

CODE OF ORDINANCES

OF THE

CITY OF

ARMSTRONG, IOWA

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CODE OF ORDINANCES

CITY OF ARMSTRONG, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
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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 Armstrong, 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 Armstrong, Iowa.
3. “Clerk” means the city clerk of Armstrong, 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 or a standard code adopted by reference).
5. “Code of Ordinances” means the Code of Ordinances of the City of Armstrong, Iowa.
6. “Council” means the city council of Armstrong, Iowa.
7. “County” means Emmet County, Iowa.
8. “IAC” means the Iowa Administrative Code.
9. “May” confers a power.
10. “Measure” means an ordinance, amendment, resolution, or motion.
11. “Must” states a requirement.
12. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
13. “Ordinances” means the ordinances of the City of Armstrong, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

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

16. “Shall” imposes a duty.

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

18. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board, or officer or employee

of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny, or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

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

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

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CHAPTER 2

CHARTER

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

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

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

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of five Council Members elected at large for overlapping terms of four years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1[3])

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.22[9])

3.06 ALTERNATIVE PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal

penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

(Code of Iowa, Sec. 364.22[12])

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths	5.07 Conflict of Interest
5.02 Bonds	5.08 Resignations
5.03 Powers and Duties	5.09 Removal of Appointed Officers and Employees
5.04 Books and Records	5.10 Vacancies
5.05 Transfer to Successor	5.11 Gifts
5.06 Meetings	5.12 Unlawful Use of City Property

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 Armstrong 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 except as allowed in Subsection 5.

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

(Code of Iowa, Sec. 64.24(1a))

5. Insurance Policy in Lieu of Bond. In lieu of a bond, a public officer required to obtain a bond pursuant to Chapter 64 of the *Code of Iowa* may obtain an insurance policy in an amount not less than the amounts required of a bond.

(Code of Iowa, Sec. 64.3)

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

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

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

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

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

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

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

1. Definitions. The following terms are defined for use in this section.

A. “Closed session” means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.

B. “Hybrid meeting” means a meeting involving both remote participation and in-person participation by members.

(Code of Iowa, Sec. 21.8(4)(a))

C. “Open session” means a meeting to which all members of the public have access.

(Code of Iowa, Sec. 21.2(3))

D. “Remote participation” means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.

(Code of Iowa, Sec. 21.8(4)(b))

E. “Reasonable notice” means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body

holding the meeting, or if not such office exists, at the building in which the meeting is to be held.

(Code of Iowa, Sec. 21.4(1))

F. “Teleconference participation” means participation using audio conference tools involving multiple participants in at least two separate locations.

(Code of Iowa, Sec. 21.8(4)(c))

G. “Virtual meeting” means a meeting involving real-time interaction using integrated audio, video, and other digital tools, in which participants do not share a physical location.

(Code of Iowa, Sec. 21.8(4)(d))

2. 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)

3. 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)

4. 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)

5. 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)

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

(Code of Iowa, Sec. 21.7)

7. Electronic Meetings. A governmental body shall provide for hybrid meetings, teleconference participation, virtual meetings, remote participation, and other hybrid options for the members of the governmental body to participate in official meetings. A governmental body conducting a meeting pursuant to this subsection shall comply with all of the provisions of Chapter 21 of the *Code of Iowa*.

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
(Code of Iowa, Sec. 362.5[3b])
3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.
(Code of Iowa, Sec. 362.5[3c])
4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in Subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.
(Code of Iowa, Sec. 362.5[3e])
5. Newspaper. The designation of an official newspaper.
(Code of Iowa, Sec. 362.5[3f])
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.
(Code of Iowa, Sec. 362.5[3g])
7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.
(Code of Iowa, Sec. 362.5[3h])
8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.
(Code of Iowa, Sec. 362.5[3i])
9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.
(Code of Iowa, Sec. 362.5[3d])
10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.
(Code of Iowa, Sec. 362.5[3j])
11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.
(Code of Iowa, Sec. 362.5[3k])
12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.
(Code of Iowa, Sec. 362.5[3l])

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

5.12 UNLAWFUL USE OF CITY PROPERTY. No person shall use or permit any other person to use City property owned or leased by the City for any private purpose and for personal gain, to the detriment of the City.

(Code of Iowa, Sec. 721.2[5])

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose

7.02 Finance Officer

7.03 Cash Control

7.04 Fund Control

7.05 Operating Budget Preparation

7.06 Budget Amendments

7.07 Accounting

7.08 Financial Reports

7.09 Setoff Program Provisions

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)

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

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

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

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

(545 IAC 2.5[2])

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

(545 IAC 2.5[3])

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

(545 IAC 2.5[4])

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

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

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

(545 IAC 2.5[5])

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

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

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

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

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

4. Annual Statement.

(Code of Iowa, Sec. 24.2A[2])

A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 15, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-10) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. The proposed property tax hearing shall be set on a date on or after March 20 of the budget year immediately preceding the budget year for which the tax is being proposed. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published 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. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices.

(3) 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 a date no later than the date of publication of the notice.

(4) Failure of a newspaper to publish a required notice under this paragraph shall not be considered a failure of a political subdivision to provide required notice under this paragraph if all of the following conditions are met:

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Subsection 2, Paragraph B.

b. The political subdivision can demonstrate to the county auditor that the political subdivision provided sufficient time for the newspaper to publish the notice.

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 the requirements of Subsection 4 of this section are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 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 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, unless an additional tax levy is approved at a City election. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Clerk and 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, program, sub-program, and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

(Code of Iowa, Sec. 384.22)

7.09 SETOFF PROGRAM PROVISIONS. This section shall establish policies and procedures for the City pursuant to Section 421.65 of the *Code of Iowa*, to allow the City to utilize and invoke the setoff program provisions of the State for collection of debts owed to the City and for which the City has provided the obligor with an opportunity to contest.

1. Definitions. The following terms are defined for use in this section:
 - A. “Department” means the Iowa Department of Revenue.
 - B. “Obligor” means a person, not including a public agency, who has been determined to owe a qualifying debt.
 - C. “Public agency” means a board, commission, department, including the Department of Revenue, or other administrative office or unit of the State or any other State entity reported in the Iowa Annual Comprehensive Financial Report, or a political subdivision of the State, or an office or unit of a political subdivision. Public agency does include the Clerk of the District Court as it relates to the collection of a qualifying debt. Public agency does not include the general assembly or Office of the Governor.
 - D. “Public payment” means any claim a public agency owes to an obligor.
 - E. “Qualifying debt” means any of the following:
 - (1) Any debt, which is assigned to the Department of Health and Human Services, or which is owed to the Department of Health and Human Services for unpaid premiums under Section 249A.3(2)(a)(1) of the *Code of Iowa*, or which child support services is otherwise attempting to collect, or which foster care services of the Department of Health and Human Services is attempting to collect on behalf of a child receiving foster care provided by the Department of Health and Human Services.
 - (2) Any debt which is in the form of a liquidated sum due, owing, and payable to the Clerk of the District Court.
 - (3) Any liquidated sum certain, owing, and payable to a public agency, with respect to which the public agency has provided the obligor an opportunity to protest or challenge the sum in a manner in compliance with applicable law and due process, and which has been determined as owing through the challenge or protest, or for which the time period provided by the public agency to challenge, or protest has expired.
2. Memorandum of Understanding. The City shall enter into a memorandum of understanding with the Department which shall outline the program guidelines for use of the State Setoff Program.
3. Qualifying Debt. The Clerk shall only certify to the Department qualifying debt as approved by the Department through the completion of a qualifying debt questionnaire and for which the City has provided appropriate documentation showing the City’s legal authority for charging, implementing a fine or fee for violation of, or imposing costs related to the abatement of certain conditions when appropriate legal authority exists to the City. The qualifying debt questionnaire may be updated from time to time as required by the City to add or remove qualifying debt or as needed by the Department.
4. Due Process. Prior to submission of a debt to the Department the City shall provide the obligor due process as outlined in this section prior to the submission of a debt:

