed any buildings, structures, trees or other objects in the Airport Hazard Areas or permit any growth thereof other than normal farm crops.
2. To permit the Airport Hazard Areas to be used by any assembly of persons or in such manner as might attract or bring together an assembly of persons thereon.
3. To suffer the land to be used or place any object or growth thereof which would interfere with the unrestricted and unobstructed flight of aircraft over and above the Airport Hazard Areas.

167.03 NONCONFORMING USES. No pre-existing nonconforming structure, tree or use shall be replaced, rebuilt, altered, allowed to grow higher or replanted so as to constitute a greater airport hazard than it was when the ordinance codified herein was adopted.

167.04 REMOVAL OF HAZARDS AFTER NOTICE. In the event any airport hazard is placed or allowed to be placed on the Airport Hazard Areas, the City may enter upon the real estate and remove the same at the owner’s expense; provided, however, the owner of the real estate shall be served by notice in the manner of original notices that unless such object or growth is removed within 30 days after service of the notice, the City will remove the same at the owner’s expense.

167.05 AIRPORT ZONES AND AIRSPACE HEIGHT LIMITATIONS. In order to carry out the provisions of this section, there are hereby created and established certain zones which are depicted on the Municipal Airport Height Zoning Map. A structure located in more than one zone of the following zones is considered to be only in the zone with the more restrictive height limitations. The various zones are hereby established and defined as follows:

1. Horizontal Zone. The land lying under a horizontal plane 150 feet above the established elevations, the perimeter of which is constructed by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of runways 17, 35, 5, and 23 connecting the adjacent arcs by lines tangent to those arcs. No structure shall exceed 150 feet above the established airport elevation in the horizontal zone, as depicted on the Municipal Airport Height Zoning Map.
2. Conical Zone. The land lying under a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 feet to one for a horizontal distance of 4,000 feet. No structure shall penetrate the conical surface in the conical zone, as depicted on the Municipal Airport Height Zoning Map.
3. Approach Zone. The land lying under the surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface.

(Note: An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.)

- A. Visual Other than Utility Runway and Non-Precision Instrument Runway. The inner edge of the approach surface is 500 feet wide for runways 17, 35, 5, and 23.
- B. Visual Other than Utility Runways. The outer edge of the approach zone is:
 - (1) 1,250 feet for runway 35.
 - (2) 1,500 feet for runways 17, 5, and 23.
- C. The approach zone extends for a horizontal distance of 5,000 feet at a slope of 20 to one for runways 17, 35, 5, and 23.

No structure shall exceed the approach surface to any runway, as depicted on the Municipal Airport Height Zoning Map.

4. Transitional Zone. The land lying under those surfaces extending outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one from the sides of the primary surface and from the sides of the approach surfaces. No structures shall exceed the transitional surface, as depicted on the Municipal Airport Height Zoning Map.
5. Increase in Elevation of Structures. No structure shall be erected in the County that raises the published minimum descent altitude for an instrument approach to any runway, nor shall any structure be erected that causes the minimum obstruction clearance altitude or minimum en route altitude to be increased on any federal airway in the County.

167.06 USE RESTRICTIONS. Notwithstanding any other provisions of Section 167.05, no use may be made of land or water within the City or County in such a manner as to interfere

with the operation of any airborne aircraft. The following special requirements shall apply to each permitted use:

1. **Lighting.** All lights or illumination used in conjunction with streets, parking, signs or use of land and structures shall be arranged and operated in such a manner that it is not misleading or dangerous to aircraft operating from the Municipal Airport or in the vicinity thereof.
2. **Visual Hazards.** No operation from any use shall produce smoke, glare or other visual hazards within three statute miles of any usable runway of the Municipal Airport.
3. **Electronic Interference.** No operation from any use in the City or County shall produce electronic interference with navigation signals or radio communication between the airport and aircraft.

167.07 LIGHTING. Notwithstanding the provisions of Section 167.06, the owner of any structure over 200 feet above ground level must install on the structure lighting in accordance with Federal Aviation Administration (FAA), Advisory Circular 70-7460-1D and amendments. Additionally, any structure constructed after the effective date of the ordinance codified in this chapter and exceeding 949 feet above ground level, must install on that structure high intensity white obstruction lights in accordance with Chapter 6 of FAA Advisory Circular 7460-1D and amendments. Any permit or variance granted may be so conditioned as to require the owner of the structure or growth in question to permit the City or County at its own expense to install, operate and maintain thereto such markers or lights as may be necessary to indicate to pilots the presence of an airspace hazard.

167.08 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use property in violation of any section of this chapter, may apply to the Board of Adjustment for variance from such regulations. No application for variance to the requirements of this chapter may be considered by the Board of Adjustment unless a copy of the application has been submitted to Municipal Airport Commission for an opinion as to the aeronautical effects of such a variance. If the Municipal Airport Commission does not respond to the Board of Adjustment within 15 days from receipt of the copy of the application, the Board may make its decision to grant or deny the variance.

167.09 ADMINISTRATIVE AGENCY. It is the duty of the County Zoning Administrator to administer the regulations prescribed herein. Applications for permits and variances shall be made to the County Zoning Administrator upon a form furnished by said County Zoning Administrator. Applications required by this chapter to be submitted to the administrative agency shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the County Zoning Administrator.

167.10 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to height of structures, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

167.11 PENALTIES. Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a simple misdemeanor, and each day a violation continues to exist shall constitute a separate offense.

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CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Title	170.15 Final Plat Requirements
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170.01 TITLE. This chapter shall be known and may be cited as the Subdivision Ordinance of Red Oak, Iowa.

170.02 CONTENT. This chapter contains rules and regulations for the subdivision of land within the City and within two miles thereof; procedures and requirements for the preparation, review and approval of land subdivision plats; minimum standards for the design and development thereof; and requiring as a condition of approval, certain improvements, all in accordance with Chapter 354 of the *Code of Iowa*.

170.03 PURPOSE. The purpose and intent of this chapter is to secure coordination of subdivisions of land and extensions of streets; to promote health, safety and general welfare of the public; to facilitate the provision of transportation, water supply, sewerage, storm drainage and other improvements and services in areas of new development throughout the City.

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

1. “Alley” means a permanent public service way or right-of-way designed to provide a secondary means of access to abutting property.
2. “Auditor” means the County Auditor.
3. “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, and where they do not, the most restrictive requirement will control.
4. “Commission” means the Planning and Zoning Commission of the City.
5. “Cul-de-sac” means a short minor street having one end open to motor traffic and the other end being permanently terminated by a vehicular turnaround.
6. “Easement” means authorization by a property owner for the use of another, and for a specified purpose, of any designated part of said owner’s property.

7. "Final plat" means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the County Recorder.
8. "Lot width" means the mean horizontal distance between the side lot line.
9. "Preliminary plat" means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and Commission for consideration.
10. "Right-of-way" means the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.
11. "Street" or "road" 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.
12. "Subdivider" means any person who shall lay out, for the purpose of sale or development, any subdivision as defined in this chapter, either for said person alone or others.
13. "Subdivision" means the division of a 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.

170.05 FEES. Each preliminary plat submitted for approval shall be accompanied by a fee of \$100.00 which shall be credited to the General Fund of the City.

170.06 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 the land while preserving the intent of this chapter.

170.07 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 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 the date after its adoption and publication as required by law.

170.08 ENFORCEMENT. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall be enforced as follows:

1. No plat or subdivision in the City or within two miles 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 herein.
2. No 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 herein.

3. No public improvements over which the Council has control shall be made with municipal funds, nor shall any such funds be expended for street maintenance, street improvements or other services in any area that has been subdivided after the adoption of the ordinance codified in this chapter unless the subdivision and streets have been approved in accordance with the provisions of this chapter and the streets accepted by the Council as public streets.

4. Any person who 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 \$50.00 for each lot or part of lot sold or disposed or leased or offered for sale.

170.09 JURISDICTION. All plats, replats or subdivision of land into three or more parts for the purpose of laying out lots in the City or, pursuant to Section 354.9 of the *Code of Iowa*, within two miles thereof, or if a new road is created, any division of a parcel of land, shall be submitted to the Council and Commission in accordance with the procedures established by this chapter, and shall be subject to the requirements contained in this chapter and in Chapter 354 of the *Code of Iowa*.

170.10 PRELIMINARY PLATTING PROCEDURE.

1. The subdivider of any tract of land to be subdivided shall cause a preliminary plat to be prepared containing the information specified in this chapter, and shall file four copies of the plat with the Clerk.

2. The Clerk shall immediately transmit three copies of the preliminary plat to the Commission and one copy of the plat to the City Engineer. The Engineer shall examine the plat as to its compliance with the laws and regulations of the City, the existing street system, master street plan, sewer, water and storm drainage provisions, and good engineering practices and shall within 15 days of receipt thereof, submit findings and recommendations to the Commission.

3. The Commission shall, as soon as possible, consider recommendations or comments of the Engineer as well as the following:

A. The effect of the proposed subdivision with regard to the public interest.

B. Conformity of the proposed subdivision with the provisions of this chapter.

C. The suitability of the area for the proposed development, with special attention to topographic and subsurface conditions, and to the availability of utility services.

D. The relation of the population density resulting from the proposed subdivision to the density contemplated by the comprehensive plan of the City.

E. The accessibility from existing highways and the effects the proposed subdivision will have on traffic volumes and patterns.

F. The use of sound planning and engineering practices in developing the plat and its features.

G. The effect of the proposed subdivision on historic sites, woodlands, streams and other features of the environment.

4. The Commission shall, within 45 days of the date the plat was filed with the Clerk, submit its recommendations to the Council whether of approval, modification or disapproval and stating its reasons therefor. The subdivider may, however, agree to an extension of time not to exceed 60 days. A copy of the recommendations shall also be forwarded to the subdivider.

5. The Council, upon receipt of the Commission's recommendation, or after the 45 days or any extension thereof shall have passed, shall by resolution grant approval of or reject the preliminary plat. If the preliminary plat is rejected, the Council shall advise the subdivider of any changes which are desired or should have consideration before approval will be given. Approval of the preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat but shall not be deemed approval of the subdivision.

170.11 FINAL PLATTING PROCEDURE.

1. A final plat shall be submitted within two years 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.

2. Procedures for final plats shall be the same as set out for preliminary plats in Section 170.10, except that a permanent copy of the plat made on stable plastic film shall also be submitted.

3. 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.

170.12 PLATS OUTSIDE CORPORATE LIMITS. Procedure for approval of preliminary and final plats of land within two miles of the corporate limits shall be the same as set out in Sections 170.10 and 170.11, except that two additional copies of the plat shall be filed with the Clerk. The Clerk shall transmit one copy to the County Engineer and one copy to the County Zoning Commission and request their recommendations to be submitted to the City Planning Commission. The Commission shall have sixty days in which to take action on the plat but shall not act prior to receiving the recommendations of the County Zoning Commission, provided that such recommendations shall be received within thirty days of referral.