- A. With respect to the qualifying debt, the City shall provide the obligor with 15 days' advance written notice to the obligor's last-known address. Such notice shall provide the obligor with a minimum period of 15 days in which they may file an appeal in writing to the Clerk.
- B. Upon receipt of a written request for an appeal on a debt to be submitted to the Setoff Program the Clerk shall schedule a hearing with the Council for the next regularly scheduled meeting and notify the obligor of the hearing date and time at least five days in advance of the hearing.
- C. At the time and date of the hearing, the Council shall hear any evidence brought forth by the obligor and shall examine the City's file regarding the matter. The Council shall make a ruling upon a majority vote of the members in attendance.
- D. If the qualifying debt is upheld by the Council and the debt has not yet been paid by the obligor, the Clerk may certify the delinquency to the Department pursuant to Section 421.65 of the *Code of Iowa* and the memorandum of understanding between the City and the Department.

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CHAPTER 10
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
2012-1	November 12, 2012	Amendment #1 Valley Vue Urban Renewal Plan

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Finance Committee
3. Utility Committee
4. Cemetery Committee
5. Personnel Committee
6. Equipment Committee
7. Street Committee

The Mayor shall appoint the following officials with Council approval:

1. Library Board of Trustees
2. Community Center Board

15.04 COMPENSATION. The salary of the Mayor is \$1,600.00 per year.
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

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CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.05 Appointments
17.06 Compensation
17.07 Eligibility for Appointment

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. City Clerk
2. City Attorney
3. Zoning Commission
4. Board of Adjustment
5. Revolving Loan Committee
6. Zoning Administrator
7. Community Center Board

17.06 COMPENSATION. The salary of each Council member is \$35.00 for each meeting of the Council attended, payable in January, following the calendar year's work.

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

17.07 ELIGIBILITY FOR APPOINTMENT. A Councilman is not eligible for appointment to any City office if the office has been created or the compensation of the office has been increased during the term for which they are elected.

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

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CHAPTER 18

CITY CLERK

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

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

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

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

18.03 PUBLICATION OF MINUTES. Within 15 days following a regular or special meeting of the Council, the Clerk shall cause the minutes of the proceedings of the Council, including the total expenditure from each City fund, to be delivered to a newspaper of general circulation in the City for publication. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

22.01 PUBLIC LIBRARY. The public library for the City is known as the Armstrong 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 five. All members are to be appointed by the Mayor with the approval of the Council. †

22.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. 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 Trustee shall be vacated if such member moves permanently from the City and 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. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.
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 Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper

† **EDITOR'S NOTE:** Pursuant to an election, as required by the *Code of Iowa*, changes to the makeup of the Library Board was approved by the voters of the City.

management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, 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 Library Director, 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 Library Director 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.

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 and 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 and 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)

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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 five members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 and 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 24

COMMUNITY CENTER BOARD

24.01 Community Center Board Created
24.02 Board Organization
24.03 Duties of the Board

24.04 Reports
24.05 Rules

24.01 COMMUNITY CENTER BOARD CREATED. A Community Center Board is hereby created to advise the Council on the activities and events taking place at the Community Center to enhance and promote community spirit of the City's residents of all ages.

24.02 BOARD ORGANIZATION. The Board shall consist of three members, all residents of the City, appointed by the Mayor with the approval of the Council with one member from the City Council. All members shall serve staggered five-year terms. Vacancies shall be filled in the same manner as original appointments. Members shall serve without compensation but may receive their actual expenses.

24.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for community events, and to update and revise these plans as required, the Board has authority over the activities and events.

24.04 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request.

24.05 RULES. The Board has the power to make rules and regulations for planned activities and events, subject to the approval of the rules by the Council. Such rules shall be either posted or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

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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
30.11 Contract Law Enforcement

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

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

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

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

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

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

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CHAPTER 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.
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.

36.05 NOTIFICATIONS.

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment

40.03 Disorderly Conduct
40.04 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[1a])

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

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

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

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

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

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

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

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

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

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

A. “Deface” means to intentionally mar the external appearance.

B. “Defile” means to intentionally make physically unclean.

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

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

- E. “Show disrespect” means to deface, defile, mutilate, or trample.
 - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:
- A. Make loud and raucous noise that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.
 - B. Direct abusive epithets or make any threatening gesture that the person knows or reasonably should know is likely to provoke a violent reaction by another.
 - C. Disturb or disrupt the funeral, memorial service, funeral procession, or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession, or burial.

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

guns, or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground, or public building, without written consent of the Council.

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

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

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
 - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
 - (1) First-class consumer fireworks:
 - a. Aerial shell kits and reloadable tubes;
 - b. Chasers;
 - c. Helicopters 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 paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.
 - (2) Second-class 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 Standard 87-1, Section 3.5;
 - e. Ground spinners;
 - f. Illuminating torches;
 - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
 - h. Wheels;

i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

B. “Display fireworks” includes 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, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Display fireworks” does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.

C. “Novelties” includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: \$250,000.00 per person
- B. Property Damage:..... \$50,000.00
- C. Total Exposure: \$1,000,000.00

3. Consumer Fireworks. It is unlawful for any person to use or explode consumer fireworks within the City.

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

(Code of Iowa, Sec. 727.12)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

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

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery, or Offering For Sale

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

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

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

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

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

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

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.
2. Prior Convictions. Prior convictions, if any, of an owner or of anyone in control of the object under any State or federal law relating to any controlled substance.
3. Proximity to Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the *Code of Iowa*.
4. Proximity to Substances. The proximity of the object to controlled substances.
5. Residue. The existence of any residue of controlled substances on the object.

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

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

43.06 MANUFACTURE, DELIVERY, OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the *Code of Iowa*.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 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 retail alcohol licensee, or wine or beer permittee under State laws.

(Code of Iowa, Sec. 123.47[3])

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 retail alcohol licensee.

(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 retail alcohol 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.

A. Except the prohibition contained in 45.02, (regarding consumption of alcohol in public), shall not apply to the consumption of wine, beer, or

other alcoholic beverage along any street, sidewalk, highway, parade route, or public venue, which has been temporarily closed by action of the City Council during the period of temporary closure designated for special events, such as RAGBRAI or the City 4th of July Independence Celebration. This allowance of consumption of alcoholic beverages on public grounds only pertains to these special events designated by the City Council.

(Paragraph A – Ord 2025-0514-003 – Dec. 25 Supp.)

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(50) and (51) of this Code of Ordinances.]*

45.04 SOCIAL HOST. A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of 18, to consume or possess on such property any alcoholic beverage. The provisions of this 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)

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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 16 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 12:00 a.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday, and Thursday and between the hours of 12:00 a.m. and 5:00 a.m. on Friday and Saturday.
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)

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Adult Establishments
50.04 Other Conditions

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

1. **Offensive Smells.** Erecting, continuing, or using any building or other place for the exercise of any trade, employment, or manufacture that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard, or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**
7. **Storing of Flammable Junk.** Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 51)**
8. **Air Pollution.** Emission of dense smoke, noxious fumes, or fly ash.
9. **Weeds, Brush.** Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard. **(See also Chapter 52)**

10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**
11. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting, or breaches of the peace are carried on or permitted to the disturbance of others.
12. Storing or permitting the storage of material, such as, but not limited to, sand, gravel, rock, earth, coal, and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of free-standing material makes with the horizontal plane without slipping, sliding, or collapse of the material. This subsection shall not apply to accumulations or piles of snow, nor to materials stored in a building, enclosure, or completely fenced area to which members of the public are not permitted access.
13. The maintenance of a construction site in such a manner that litter will not be prevented from being carried by the elements to adjoining premises.
14. Ponding Water. An accumulation of water until it becomes stagnant.