170.13 PROFESSIONAL ASSISTANCE. The Council and the Commission may request such professional assistance as they deem necessary to properly evaluate the plats as submitted.

170.14 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat shall contain the following information.

1. A location map showing:
 - A. An outline of the area to be subdivided.
 - B. The existing streets and public or community utilities, if any, on adjoining property.
 - C. North point and scale.
2. A preliminary plat of the subdivision drawn to the scale of 50 feet to one inch; provided, that if the resulting drawings would be over 36 inches in length, a scale of 100 feet to one inch may be used, said preliminary plat to show:

- A. Legal description, acreage and name of proposed subdivision.
- B. Name and address of the owner.
- C. Name of person who prepared the plat, and the date thereof.
- D. Location of existing lot lines, streets, public utilities, water mains, sewers, drainpipes, culverts, watercourses, bridges, railroads and buildings in the proposed subdivision.
- E. Location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas.
- F. Names of adjacent property owners or subdivisions.
- G. Tract boundary lines showing dimensions, bearings, angles and references to known lines or bench marks.
- H. Layout of proposed blocks (if used) and lots including the dimensions of each and the lot and block numbers in numerical order.
- I. A statement concerning the location and approximate size or capacity of utilities proposed to be installed.
- J. Contours at vertical intervals of not more than two feet if the general slope of the site is less than 10 percent and at vertical intervals of not more than five feet if the general slope is 10 percent or greater.
- K. Proposed grades of streets.
- L. Proposed building lines.
- M. 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.
- N. The location of proposed wells and/or water mains and sewage disposal system if a public or community system is used.
- O. The drainage of the land including proposed storm sewers, ditches, culverts, bridges and other structures.
- P. North point and graphic scale.
- Q. Layout of lots showing approximate dimensions and number.
- R. A written statement from applicable utility companies indicating their approval of the utility easements shown on the plat.
- S. A written statement or plan regarding methods and/or techniques to be used for controlling erosion along new or altered drainage courses, roads or other areas subjected to erosion which will become a permanent part of the subdivision.
- T. A written statement or drawing setting forth the temporary measures to be used in controlling erosion during construction and development of the subdivision.

170.15 FINAL PLAT REQUIREMENTS. The final plat shall conform to the requirements set forth in Chapter 354 of the *Code of Iowa* and shall meet the following requirements:

1. It may include all or only part of the preliminary plat.
2. The plat shall be a permanent copy or a photographic print made on stable plastic film.
3. The plat shall be at a scale of one hundred feet to one inch and shall be on a sheet not larger than eighteen by twenty-four inches nor less than eight and one-half by eleven inches. When more than one 18-inch by 24-inch sheet is required, each sheet shall be appropriately numbered.
4. The final plat shall contain the following:
 - A. The name of the subdivision shall be shown in bold letters inside the margin at the top of each sheet included in the plat.
 - B. Dimensions and angles which provide a survey of the tract closing with an error of not more than one foot in 10,000 feet. The error of closure for individual lots within the subdivision shall not exceed one foot in 5,000 feet.
 - C. Accurate description of the boundary.
 - D. Accurate references to known or permanent monuments, giving the bearing and distance from some corner of a congressional division of the County of which the subdivision is a part. Monuments to be of record shall be described and identified on the plat.
 - E. Location, type, material and size of all monuments and markers.
 - F. Accurate locations of all existing and recorded roads intersecting the boundaries of the tracts.
 - G. Road right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines.
 - H. Complete curve notes for all curves included in the plat.
 - I. Road or street names.
 - J. Lot numbers and dimensions.
 - K. Block numbers, if used.
 - L. Accurate locations and purposes of easements for utilities and any limitations on such easements.
 - M. Accurate description of any property to be dedicated or reserved for public, semipublic or community use.
 - N. Name and address of owner and subdivider.
 - O. North point, graphic scale and date.
 - P. Certification by a registered land surveyor of the State.
 - Q. Certification of dedication of roads and other public property.
 - R. If the subdivision is outside the corporate limits of the City but within two miles thereof, a resolution and certificate of approval by the County Board of Supervisors shall also accompany the final plat.
5. 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. 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 one year 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 10 percent 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 subdivider 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 subdivider, 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 street surface is completed and accepted by the City.

6. The final plat shall also be accompanied by the following at the time it is presented for filing:

A. 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.

B. 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.

C. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

D. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

E. A statement by the Auditor approving the name or title on the subdivision plat.

170.16 STREETS AND ALLEYS. The design considerations for streets and alleys are as follows:

1. The street layout shall conform substantially to the master street plan of the City and shall provide access to all lots and parcels of land within the subdivision.
2. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.
3. New subdivisions shall make provisions for continuation and extension of arterials and collector or feeder streets which shall extend through the subdivision to the boundaries thereof.
4. Where access to adjoining properties is deemed necessary by the Council, residential and other minor streets shall be extended through the subdivision to the boundaries thereof.
5. No dead-end streets or alleys will be permitted except at subdivision boundaries, in which case a temporary cul-de-sac or turnaround shall be provided.
6. Street jogs of less than 150 feet shall be avoided.
7. Culs-de-sac shall not exceed 1,000 feet in length.
8. Intersection of more than two streets at a point shall not be permitted.
9. Intersection of street centerlines shall be between 80 degrees and 100 degrees.
10. Alleys shall be provided in commercial and industrial areas unless other suitable access to loading and service areas is provided.
11. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street. Names shall not duplicate existing street names and names similar to existing street names shall not be permitted.
12. Half-streets are prohibited except where essential to the reasonable development of the subdivision and adjoining tract, and where the Commission finds it reasonable to require dedication of the other half when the adjoining tract is subdivided. Wherever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
13. Where parkways, boulevards or special types of streets are proposed, the Commission may recommend and the Council may permit special standards for the design of such parkways or streets.