50.03 ADULT ESTABLISHMENTS.

1. As used in this section, “adult establishment” means any business that provides nude or topless dancing or operates any other adult-oriented business.
2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including, but not limited to, public rights-of-way, adjacent to the premises:
 - A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.
 - B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.
 - C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.
3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

(Code of Iowa, Sec. 657.12)

50.04 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. Weeds (**See also Chapter 52**)
3. Storage and Disposal of Solid Waste (**See Chapter 105**)
4. Dangerous Buildings (**See Chapter 145**)
5. Trees (**See Chapter 151**)

50.05 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)

50.06 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 50.07 of this chapter or the municipal infraction procedure referred to in Section 50.08.

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

50.07 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])

† **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.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 364.13)

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

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

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

WEEDS

52.01 Purpose

52.02 Definitions

52.03 Groundcover Required

52.04 Cutting Specifications and Standards of Practice

52.05 Uniform Height Specifications

52.06 Noxious Weeds

52.07 Notice to Abate

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

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

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

52.03 GROUNDCOVER REQUIRED. Property in a residential area shall be seeded, sodded, or otherwise planted with a ground cover not more than 30 days after construction is completed, unless impractical, but not later than the beginning of the next growing season.

52.04 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow, and maintain all grass, weeds, and brush upon the owner’s property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner’s property, to a uniform height as defined in Section 52.05.
2. Every owner shall cut, mow, and maintain grass, weeds, and brush adjacent to the curb line, including the parking area abutting the owner’s property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds, or brush growing on the remainder of the owner’s property.

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

1. Developed Residential Areas. Not to exceed six inches.
2. Undeveloped Residential Areas. Not to exceed 12 inches.
3. Business and Industrial Areas. Not to exceed six inches.

4. Agricultural Areas. Not to exceed 18 inches.

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

52.06 NOXIOUS WEEDS.

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

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.13 At Large: Impoundment
55.02 Animal Neglect	55.14 Disposition of Animals
55.03 Livestock Neglect	55.15 Pet Awards Prohibited
55.04 Abandonment of Cats and Dogs	55.16 Tampering With A Rabies Vaccination Tag
55.05 Livestock	55.17 Tampering With An Electronic Handling Device
55.06 At Large Prohibited	55.18 Leash Required
55.07 Damage or Interference	55.19 Dead Animals
55.08 Annoyance or Disturbance	55.20 Unsanitary or Offensive Conditions Prohibited
55.09 Vicious Dogs	55.21 Sanitation
55.10 Rabies Vaccination	55.22 Animals in Motor Vehicles
55.11 Owner's Duty	55.23 Number of Domestic Animals
55.12 Confinement	55.24 Females in Heat

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

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

(Code of Iowa, Sec. 717E.1)

2. "Animal" means a nonhuman vertebrate.

(Code of Iowa, Sec. 717B.1)

3. "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

(Code of Iowa, Sec. 162.2)

4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

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

(Code of Iowa, Sec. 717E.1)

- A. The sale or offer for sale of goods or services.
- B. A recruitment for employment or membership in an organization.
- C. A solicitation to make an investment.
- D. An amusement or entertainment activity.

6. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.

(Code of Iowa, Sec. 717B.1)

7. “Fair” means any of the following:
(*Code of Iowa, Sec. 717E.1*)
- A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the *Code of Iowa*.
(*Code of Iowa, Sec. 717E.1*)
9. “Injury” means an animal’s disfigurement; the impairment of an animal’s health; or an impairment to the functioning of an animal’s limb or organ, or the loss of an animal’s limb or organ.
(*Code of Iowa, Sec. 717.B1*)
10. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, and emus; farm deer (as defined in Section 170.1 of the *Code of Iowa*); or poultry.
(*Code of Iowa, Sec. 717.1*)
11. “Owner” means any person owning, keeping, sheltering, or harboring an animal.
12. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.
(*Code of Iowa, Sec. 717E.1*)
13. “Pound” means a facility for the prevention of cruelty to animals operated by the State, a municipal corporation, or other political subdivision of the State for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.
(*Code of Iowa, Sec. 162.2*)
14. “Research facility” means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathic medicine, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in the State concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.
(*Code of Iowa, Sec. 162.2*)
15. “Veterinarian” means a veterinarian licensed pursuant to Chapter 169 of the *Code of Iowa* who practices veterinary medicine in the State.
(*Code of Iowa, Sec. 717.B1*)

55.02 ANIMAL NEGLECT.

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

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

A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.

B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.

C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.

D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.

E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.

F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:

(1) A condition caused by failing to provide for the animal's welfare as described in this section.

(2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

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

A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:

(1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.

(2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

B. A research facility if the research facility has been issued or renewed a valid authorization by the Department of Agriculture and Land Stewardship pursuant to Chapter 162 of the *Code of Iowa*, and performs functions within the scope of accepted practices and disciplines associated with the research facility.

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

(Code of Iowa, Sec. 717.2)

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

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

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

55.05 LIVESTOCK. It is unlawful for a person to keep livestock, including but not limited to chickens, bees, cattle, horses, swine, and sheep, within the City except by written consent of the Council or except in compliance with the City's zoning regulations.

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City. It shall be unlawful for any person to keep within the City any dog for which the owner has been cited three times within a 12-month period.

55.07 DAMAGE OR INTERFERENCE. It is unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another thereby causing damage to, or interference with, the premises.

55.08 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles, or other vehicles. It shall be unlawful for a person to keep cats allowed to stray, or other animals which tend to disrupt the peace and good order of the community.

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

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

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

55.12 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board, and after 10 days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.15 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care, or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting, or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.16 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.

55.17 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.

55.18 LEASH REQUIRED. All dogs and cats, regardless of age, must be leashed at all times unless confined by a tether within or on the owner's property. No dogs or cats may be tethered on or to public property, including public rights-of-way, nor shall any dog or cat tethered on private property be able to enter onto public property or public right-of-way, including sidewalks. Dogs and cats shall not be tethered and left unattended when off the owner's property or on any front yard. If the owner is present and supervising the animal on the owner's premises an exception to the leash law is made. Unleashed pets accompanied by their owner while jogging, cycling, visiting parks, or anywhere on public property are in violation of the law.

55.19 DEAD ANIMALS. The owner of any dead animal within the City shall properly bury or otherwise properly dispose of the same within 24 hours.

55.20 UNSANITARY OR OFFENSIVE CONDITIONS PROHIBITED. Any person who uses, keeps, or harbors or owns any animals or domestic animals shall keep the same confined in an enclosed building, fenced enclosure, or yard. Dogs or cats shall be allowed to be kept on a restraint consisting of a chain, rope, or leash strong enough to adequately restrain such dog or cat. Any pen, yard, pasture, or place in which animals are kept or confined must be kept sanitary by not allowing any filth, manure, excrement, or other offensive matter to accumulate in such quantities as to create an offensive or unsanitary condition to exist.

55.21 SANITATION. It is unlawful for any owner, keeper, or walker of any animal to permit said animal to discharge said animal's feces upon any public or private property within the City, other than the property of the owner of the animal, if such owner, keeper, or walker does not immediately thereafter remove or clean up said animal's feces from the public or private property. In addition, it is unlawful for the owner or person in charge of any dog, cat, or other animal to fail to keep the premises where the animal is kept in a clean and sanitary condition at all times. No owner shall allow waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor. Wastes on owner's or keeper's property shall be cleaned up and properly disposed of at least once every 24 hours. Any person who shall permit a pet to be on public or private property shall provide for the disposal of the solid waste material excreted by the animal by immediate removal of the waste. The provisions of this section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity.

55.22 ANIMALS IN MOTOR VEHICLES. No person shall leave an animal unattended in, or tethered to, a standing or parked motor vehicle, in a manner that endangers the health or safety of the animal. The following persons may use reasonable means, including reasonable force to remove an animal from a motor vehicle when there is an apparent violation of this section:

1. Peace Officer.
2. Fire Department Personnel.

The person rescuing the animal shall notify the Mayor or Clerk and said animal shall be taken to a veterinarian for treatment, if necessary. The cost of such treatment shall be paid by the City and the City shall claim reimbursement from the person judged to be responsible for leaving the animal unattended.

55.23 NUMBER OF DOMESTIC ANIMALS. The total number of domestic animals older than three months shall not exceed five per residence or place of business (excluding bonafide

pet stores, educational institute, circus, carnival, or veterinary hospital treating such animals). A dog or canine, or a cat or feline is considered full-grown at the age of 12 weeks of age.

55.24 FEMALES IN HEAT. The owner of any female dog or cat in heat shall confine the female dog or cat in a building or a cage or kennel or keep the same in said owner's presence so that the female dog or cat cannot come into contact with another animal except for planned breeding. Furthermore, any female animal in estrus shall be deemed at large at any time except:

1. When housed in a building which is completely enclosed;
2. When housed in a veterinary hospital or boarding kennel licensed or registered with the State;
3. When on the premises of the owner, provided the area in which such animal is located is completely enclosed by a fence or other structure having a height of at least 60 inches; or
4. When under the control of a person competent to restrain the animal, either by leash or properly restrained within a motor vehicle.

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CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions

57.02 Keeping of Dangerous Animals Prohibited

57.03 Keeping of Vicious Animals Prohibited

57.04 Seizure, Impoundment, and Disposition

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

1. “Dangerous animal” means: †
 - A. Badgers, wolverines, weasels, skunk and mink.
 - B. Raccoons.
 - C. Bats.
 - D. Scorpions.
2. “Vicious animal” means any of the following:
 - A. Any animal, except for a dangerous animal as listed above, that has attacked, bitten or clawed a person while running at large and the attack was unprovoked; or,
 - B. Any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal:
 - (1) Has bitten or clawed a person or persons on two separate occasions within a 12-month period; or,
 - (2) Did bite or claw once causing injuries above the shoulders of a person; or,
 - (3) Could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or,
 - (4) Has attacked any domestic animal or fowl on three separate occasions within a 12-month period.

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

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

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a

† **EDITOR’S NOTE:** Certain other dangerous animals, listed in Chapter 717F.1, Paragraph 5a, of the *Code of Iowa*, are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Mayor or peace officer that a guard dog is on duty at said premises.

57.04 SEIZURE, IMPOUNDMENT, AND DISPOSITION.

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

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

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

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

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

animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed (or of the Council after appeal) constitutes a simple misdemeanor.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title	60.05 Reports of Traffic Accidents
60.02 Definitions	60.06 Peace Officer's Authority
60.03 Administration and Enforcement	60.07 Obedience to Peace Officers
60.04 Power to Direct Traffic	60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Armstrong 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(7))

1. “Business District” means the territory described by the following parts of streets:

A. North from State Highway 9 on both sides of 6th St. (State Highway 15) to intersection of 4th Ave.

2. “MPH” means miles per hour.

3. “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.

4. “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.

5. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

6. “Pedestrian” means a person afoot or a person using a pedestrian conveyance.

(Code of Iowa, Sec. 321.1(51))

7. “Pedestrian conveyance” means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.

(Code of Iowa, Sec. 321.1(51A))

8. “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.

(Code of Iowa, Sec. 321.1(63))

9. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a schoolhouse.

10. “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.

11. “Stop” means when required, the complete cessation of movement.

12. “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.

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

(Code of Iowa, Sec. 321.1(78))

14. “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.

15. “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway. Vehicle does not include:

A. Any device moved by human power, including a low-speed electric bicycle.

B. Any device used exclusively upon stationary rails or tracks.

C. Any personal delivery device operated pursuant to Chapter 321O of the *Code of Iowa*.

D. Any integral part of a truck tractor or road tractor which is mounted on the frame of the truck tractor or road tractor immediately behind the cab and which may be used to transport persons and property, but which cannot be drawn upon the highway by the truck tractor or another motor vehicle.

E. Any steering axle, dolly, auxiliary axle, or other integral part of another vehicle which in and of itself is incapable of commercially transporting any person or property but is used primarily to support another vehicle.

(Code of Iowa, Section 321.1(90))

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 and 321.236[2])

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

1. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.
2. Parade Not a Street Obstruction. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.
3. Control by Peace Officers and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61
TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 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] and 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] and 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 and 321.231A of the *Code of Iowa*.

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.06 Obstructing View at Intersections
62.07 Milling
62.08 Engine Brakes and Compression Brakes
62.09 Tire Noise
62.10 Squealing Noise

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Limitation on liability; penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed; operation of commercial vehicles.
15. Section 321.174A – Operation of motor vehicle with expired license.
16. Section 321.180 – Instruction permits, commercial learner’s permits, and chauffeur’s instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restrictions on licenses; penalty.
19. Section 321.194 – Special minors’ restricted licenses.
20. Section 321.208A – Operation in violation of out-of-service order; penalties.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card; penalty.

22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
23. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain tobacco, tobacco products alternative nicotine products, vapor products, or cigarettes.
24. Section 321.218 – Operating without valid driver’s license or when disqualified; penalties.
25. Section 321.219 – Permitting unauthorized minor to drive.
26. Section 321.220 – Permitting unauthorized person to drive.
27. Section 321.221 – Employing unlicensed chauffeur.
28. Section 321.222 – Renting motor vehicle to another.
29. Section 321.223 – Driver’s license inspection for motor vehicle rental.
30. Section 321.224 – Record kept.
31. Section 321.232 – Speed detection jamming devices; penalty.
32. Section 321.234A – All-terrain vehicles, highway use.
33. Section 321.235A – Electric personal assistive mobility devices.
34. Section 321.235B – Low-speed electric bicycles.
35. Section 321.247 – Golf cart operation on City streets.
36. Section 321.257 – Official traffic control signal.
37. Section 321.259 – Unauthorized signs, signals or markings.
38. Section 321.260 – Interference with devices, signs, or signals; unlawful possession; traffic signal preemption devices.
39. Section 321.262 – Leaving scene of traffic accident prohibited; vehicle damage only; removal of vehicles.
40. Section 321.263 – Information and aid; leaving scene of personal injury accident.
41. Section 321.264 – Striking unattended vehicle.
42. Section 321.265 – Striking fixtures upon a highway.
43. Section 321.266 – Reporting accidents.
44. Section 321.275 – Operation of motorcycles and motorized bicycles.
45. Section 321.276 – Use of electronic communication device while driving; text-messaging.
46. Section 321.277 – Reckless driving.
47. Section 321.277A – Careless driving.
48. Section 321.278 – Drag racing prohibited.
49. Section 321.281 – Actions against bicyclists.
50. Section 321.284 – Open container in motor vehicles, drivers.