14. Minimum rights-of-way and surface widths including curbs where required shall be provided for the various classifications of streets as shown on the City's master street plan.

Street Classification	Right-of-Way Width	Surface Width
Arterial streets	70 feet	25 feet
Residential collector	60 feet	31 feet
Commercial collector	60 feet	41 feet
Industrial collector	60 feet	25 feet
Minor residential street	60 feet	29 feet
Rural residential street	60 feet	22 feet
Cul-de-sac	100 feet (dia.)	80 feet (dia.)
Frontage road	40 feet	24 feet
Alley	24 feet	24 feet

15. No street grade shall be less than four-tenths of one percent and shall not exceed the following limits.

- A. Collector streets, six percent.
- B. Residential streets, ten percent.

170.17 BLOCKS. The length of blocks shall be appropriate for the locality but not more than 1,250 feet in length. 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 220 feet, except where a single tier of double frontage lots parallels a limited access highway, a thoroughfare, drainage course, railroad or other barrier, the width shall not be less than 150 feet.

170.18 LOTS.

1. All lots shall abut on a street or place.
2. 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 a better layout.
3. Lots with double frontage shall be avoided, except in specific locations where sound planning principles indicate their use.
4. Lot width and area shall conform to the requirements of the applicable municipal or County zoning district in which such lots are located. Where interior lots are 80 feet in width or less, corner lots shall be at least 10 feet wider than interior lots.

170.19 SIDEWALKS.

1. Sidewalks shall be located in the street right-of-way one foot from the right-of-way line and shall be four feet in width.
2. The area between the curb and nearest edge of the sidewalk shall have a slope of one-half inch per foot toward the curb. This shall be the method for determining the grade of the sidewalk.
3. Crosswalks may be required in blocks over seven hundred feet long or in areas where long blocks require excessive travel. If required, they shall be located in a right-of-way not less than 15 feet in width and shall be constructed by the subdivider.

170.20 RESERVATIONS. No land shall be reserved by the subdivider or included in the plat unless the land is of sufficient size and shape and topographically suitable to be of some practical use or service as determined by the City.

170.21 EASEMENTS. Easements not less than five feet in width shall be provided along each side of the rear lot lines of all lots, and along such other lot lines as may be required by public and private utility companies. Easements of greater width may be required for trunk lines, pressure lines, open drainage courses or high voltage lines and shall be provided as determined by the utility or Council.

170.22 PRESERVATION OF DRAINAGE COURSES. Whenever any stream or surface drainage course is located in an area which is being subdivided, the subdivider shall provide an adequate easement along each side of the stream for the purpose of widening, deepening, sloping, improving or protecting the stream or drainage course.

170.23 EROSION CONTROL. Methods of controlling soil erosion shall be in accordance with established techniques and procedures of the County Soil Conservation District, or in accordance with the City's standards and specifications for like or similar work. Erosion control measures may, where deemed appropriate by the Commission, include mulches, temporary or permanent vegetative cover, the use of terraces, diversion ditches, impoundments, stilling basins, subsurface drainage pipe and other structures which will intercept, divert, retard or otherwise control runoff and soil erosion. Temporary erosion control measures shall be provided to minimize erosion during the course of construction. Permanent erosion control measures shall be provided along new or altered drainage courses which will become a permanent part of the subdivision and along streets, permanent embankments or other features where erosion is likely to occur.

170.24 PLANNED DEVELOPMENTS. The purpose of this provision is to encourage subdividers to utilize imaginative and innovative concepts in the design, layout and development of subdivisions. It is the intent of this provision to allow the reasonable and necessary modification of the requirements of this chapter in order to allow development of subdivisions which do not utilize a conventional layout for blocks, lots, streets and other features. It is not the intent of this provision to lessen the number, size, extent or type of improvements required, and any such modification or change in requirements shall be in harmony with the spirit of this chapter.

170.25 IMPROVEMENTS REQUIRED.

1. Sanitary Sewers. The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with the following:

A. Public Collection System. Where reasonably available, the subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with the sanitary sewer system of the City. In such case, the sewer system shall be approved by the Council and shall be designed and constructed in accordance with City specifications.

B. Private Disposal System. If it is demonstrated to the Council that Paragraph A is not practical, the Council may, upon request, permit the subdivider to install on each lot, a septic tank and absorption field or other system approved by applicable City or County Health Departments. In such case, each lot shall have sufficient area to accommodate the septic tank and absorption field for the anticipated use. In no case, however, shall septic

systems be permitted where rock, impervious clay or groundwater is closer than thirty inches to the surface of the ground.

2. Water. The subdivider shall provide the subdivision with an approved water supply and distribution system in accordance with the following:

- A. Public Water System. Where reasonably available, the subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves, and other appurtenances which shall extend into and through the subdivision to the boundary lines, and which shall provide for a water connection to each lot, and shall be connected to a public or municipal water system.