51. Section 321.284A – Open container in motor vehicles, passengers.
52. Section 321.288 – Control of vehicle; reduced speed.
53. Section 321.295 – Limitation on bridge or elevated structures.
54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.305 – One-way roadways and rotary traffic islands.
61. Section 321.306 – Roadways laned for traffic.
62. Section 321.307 – Following too closely.
63. Section 321.309 – Towing.
64. Section 321.310 – Towing four-wheel trailers.
65. Section 321.312 – Turning on curve or crest of grade.
66. Section 321.313 – Starting parked vehicle.
67. Section 321.314 – When signal required.
68. Section 321.315 – Signal continuous.
69. Section 321.316 – Stopping.
70. Section 321.317 – Signals by hand and arm or signal device.
71. Section 321.318 – Method of giving hand and arm signals.
72. Section 321.319 – Entering intersections from different highways.
73. Section 321.320 – Left turns; yielding.
74. Section 321.321 – Entering through highways.
75. Section 321.322 – Vehicles entering stop or yield intersection.
76. Section 321.323 – Moving vehicle backward on highway.
77. Section 321.323A – Approaching certain stationary vehicles.
78. Section 321.324 – Operation on approach of emergency vehicles.
79. Section 321.324A – Funeral processions.
80. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
81. Section 321.330 – Use of crosswalks.
82. Section 321.332 – White canes restricted to blind persons.
83. Section 321.333 – Duty of drivers.
84. Section 321.340 – Driving through safety zone.

85. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
86. Section 321.342 – Stop at certain railroad crossings; posting warning.
87. Section 321.343 – Certain vehicles must stop.
88. Section 321.344 – Heavy equipment at crossing.
89. Section 321.344B – Immediate safety threat; penalty.
90. Section 321.354 – Stopping on traveled way.
91. Section 321.359 – Moving other vehicle.
92. Section 321.362 – Unattended motor vehicle.
93. Section 321.363 – Obstruction to driver’s view.
94. Section 321.364 – Preventing contamination of food by hazardous material.
95. Section 321.365 – Coasting prohibited.
96. Section 321.366 – Acts prohibited on fully-controlled access facilities.
97. Section 321.367 – Following fire apparatus.
98. Section 321.368 – Crossing fire hose.
99. Section 321.369 – Putting debris on highway.
100. Section 321.370 – Removing injurious material.
101. Section 321.371 – Clearing up wrecks.
102. Section 321.372 – Discharging pupils, stopping requirements; penalties.
103. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
104. Section 321.381A – Operation of low-speed vehicles.
105. Section 321.382 – Upgrade pulls; minimum speed.
106. Section 321.383 – Exceptions; slow vehicles identified.
107. Section 321.384 – When lighted lamps required.
108. Section 321.385 – Head lamps on motor vehicles.
109. Section 321.386 – Head lamps on motorcycles, motorized bicycles, and all-terrain vehicles.
110. Section 321.387 – Rear lamps.
111. Section 321.388 – Illuminating plates.
112. Section 321.389 – Reflector requirement.
113. Section 321.390 – Reflector requirements.
114. Section 321.392 – Clearance and identification lights.
115. Section 321.393 – Color and mounting.
116. Section 321.394 – Lamp or flag on projecting load.
117. Section 321.395 – Lamps on parked vehicles.

118. Section 321.398 – Lamps on other vehicles and equipment.
119. Section 321.402 – Spot lamps.
120. Section 321.403 – Auxiliary driving lamps.
121. Section 321.404 – Signal lamps and signal devices.
122. Section 321.404A – Light-restricting devices prohibited.
123. Section 321.405 – Self-illumination.
124. Section 321.408 – Back-up lamps.
125. Section 321.409 – Mandatory lighting equipment.
126. Section 321.415 – Required usage of lighting devices.
127. Section 321.417 – Single-beam road-lighting equipment.
128. Section 321.418 – Alternate road-lighting equipment.
129. Section 321.419 – Number of driving lamps required or permitted.
130. Section 321.420 – Number of lamps lighted.
131. Section 321.421 – Special restrictions on lamps.
132. Section 321.422 – Red light in front, rear lights.
133. Section 321.423 – Flashing lights.
134. Section 321.430 – Brake, hitch, and control requirements.
135. Section 321.431 – Performance ability.
136. Section 321.432 – Horns and warning devices.
137. Section 321.433 – Sirens, whistles, air horns, and bells prohibited.
138. Section 321.434 – Bicycle sirens or whistles.
139. Section 321.436 – Mufflers, prevention of noise.
140. Section 321.437 – Mirrors.
141. Section 321.438 – Windshields and windows.
142. Section 321.439 – Windshield wipers.
143. Section 321.440 – Restrictions as to tire equipment.
144. Section 321.441 – Metal tires prohibited.
145. Section 321.442 – Projections on wheels.
146. Section 321.444 – Safety glass.
147. Section 321.445 – Safety belts and safety harnesses; use required.
148. Section 321.446 – Child restraint devices.
149. Section 321.449 – Motor carrier safety rules.
150. Section 321.449A – Rail crew transport drivers.
151. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.

- 152. Section 321.450 – Hazardous materials transportation regulations.
- 153. Section 321.454 – Width of vehicles.
- 154. Section 321.455 – Projecting loads on passenger vehicles.
- 155. Section 321.456 – Height of vehicles.
- 156. Section 321.457 – Maximum length.
- 157. Section 321.458 – Loading beyond front.
- 158. Section 321.460 – Spilling loads on highways.
- 159. Section 321.461 – Trailers and towed vehicles.
- 160. Section 321.462 – Drawbars and safety chains.
- 161. Section 321.463 – Maximum gross weight; exceptions, penalties.
- 162. Section 321.465 – Weighing vehicles and removal of excess.
- 163. Section 321.466 – Increased loading capacity; reregistration.

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

62.08 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate (or for any person to cause to be used or operated) within the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle, which results in excessive, loud, unusual, or explosive noise from such vehicle.
2. The usage of an engine brake, compression brake, or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of 300 feet from the motor vehicle shall constitute evidence of a *prima facie* violation of this section.

62.09 TIRE NOISE. It is unlawful to operate a motor vehicle in such a manner so as to disturb the peace and quiet of any person by causing excessive, loud, or unusual noise to come from the tires of said vehicle.

62.10 SQUEALING TIRES. No person shall drive any vehicle in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

- NONE -

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns

64.03 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 shall be unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited at intersections within the Business District, at intersections where there are automatic traffic signals, and on the following streets:

(Code of Iowa, Sec. 321.255 and 321.236[9])

1. 6th Ave. (Emmet County Road A22 and State Highway 15).
2. 6th St. (State Highway 15).
3. S. 4th Ave. (State Highway 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 Yield Required
65.05 School Stops

65.06 Stop Before Crossing Sidewalk
65.07 Stop When Traffic Is Obstructed
65.08 Pedestrians' Right-of-Way
65.09 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)

1. 4th St., from 1st Ave. to 6th Ave.
2. 8th St., from Diagonal Ave. to 4th Ave.
3. 9th St., from Diagonal Ave. to 4th Ave.
4. Adams St., from 2nd Ave. to 4th Ave.
5. Adams St., from Diagonal Ave. to 1st Ave.
6. Diagonal Ave., from Columbian Blvd. to 6th St.

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

(Code of Iowa, Sec. 321.345)

1. 1st Ave. Vehicles traveling east on 1st Ave. shall stop at 6th St.
2. 1st Ave. Vehicles traveling west on 1st Ave shall stop at 6th St.
3. 1st Ave. Vehicles traveling west on 1st Ave. shall stop at 3rd St.
4. 2nd Ave. Vehicles traveling east on 2nd Ave. shall stop at 6th St.
5. 2nd Ave. Vehicles traveling west on 2nd Ave. shall stop at 6th St.
6. 2nd Ave. S. Vehicles traveling east on 2nd Ave. S. shall stop at 4th St.
7. 3rd Ave. Vehicles traveling east on 3rd Ave. shall stop at 7th St.
8. 3rd Ave. Vehicles traveling west on 3rd Ave. shall stop at 6th St.
9. 3rd Ave. Vehicles traveling west on 3rd Ave. shall stop at 7th St.
10. 3rd Ave. S. Vehicles traveling east on 3rd Ave. S. shall stop at 4th St. S.
11. 3rd St. Vehicles traveling north on 3rd St. shall stop at 2nd Ave.
12. 3rd St. Vehicles traveling north on 3rd St. shall stop at 4th Ave.
13. 3rd St. Vehicles traveling north on 3rd St. shall stop at 6th Ave. (Cty. A22)
14. 3rd St. Vehicles traveling south on 3rd St. shall stop at 4th Ave.
15. 3rd St. Vehicles traveling south on 3rd St. shall stop at State Highway 9.

16. 3rd St. S. Vehicles traveling north on 3rd St. S. shall stop at 4th Ave. S.
17. 4th Ave. Vehicles traveling east on 4th Ave. shall stop at 6th St.
18. 4th Ave. Vehicles traveling east on 4th Ave. shall stop at Columbian Blvd.
19. 4th St. Vehicles traveling north on 4th St. shall stop at 6th Ave. (Cty. A22)
20. 5th Ave. Vehicles traveling east on 5th Ave. shall stop at 6th St.
21. 5th Ave. S. Vehicles traveling north on 5th Ave. S. shall at State Highway 9.
22. 5th St. Vehicles traveling north on 5th St. shall stop at 2nd Ave.
23. 5th St. Vehicles traveling north on 5th St. shall stop at 6th Ave. (Cty. A22)
24. 5th St. Vehicles traveling south on 5th St. shall stop at 2nd Ave.
25. 6th Ave. Vehicles traveling east on 6th Ave. shall stop at 6th St.
26. 6th Ave. S. Vehicles traveling north on 6th Ave. S. shall stop at State Highway 9.
27. 7th Ave. S. Vehicles traveling north on 7th Ave. S. shall stop at State Highway 9.
28. 7th St. Vehicles traveling north on 7th St. shall stop at 2nd Ave.
29. 7th St. Vehicles traveling south on 7th St. shall stop at 1st Ave.
30. 7th St. Vehicles traveling south on 7th St. shall stop at 2nd Ave.
31. A Ave. Vehicles traveling west on A Ave. shall stop at 6th St.
32. B Ave. Vehicles traveling east on B. Ave. shall stop at 6th St.
33. C Ave. Vehicles traveling west on C Ave. shall stop at 4th St. S.
34. Columbian Blvd. Vehicles traveling north on Columbian Blvd. shall stop at 2nd Ave.
35. Columbian Blvd. Vehicles traveling south on Columbian Blvd. shall stop at Diagonal Ave.
36. Columbian Blvd. Vehicles traveling south on Columbian Blvd. shall stop at 2nd Ave.
37. Diagonal Ave. Vehicles traveling east on Diagonal Ave. shall stop at Columbian Blvd.
38. Diagonal Ave. Vehicles traveling east on Diagonal Ave. shall stop at 6th St.
39. Diagonal Ave. Vehicles traveling west on Diagonal Ave. shall stop at A Ave.
40. Diagonal Ave. Vehicles traveling west on Diagonal Ave. shall stop at Adams St.
41. Golf Course Dr. Vehicles traveling north on Golf Course Dr. shall stop at C Ave.
42. Golf Course Dr. Vehicles traveling north on Golf Course Dr. shall stop at State Highway 9.

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)

- NONE -

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

(Code of Iowa, Sec. 321.345)

1. 1st Ave. Vehicles traveling east on 1st Ave. shall stop at Columbian Blvd.
2. 1st Ave. Vehicles traveling west on 1st Ave. shall stop at Columbian Blvd.
3. 3rd Ave. Vehicles traveling east on 3rd Ave. shall stop at Columbian Blvd.
4. 3rd Ave. Vehicles traveling west on 3rd Ave. shall stop at Columbian Blvd.
5. 3rd St. Vehicles traveling north on 3rd St. shall stop at Railroad Crossing near 1st Ave.
6. 3rd St. Vehicles traveling south on 3rd St. shall stop at Railroad Crossing near 1st Ave.
7. 9th St. Vehicles traveling north on 9th St. shall stop at 4th Ave.
8. 9th St. Vehicles traveling south on 9th St. shall stop at 4th Ave.
9. A Ave. Vehicles traveling east on A Ave. shall stop at Columbian Blvd.
10. A Ave. Vehicles traveling west on A Ave. shall stop at Columbian Blvd.

65.05 SCHOOL STOPS. At the following school crossing zones every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 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. On 6th St. at 4th Ave. (during school hours portable 4-way stop sign).

65.06 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

(Code of Iowa, Sec. 321.353)

65.07 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

65.08 PEDESTRIANS' RIGHT-OF-WAY. 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 so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

65.09 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)

-NONE -

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

66.05 Truck Routes

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

(Code of Iowa, Sec. 321.471 and 472)

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

(Code of Iowa, Sec. 321.473 and 321E.2)

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

(Code of Iowa, Sec. 321.473 and 475)

- NONE -

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Chapter 61 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTES. Truck route regulations are established as follows:

1. Truck Routes Designated. Every motor vehicle weighing five tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

A. State Highway 9.

B. State Highway 15.

2. Deliveries Off Truck Route. Any motor vehicle weighing five tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the

designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload, and return by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

3. Employer's Responsibility. The owner or any other person employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

(Code of Iowa, Sec. 321.473)

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CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing
67.04 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])

- NONE -

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Parking on One-Way Streets
69.03 Angle Parking
69.04 Manner of Angle Parking
69.05 Parking for Certain Purposes Illegal

69.06 Parking Prohibited
69.07 Persons with Disabilities Parking
69.08 No Parking Zones
69.09 Snow Emergency
69.10 Snow Routes

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. 1st Ave. on north side from 5th St. to 6th St.
2. 1st Ave. on north side from 6th St. to 7th St.
3. 1st Ave. on south side from 6th St. to 7th St.
4. 2nd Ave. on north side from 5th St. to 6th St.
5. 2nd Ave. on north side from 6th St. to alley going east.
6. 2nd Ave. on north side from 6th St. to alley going west.
7. 2nd Ave. on north side from east part of 7th St. to 8th St. (church parking).
8. 2nd Ave. on south side from 5th St. to 6th St.
9. 2nd Ave. on south side from 6th St. to 7th St.
10. 2nd Ave. on south side from 6th St. to alley going west.
11. 3rd Ave. south side from 5th St. to alley going west.
12. 4th Ave. on south side from 5th St. west to end of building (closed church parking).
13. 5th Ave. on north side from 5th St. to 4th St.
14. 5th Ave. on south side from 5th St. to 4th St.

15. 5th St. on west side from 3rd Ave. to alley going south.
16. 5th St. on west side from 4th Ave. south to alley (closed church parking).
17. 6th St. on east side from 4th Ave. north (three parking spots).
18. 6th St. on east side from 4th Ave. to A Ave.
19. 6th St. on west side from 3rd Ave. to Diagonal Ave.
20. 8th St. on east side from 3rd Ave. north to alley (church parking).
21. 8th St. on west side from 2nd Ave. north to alley (church parking).

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. Storage. Storage or as junk or dead storage for more than 48 hours.

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.

19. **Private Alley.** In any private alley within the fire limits of this City in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.
(*Code of Iowa, Sec. 321.236[1]*)

20. **State Highway Intersecting Streets.** On the minor street approach for a distance of 35 feet in advance of the stop sign or on the exit side of the minor street for a distance of 35 feet of any State Highway.