- B. Individual or Community Water System. Where a public water system is deemed to be unavailable by the Council, the subdivider shall install an individual well on each lot or a local or community water supply and distribution system, including all necessary mains, valves, hydrants and other appurtenances.

3. Storm Drains. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes to provide for the collection and removal of all surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties. Storm sewers and drainage structures shall be sized to accommodate runoff from the upstream watershed.

4. Sidewalks. The subdivider shall provide a four-foot-wide concrete sidewalk along each lot frontage where deemed necessary by the Council.

5. Street Lights. The subdivider shall provide street lights at approximately three-hundred-foot intervals along all streets in the platted area which are being dedicated for public use.

6. Markers. An iron rod not less than one-half inch in diameter and twenty-four inches in length shall be placed at all changes in direction of lot boundaries and at all lot corners except those where monuments are required.

7. Permanent Control Monuments. A reinforced concrete monument not less than four inches square or five inches in diameter and forty-eight inches in length with a brass cap, or similar type of monument approved by the City, shall be placed at the intersection of all lines forming angles in the boundary of the subdivision and at all block corners.

8. Grading. 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.

9. Curb and Gutter. Curb and gutter shall be installed on all streets in the platted area 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.

10. Surfacing. All streets being dedicated for public use shall be surfaced to the width required by Section 170.16. Surfacing shall be a minimum thickness of six inches of Portland cement concrete. All street paving shall have integral concrete curb and gutter and be constructed in accordance with the design and specifications and at grades approved by the City Engineer. Where a surface width in excess of 31 feet from back of curb to back of curb is required, the cost of the additional surface width, which shall be assumed to be the center portion of the roadway surface, shall be paid by the City.

11. Erosion Control. The subdivider shall be responsible for controlling soil erosion and surface water runoff within the subdivision during its construction and development and shall provide erosion and runoff control measures as work progresses on site grading, the installation of sewers or other improvements or phases of work. Insofar as practical, erosion control measures shall be undertaken prior to any other development within the subdivision which will contribute to runoff or erosion.

170.26 PLANS AND SPECIFICATIONS FOR IMPROVEMENTS. 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 be started until the plans and specifications have been approved.

170.27 INSPECTION OF IMPROVEMENTS. The Council shall cause the installation of all improvements to be inspected to insure compliance with the requirements of this chapter. The cost of the inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

170.28 MAINTENANCE BOND. Bonds for the maintenance of all required improvements within the proposed subdivision shall be provided and shall run from the date of acceptance of the improvements by the Council.

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CHAPTER 171

SIGN REGULATIONS

171.01 Purpose	171.09 Development Complex Sign Requirements
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171.06 Maintenance and Safety Inspection	171.14 General Sign Regulations
171.07 Abandoned Signs	171.15 Temporary Signs
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171.01 PURPOSE. This chapter is intended to promote, preserve, enhance and protect the physical appearance, safety and general welfare of the community, to protect property values and to reduce distractions and obstructions that may contribute to traffic collisions, to reduce hazards that may be caused by signs encroaching upon or over the public right-of-way, and to provide reasonable regulations and standards relating to signs and sign users.

171.02 REQUIREMENT OF CONFORMITY. It is unlawful for a sign to be placed in the City except of the type and specifications provided in this chapter.

171.03 PERMIT REQUIRED. It is unlawful for any person to erect, alter or relocate within the City any sign without first obtaining a sign permit from the Zoning Administrator, unless the sign to be erected, altered, or relocated is an exempt sign under this chapter.

171.04 APPLICATION FOR SIGN PERMIT. An application for a sign permit shall be made upon forms provided by the Zoning Administrator and shall include all information required by said form. The Zoning Administrator shall act on the application within 30 days by approving or denying it. If the application is denied, the reasons for denial shall be communicated to the applicant in writing. A denial of the application may be appealed to the City Council by filing a notice of appeal with the Zoning Administrator no later than the tenth day after the date the denial is communicated to the applicant in writing. The City Council shall hear and determine the appeal within 30 days of the date of filing the notice of appeal with the Zoning Administrator. The City Council shall make its findings and determination in writing and shall communicate its decision to the applicant within 30 days of the date of hearing.

171.05 PERMIT FEES. The fee determined by resolution of the City Council shall accompany all applications for sign permits.

171.06 MAINTENANCE AND SAFETY INSPECTION. All signs shall be maintained in a good state of repair, including the structural components, lighting and electrical systems and that portion attaching the sign to the ground or structure as well as the sign's surface features. The Zoning Administrator may cause any sign to be inspected from time to time as believed necessary to assure its continued good maintenance and safety, and to determine whether the sign is secure or in need of removal or repair in order to comply with this chapter.

171.07 ABANDONED SIGNS. Abandoned signs are unlawful and shall not be allowed. Signs that are considered to be nonconforming with the provisions of this chapter upon the date they become classified as abandoned shall be removed within 60 days of the date the sign

becomes classified as an abandoned sign. Removal shall include removal of the entire sign structure, base, pole, and/or other mounting or support apparatus. Signs that otherwise comply with the provisions of this chapter upon the date they become classified as abandoned shall have 60 days to either remove the sign in its entirety, or remove the sign face and replace with a blank panel. For the purpose of this chapter, an abandoned sign means a sign that no longer correctly identifies the use, business, owner, product or activity on the premises where the sign is located.

171.08 REGULATION OF NONCONFORMITY. Any temporary sign in existence on the effective date of this chapter which does not comply with the regulations set forth within this chapter shall be removed or otherwise brought into compliance within 60 days of the effective date of this chapter. Any pole or ground sign in excess of eight feet in height existing on property which has frontage on Broadway, Commerce Drive, or Senate Avenue shall be removed or made to conform to this chapter no later than five years from the effective date of this chapter. All other signs, lawfully existing upon the effective date of this chapter, shall be allowed to remain and shall be deemed nonconforming signs.

171.09 DEVELOPMENT COMPLEX SIGN REQUIREMENTS. A development complex is permitted one ground sign per lot frontage which shall otherwise not exceed the maximum height, length and width limitations set forth in this chapter.

171.10 PROHIBITED SIGNS. The following signs are prohibited:

1. Signs upon Public Property or in Public Right-of-Way. No sign or sign structure other than an official traffic control or street sign or public agency or informational sign approved for placement by the City Council shall be placed upon any public property or within any public right-of-way of any street or way within the City. No sign shall be attached to any utility pole, light standard, landscape improvement or any other public facility within the right-of-way.
2. Imitation Traffic Control and Safety Signs. No sign shall be placed at any location where it may be confused with an official traffic control device. No rotating beacon, beam or flashing illumination resembling an emergency light shall be used in any sign or shall be visible from an adjacent street. No lights resembling traffic control or emergency lights or words such as "Stop," "Look," "Danger," or any similar words, phrases, symbols or characters shall be used in any location visible to vehicular traffic.
3. Traffic Hazard. No sign shall be located in such a manner as to interfere with the vision of vehicle operators to the left or to the right at entrances to streets or highways or at intersecting roadways. No sign shall be placed at any location where it may constitute a traffic hazard or physically interfere with any official traffic control device.
4. Unobstructed Exit. No sign shall be erected which in any way obstructs egress from any door, window, fire escape or any other exit from a building.
5. Unsafe Attachments. No sign shall be attached to a standpipe, gutter drain, fire escape or unbraced parapet on any structure.
6. Flashing Lights. No sign shall contain or have attached to it in any way, flashing, blinking or alternating lights of any kind.
7. Portable Signs. No temporary sign, not permanently attached to the ground, a structure, or a building, shall be allowed.

8. Vehicle Signs. "Vehicle sign" means a commercial sign painted on or attached to any wheeled vehicle able to be registered for use in the City, including (but not necessarily limited to) any automobile, truck, trailer, bus, boat, motorcycle, train, airplane or bicycle which advertises a commercial enterprise. Vehicle signs are prohibited, except for signs used for identification of a commercial firm or its products and placed on or in a vehicle operated as part of the normal course of business of the firm to furnish identification of the business.
9. Revolving Sign. No sign or any part of a sign shall revolve.
10. Roof Sign. No sign which is a permanent on-premises sign erected upon or above a roof or parapet of a building or structure shall be allowed.
11. Fence Signs. No fence signs shall be allowed.
12. Off-Premises Signs. No sign which directs attention to an activity, establishment, product, or service which is located, conducted, or offered elsewhere than on the zoning lot upon which the sign is located shall be allowed.
13. Animated Signs. A sign or portion thereof that revolves, rotates, swings, undulates, or otherwise contains moving parts or lights that simulate actions or movement, whether operated by electronic or mechanical equipment or by natural sources, shall not be allowed.
14. Pole or Ground Signs. Pole signs or ground signs in excess of eight feet in height or any permanent free-standing sign, regardless of its method of mounting, that has any part of the sign or mounting structure exceeding eight feet in height as measured from the surrounding grade shall not be allowed.
15. Banner Sign. A banner is prohibited in all zoning districts except when displayed no more than on two separate occasions each calendar year (January 1 through December 31) for no more than 30 days on each display occasion.
16. Obscene Copy. Signs that contain words, pictures or graphic elements not having any redeeming social value shall be illegal as obscene and are prohibited.
17. Reflective Materials. Signs that contain mirrors, highly polished surfaces or other material being substantially reflective in nature are prohibited.
18. Exposed Bulbs. Signs containing exposed bulbs on the exterior surface of the sign are prohibited.

171.11 EXEMPT SIGNS. The following special signs are permitted:

1. Public Agency Sign. Regulatory, cautionary and informational signs of the City, School District, County, State or other public agency and erected for guidance of the public.
2. Flags and Emblems. Display of the flag or emblem of a nation, state or city.
3. Interior Signs. A sign located within a building or other structure neither intended to be nor actually visible from outside the structure.
4. Art Displays. Works of fine art not displayed in connection with a commercial enterprise or having a commercial purpose or used for commercial advertisement.
5. Seasonal Decorations. Temporary signs erected or displayed to celebrate the occasion of recognized holidays or to announce or celebrate an event sponsored by the City, County, local chamber of commerce or similar organization.

6. Name Plate or Address Signs. Signs not greater than one square foot in area for which the primary purpose is to identify the owner, occupant or resident of a street address or zoning lot and which are posted in connection with entrance or exit locations or mailbox delivery sites and have no other commercial purpose.
7. Legally Required Signs or Notices. Signs required to be placed, displayed or posted by law or any court or governmental order, rule or regulation.
8. Informational Signs. Signs not greater than three square feet in area displayed for direction, safety security, or convenience of the public, including signs identifying the location of restrooms, telephones, danger areas, parking area entrances or exits, freight entrances or the like.
9. Window Informational Signs. Signs displaying information about the operation of the business, such as days and hours of operation, after hours contacts, telephone numbers and like information, not exceeding a maximum area of two square feet.
10. Bench Signs. Signs attached to the seat back portion of a bench for the primary purpose of identifying sponsorship or a memorial, not to exceed six inches in height and 24 inches in length.
11. Real Estate Open House Signs. Real estate signs located on or off premises for the purpose of identifying a staffed open house event and only permissible on the day the open house is occurring.