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. 3rd Ave. on the south side from 6th St. to Columbian Blvd.

2. 4th Ave. on the south side from 5th St. to 6th St.

3. 4th St. on the east side from C Ave. to S. 4th Ave.
4. 4th St. on the west side from C Ave. to S. 4th Ave.
5. C Ave. on the north side from 4th St. to 6th St.
6. C Ave. on the south side from 4th St. to 6th St.
7. S. 4th Ave. on the south side from 3rd St. to 4th St.

69.09 SNOW EMERGENCY. It is unlawful for any person to park, abandon or leave unoccupied or unattended any vehicle on a public street if a snow emergency has been declared by the City Street Superintendent, Emmet County Sheriff Office, or a designee of the City of Armstrong. The declaration of a snow emergency shall be provided by means of a notification delivered via the Alert Iowa emergency notification system and KILR radio. When a snow emergency has been declared, all vehicles must be removed from any public street once the time of the snow emergency goes into effect. The vehicles must be removed even if no snow has fallen. The snow emergency shall remain in effect until snow removal has been completed or the snow emergency is terminated by announcement of the City. The snow emergency may be extended if additional declarations are made by the City as previously set forth in this section. A violation of this section is a scheduled violation and subject to a fine. Admitted violations may be charged upon a simple notice of a fine per Section 70.03.

69.10 SNOW ROUTES. The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

(Code of Iowa, Sec. 321.236[12])

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 and 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The fine for each violation charged under a simple notice of a fine shall be in the amount of \$25.00 for all violations except, snow emergency parking and improper use of a persons with disabilities parking permit. The fine for snow emergency parking violations is \$25.00 for the first violation, \$50 for second violation, the vehicle will be towed for third violation. If such fine is not paid within 30 days, it shall be increased by \$5.00. The fine for improper use of a persons with disabilities parking permit is \$100.00.

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

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

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

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

70.06 IMPOUNDING VEHICLES.

1. 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:

A. 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])

B. 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])

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

E. 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])

2. 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.

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CHAPTER 75

ATVS, UTVS, AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of ATVs and UTVs

75.06 Negligence

75.07 Accident Reports

75.08 Hours of Operation

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

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

1. “All-terrain vehicle” or “ATV” means a motorized vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

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

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

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

3. “Off-road utility vehicle” or “UTV” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” or “UTV” includes the following vehicles:

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

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

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

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

An operator of an UTV is also subject to the provisions of this chapter governing the operation of ATVs.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or

ice. “Snowmobile” does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. Age of Operation. No minor under 16 years of age may operate a snowmobile within the corporate limits of the City.

8. Loud. It is unlawful to operate a snowmobile in a manner as to create a loud, unnecessary, or unusual noise so as to disturb with the peace and quiet of other persons.

9. Single File. Snowmobiles shall, only when permitted on the traveled way, be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.

75.05 OPERATION OF ATVS AND UTVS. The operators of ATVs and UTVs shall comply with the following restrictions as to where ATVs and UTVs may be operated within the City:

1. Streets. ATVs and UTVs may be operated on roadways or highways in accordance with Section 321.234A of the *Code of Iowa*. A City may regulate the operation of registered ATVs and UTVs and may designate streets under the jurisdiction of the City within its corporate limits, and two-lane primary and secondary road extensions in the City, which may be used for the operation of such vehicles. In designating such streets, the City may authorize ATVs and UTVs to stop at service stations or convenience stores along a designated street.

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

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

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

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

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

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

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

6. Direct Crossing. An ATV or UTV may make a direct crossing of a highway that is not part of the interstate road system provided all of the following occur:

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

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

- B. The ATV or UTV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
- C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
- D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
- E. The crossing is made from a street, roadway, or highway on which the ATV or UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.
7. Private Property. ATV/UTVs may only be operated upon private property with express consent of the owner thereof or while engaged in snow removal, landscaping, or other maintenance activities.
8. Firearm. A person shall not operate or ride an ATV with a firearm in the person's possession unless it is unloaded and enclosed in a carrying case. However, a nonambulatory person may carry an uncased and unloaded firearm while operating or riding an ATV.
(Code of Iowa, Sec. 321I.14.2)
9. Capacity. A person shall not operate an ATV with more persons on the vehicle than it was designated to carry.
(Code of Iowa, Sec. 321I.14.3[a])
10. Mufflers Required. An ATV shall not be operated without suitable and effective muffling devices. An ATV shall comply with the sound level standards and testing procedures established by the society of automotive engineers under SAE J1287.
(Code of Iowa, Sec. 321I.12)
11. Headlamp, Tail Lamp, and Brakes. Every ATV operated during the hours of darkness shall display a lighted headlamp and tail lamp. Every ATV shall be equipped with brakes.
(Code of Iowa, Sec. 321I.13)
12. License. No person shall operate an ATV or UTV on the public streets of the City without a valid motor vehicle operator's license.
13. Equipment. All ATVs and UTVs shall be equipped with the original manufacturer's muffler and exhaust system or their equivalent, not to exceed the manufacturer's original emission specification, each vehicle additionally must be equipped with lights and safety equipment required of motor vehicles by law or ordinance. If the UTV is equipped with seatbelts by design, they must be worn by all occupant when the vehicle is in motion.
14. Traffic Code. All ATVs and UTVs operators must observe all State and local traffic control regulations and devices and shall not operate at a speed in excess of that posted nor at any time operate at a rate of speed greater than is reasonable and proper under the existing conditions.
15. Intoxication. No person shall operate an ATV or UTV in the City limits and while under the influence of intoxicating liquor, narcotics, or habit-forming drugs.
16. Careless Operation. No person shall operate an ATV or UTV in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

17. **Lights.** No person shall operate an ATV or UTV without a lighted headlamp and taillight when required for safety, or as required by Iowa Code.
18. **Passengers.** No ATV or UTV shall be operated with more passengers than recommended by manufacturer. One rider per seat.
19. **Foot Pegs.** No person shall operate and ATV or UTV without appropriate foot pegs or footrest for drive and passengers.
20. **Unattended.** No owner or operator of an ATV or UTV shall leave an unattended vehicle on public property while the motor is running or with keys in the ignition switch.
21. **Parking.** The operators must obey all parking regulations in the City when parked on a public street or thoroughfare.
22. **Financial Responsibility.** The owner or driver of the ATV or UTV within the City limits must maintain and provide current proof of financial responsibility in accordance with Section 321.20B of the *Code of Iowa*.
23. **Registration.** The owner or driver of an ATV or UTV within the City limits must maintain a current registration as provided by Iowa law.

75.06 NEGLIGENCE. The owner and operator of an ATV, UTV, or snowmobile are liable for any injury or damage occasioned by the negligent operation of the ATV, UTV, or snowmobile. The owner of an ATV, UTV, or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV, UTV, or snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the ATV, UTV, or snowmobile at the time the injury or damage occurred. No person shall operate an ATV or UTV in the City except as hereinafter provided:

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

75.07 ACCIDENT REPORTS. Whenever an ATV, UTV, or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to \$1,500.00 or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

75.08 HOURS OF OPERATION. No ATV or snowmobile shall be operated in the City between the hours of 11:00 p.m. and 5:30 a.m. The only permitted operation during these hours shall be for routine snow removal.

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CHAPTER 76

BICYCLE REGULATIONS

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

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle, or article that prevents the rider from keeping at least one hand upon the handlebars.

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

76.08 RIDING ON SIDEWALKS. The following provisions apply to riding bicycles on sidewalks:

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

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

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

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

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

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

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

76.10 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding, or otherwise so as to disregard the safety of the operator or others.