171.12 SPECIAL SIGN REGULATIONS. The following special sign regulations shall apply:

1. Commercial Signs. Each enterprise, institution, or business shall be permitted one each of the following:

- A. One canopy sign per street front
- B. One ground sign per street front

Additionally, each enterprise, institution, or business shall be allowed to have one or more wall signs subject to compliance with the maximum size requirements of this chapter. Multiple businesses located in the same building upon a zoning lot must apportion wall and street frontage space so that the maximum size requirements of this chapter are not exceeded for a particular property.

2. Maximum Wall Sign Area. The total area of all wall signs on the face of a building shall be no more than one-third of the building wall surface and shall not extend more than four feet above the roofline.
3. Real Estate Sign. One on-premises real estate sign per zoning lot advertised is allowed except on corner lots which may have a sign on each side. Such signs may be placed in any location on private property and shall not exceed 20 square feet.
4. Ground Sign Area. Ground signs shall conform to the following regulations:
 - A. One ground sign is permitted for each public street access to the property.
 - B. No ground sign shall have a height greater than eight feet from the top of the surrounding grade.
 - C. No ground sign shall have a width, including base, greater than 12 feet.

- D. No ground sign shall be closer to any other ground sign than 50 feet.
- 5. Awning Sign and Canopy Sign Area. Any awning sign or a canopy sign shall conform to the following regulations:
 - A. The maximum allowable sign area for any canopy sign shall be 50 percent of the total area of the awning or canopy to which the sign is affixed or attached.
 - B. The minimum vertical clearance between the lower edge of an awning or canopy and the ground shall be eight feet.
- 6. Projecting Signs. Projecting signs shall not exceed 20 square feet in area per face, shall not project more than five feet from the face of the building, shall not project above the height of the building, and shall not be located lower than 10 feet above any grade.
- 7. Contiguous Property Sign Consolidation. Properties that are contiguous may choose to consolidate signage by placing advertising for more than one enterprise upon one sign. All other sign size and location regulations shall apply, however this type of sign consolidation shall not be deemed "off-premises" for the business whose location is on the contiguous lot. This shall only be allowed if both affected property owners are in agreement, execute a cost share and maintenance agreement for the sign, and remove any other conflicting or nonconforming signage upon erection of the new signage.

171.13 AGRICULTURAL AND RESIDENTIAL ZONING DISTRICTS.

- 1. Signage for any business operating as a legal nonconforming use within an Agricultural or Residential Zoning District shall comply with the regulations set forth within this chapter.
- 2. Upon receipt of an approved City sign permit, any business operating as a home occupation, as defined in Section 165.03, shall be allowed one sign identifying the business or service on the premises not to exceed sixteen square feet in area.
- 3. Identification signs are allowed, not to exceed four square feet in area.
- 4. Permitted signs shall be located at least 20 feet from any lot line or not more than five feet from the main building.
- 5. Illumination of signs and bulletin boards shall be indirect, non-intermittent lighting.
- 6. Church or public bulletin boards are allowed, not to exceed 16 square feet in area.
- 7. Signs shall be maintained in a neat, safe and presentable condition and in the event their use shall cease, they shall be removed immediately.
- 8. Mobile home park identification signs shall be allowed in the R-4 Mobile Home district, not to exceed 32 square feet in area and eight feet in height. Other signs and bulletin boards are permitted within a mobile home park when not visible from off the premises.

171.14 GENERAL SIGN REGULATIONS. The following general regulations apply to all signs in all commercial and industrial zoning districts of the City:

1. **Sign Illumination.** An illuminated sign may be lighted from the interior or from an exterior light projection shielded to prevent glare onto the public right-of-way and neighboring properties.
2. **Measurement of Sign Area.** The area of a sign made up of letters, words or symbols within a frame shall be measured from the outside edge of the frame. The area of a sign composed of only letters, words, or symbols shall be calculated from imaginary straight lines drawn around the entire copy or grouping of the letters, words or symbols. Double-faced signs shall be calculated on the area of one side only. Three-dimensional or multi-faced signs shall be calculated on the maximum area visible from any one direction at any point in time.
3. **Condition and Maintenance.** All signs, supports, braces, and anchors shall be constructed of corrosion-inhibitive material or so treated and shall be maintained in good condition, free from deterioration. All display surfaces of all signs shall be continuously kept neatly painted at all times. When the Zoning Administrator determines a sign is no longer in good condition, the Zoning Administrator shall notify the sign owner of the matters required to bring the sign into good condition and the owner shall be allowed 60 days from the date of the notification in order to accomplish the work of repair or replacement necessary. Failure of the sign owner to remedy the deficiency within the time allowed shall be a violation of this chapter.
4. **Changeable Copy Sign.** Changeable copy signs are allowable in all zoning districts so long as the maximum coverage of the changeable copy portion does not exceed 25 percent of the total area of the sign to which the electronic message board is made a part.
5. **Visual Clearance.** No sign greater than two and one-half feet in height shall be located within the triangular area formed by connecting the right-of-way lines at points which are 25 feet from the intersection of the right-of-way lines and measured along the right-of-way lines in the case of a corner lot, or in the triangular area formed by connecting the right-of-way line and a line running adjacent to a driveway entrance at points 25 feet from the intersection of said lines.
6. **Interference with Utilities.** Signs and their supporting structures shall not interfere with any equipment or utilities, whether water, sewer, gas, electrical or communications.
7. **Obstruction to Doors, Windows or Fire Escapes.** No sign shall be erected, located, relocated, or maintained so as to prevent free ingress or egress from any door, window, or fire escape on the premises to which it is attached. No sign shall be constructed which obstructs any opening required for ventilation to the premises.
8. **Sign Mounting.** All signs shall be mounted in one of the following manners:
 - A. Flat against a building or wall.
 - B. Back-to-back in pairs so that the back of each sign is screened from public view.
 - C. In clusters in an arrangement which screens the back of the signs from public view.

Otherwise the sign shall be mounted so that the back of each sign or sign structure is open to public view and painted a neutral color blending with the surrounding environment.

9. Minimum Distance Between Signs. All ground signs in the zoning district in which they are allowed must have a minimum separation distance of 50 feet between them or a distance equal to one-half the street frontage of the lot on which the ground sign is located, whichever is greater.
10. Directional Signs. No more than two directional signs per street entrance shall be permitted for any enterprise, business or institution. Any such sign shall not be greater than four square feet in area in the commercial or industrial zoning districts.

171.15 TEMPORARY SIGNS.

1. Political Signs. The following temporary signs are permitted in all commercial and industrial zoning districts of the City:
 - A. Political signs shall not exceed eight square feet in area and 42 inches in height.
 - B. Political signs shall be permitted to be displayed for a period not more than 90 days prior to the relevant election and must be removed within 10 days after the election.
 - C. Political signs shall not be placed within any public property or right-of-way.
 - D. Any political sign placed in violation of this section shall be immediately removed by the Zoning Administrator. The owner of the property shall be responsible for any violation of this section.
2. Real Estate Signs. Real estate signs must be located on the premises to which they relate. Real estate signs shall be no greater in area than 20 square feet. Real estate signs shall be removed by the brokerage upon closing of the sale.
3. Subdivision Signs and Subdivision Development Signs. There shall be no more than one sign per entrance into the development and each sign shall be no greater in area than 32 square feet and no greater than eight feet in height. A subdivision development sign shall be allowed to be maintained on the premises to which it relates for no longer than five years from the date of permit issuance.
4. Special Sale Signs. Special sale signs shall be permitted as banner signs within the limitations of this subsection. Examples of such signs are sale, grand opening and going-out-of-business signs. Such signs shall be removed immediately upon termination of the event that they advertise. Such signs must be attached to the wall or window of the building conducting the event which they advertise. No business shall have more than one such sign for each wall of the building to which they are attached. The total sign size shall not be greater than 50 percent of the size of the permitted wall or 25 square feet in area, whichever is the greater. Special sale signs may not be displayed for greater than 30 consecutive days.
5. Community Promotional Signs. Promotional signs advertising a community event or having community interest such as a fair, farmers market, or parade may be located upon or over the public right-of-way. Size, design, location, and method of erection of such signs must be approved in advance by the City Council and shall be consistent with the primary purpose of the public right-of-way to provide safe and convenient traffic circulation, whether vehicular or pedestrian.

6. Removal Required. Temporary signs not in compliance with the requirements of this chapter shall be removed within 30 days after notification of nonconformity by the Zoning Administrator.

171.16 PENALTY FOR VIOLATION. A violation of this chapter may be enforced by order of the Zoning Administrator or City Council, as the case may be, and may be punished under the standard penalty provisions of this Code of Ordinances and as a municipal infraction in the discretion of the Zoning Administrator or City Council, as the case may be. Additionally, compliance with and enforcement of this chapter may be obtained by pursuit of any alternative remedy or action at law or in equity, whether specified in this chapter or not, specifically including a cause of action for abatement of nuisances either under this Code of Ordinances or Statutes of the State of Iowa.

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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. OFFICIAL COPY. The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. DISTRIBUTION. Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. SALE. The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. RECORD OF DISTRIBUTION. The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
CITY OF RED OAK, IOWA, BY ADDING A NEW SECTION
LIMITING PARKING TO 30 MINUTES ON A PORTION OF
_____ STREET**

BE IT ENACTED by the City Council of the City of Red Oak, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Red Oak, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. _____ Street, on the _____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RED OAK, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Red Oak, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Red Oak, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No.____ on the ____ day of _____, 20____.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RED OAK, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES**

BE IT ENACTED by the City Council of the City of Red Oak, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Red Oak, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$_____ dollars per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

**ORDINANCES NOT CONTAINED IN THE
CODE OF ORDINANCES**

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____**AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL
DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO RED
OAK, IOWA**

Be It Enacted by the City Council of the City of Red Oak, Iowa:

SECTION 1. The (location or legal description of street or alley) to Red Oak, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Red Oak, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Red Oak, Iowa, will meet on the ____ day of _____, 20____, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Red Oak, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Red Oak, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Red Oak, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ____ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ____ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Red Oak, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____

 _____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located _____

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Red Oak, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING**REQUIRED SEWER CONNECTION**

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Red Oak, Iowa, will meet on the ____ day of _____, 20____, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Red Oak, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER
REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Red Oak, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on

_____,
(Name of Property Owner)

through _____, Agent,

(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,

(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

_____,

(Owner's Name)

_____, as provided by law.

(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____, _____, _____,

_____, _____, _____.

NAYS: _____, _____, _____,

_____, _____, _____.

Resolution approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