76.11 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

76.12 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front emitting a white light visible from a distance of at least 300 feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear, except that a red reflector on the rear, of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake that will enable the operator to make the braked wheel skid on dry, level, clean pavement.

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

76.13 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of this Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five days for the first offense, 10 days for a second offense, and 30 days for a third offense.

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CHAPTER 78

GOLF CARTS

78.01 Definitions

78.02 Operation of Golf Carts

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

1. “Golf carts” means any vehicle with three or more wheels, powered either by electricity or an internal combustion engine, which is used and designed primarily for the transportation of golfers and golf clubs upon golf courses.

78.02 OPERATION OF GOLF CARTS.

1. No person shall operate a golf cart upon the City streets and alleys who does not possess a valid motor vehicle driver’s license.
2. No golf cart shall be operated upon a City street which is a primary road extension through the City, to wit: Highway 15 and Highway 9. However, golf carts may cross such primary road extensions.
3. All golf carts shall be equipped with a slow-moving vehicle sign or a bicycle flag at least 60 inches in height.

(Subsection 3 – Ord 2025-0514-001 – Dec. 25 Supp.)

4. Any golf cart operated on the City streets shall be equipped with adequate brakes and shall meet any other safety requirements imposed by the Council.
5. Golf carts shall not be operated on the City sidewalks.
6. No person shall operate a golf cart without a lighted headlamp and taillight when required for safety, or as required by the *Code of Iowa*.
7. No golf cart shall be operated with more passengers than recommended by manufacturer. One rider per seat.
8. Golf carts shall not be operated anywhere within the City limits after sunset and before sunrise.
9. The owner or driver of the golf cart within the City limits must maintain and provide current proof of financial responsibility in accordance with Section 321.20B of the *Code of Iowa*.
10. Any violation of this chapter shall be deemed a simple misdemeanor and will be punishable in accordance with Section 1.14.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Reclamation of Abandoned Vehicles

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

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

1. A police authority or private entity that takes into custody an abandoned vehicle shall send notice by certified mail that the vehicle has been taken into custody, no more than 20 days after taking custody of the vehicle. Notice shall be sent to the last known address of record of the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle.
2. Notice shall be deemed given when mailed. The notice shall include all of the following:
 - A. A description of the year, make, model and vehicle identification number of the vehicle.
 - B. The location of the facility where the vehicle is being held.
 - C. Information for the persons receiving the notice of their right to reclaim the vehicle and personal property contained therein within 10 days after the effective date of the notice. Persons may reclaim the vehicle or personal property 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 required pursuant to this section.
 - D. A statement that 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.
 - E. A statement that failure to reclaim the vehicle or personal property is deemed consent for the police authority or private entity to sell the vehicle at a public auction or dispose of the vehicle to a demolisher and to dispose of the personal property by sale or destruction.
3. 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, Subsection 1, of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle.
4. 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.

5. 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.

6. 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.

7. If it is impossible to determine with reasonable certainty the identities 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 Subsection 2 of this section. The published notice may contain multiple listings of abandoned vehicles, but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Subsection 2 of this section.

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

80.04 RECLAMATION OF ABANDONED VEHICLES. Prior to driving an abandoned vehicle away from the premises, a person who received (or who is reclaiming the vehicle on behalf of a person who received) notice under Section 80.03 shall present to the police authority or private entity, as applicable, the person's valid driver's license and proof of financial liability coverage as provided in Section 321.20B of the *Code of Iowa*.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay \$10.00 if claimed within five days of impounding, plus \$1.00 for each additional day within the reclaiming period plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

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

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

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor

vehicle or entitled lienholder for 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 and N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])

(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility for Water Service Pipe
90.02 Superintendent's Duties	90.13 Failure to Maintain
90.03 Mandatory Connections	90.14 Curb Valve
90.04 Abandoned Connections	90.15 Interior Valve
90.05 Permit	90.16 Inspection and Approval
90.06 Fee for Permit and 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 Water Main Extension Policy
90.10 Tapping Mains	90.21 Main Extension Charges
90.11 Installation of Water Service Pipe	

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. Customer shall also mean the occupant of a one-family dwelling, a one-family portion of a two-family dwelling, or as a single commercial establishment contracting for water in its own name (and from its own meter).
3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent, or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

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

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

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

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

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within 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 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay \$75.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of \$75.00 paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions, of the *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 *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 or under the direct supervision of the Superintendent and in accordance with the following:

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six inches or less in diameter shall receive no larger than a three-fourths inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least 18 inches apart. No main shall be tapped nearer than two feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

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

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

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property. If it is not paid within 30 days of billing, the Clerk shall certify the cost to the County Treasurer for collection in the same manner as property taxes.

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

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

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for 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 and 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 WATER MAIN EXTENSION POLICY. A water main extension will be made by the City upon application by any person desiring service to their property who signs a contract for such service and pays the cost thereof through a connection charge or otherwise as required by this chapter. No water main will be extended beyond the City limits for commercial or residential purposes unless the applicant agrees to voluntarily petition for annexation simultaneously with such extension where the applicant's property is contiguous to the corporate limits, or agrees to so petition as soon as the applicant's property becomes contiguous to the City limits and files for future use such petition so conditioned. Water mains will be extended beyond the City limits for any industrial establishment which will employ 10 employees or more within one year of the extension over the above existing employment in the community, without annexation being required if it is shown that the industry needs the tax benefit, or if it is on property not contiguous to the City limits. If the Superintendent determines that no foreseeable need will occur for a public water main, and so recommends to the Council upon Council approval, an applicant for service may be permitted to construct a private main in an undeveloped public right-of-way (i.e. no traveled way or no more than a graded or traveled vehicular way), provided the work shall meet the City requirements for installations in the public way, including placement in the standard location, protection of work, quality of construction and backfilling. Such main shall originate in a meter and be the property of the owner who shall be responsible for maintenance in the same manner as with water service pipes. It shall be a condition of the contract for connection that the City will not reimburse the owner for such a main if it has to be replaced with a public main after five years or more use.

90.21 MAIN EXTENSION CHARGES. Water service shall be provided through an extension of a water main in the following cases:

1. For distances up to 50 feet beyond existing end of a City owned main, upon request of a person who contracts to immediately tap the main upon the completion of the extension and who can be expected to use water service upon the completion of construction of the residence or commercial building or facility to be served, no connection charge.
2. Where two applicants, one on each side of a street make application at the same time under the same contract conditions in Subsection 1, extension will be made for 100 feet, no connection charge.
3. Where a single tap is contemplated by an applicant for an extension exceeding 50 feet and it is not foreseeable that other customer taps will be applied for before construction is begun, the applicant shall deposit with the Clerk a sum equal to the estimated cost of the extension required, as determined by the Superintendent, and enter into a contract providing for the deposit and any future rebates in accordance with the following provisions:
 - A. The City will refund any excess of deposit over the actual cost for the extension.

- B. For each customer later connected to the main the City will rebate the proportional share (by feet of frontage) as set out in the contract, the cost of the extension to the original applicant, but not in excess of the final payment by that applicant, provided such connections are made within five years, after which time no rebates shall be paid. However, the applicant shall be entitled to a refund of the unpaid balance of the full amount deposited with the City whenever the revenue derived from the sale of water to customers directly connected to the extension is equal in each of two consecutive 12-month periods within the five years following application to 10 percent of the total actual cost of the main extension.
4. The main extension shall be built to City standards and become the property of the City as it is installed. If the applicant hires the construction, the City shall inspect the work for compliance with City standards and may enforce the specifications.

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CHAPTER 91

WATER METERS

91.01 Purpose

91.02 Water Use Metered

91.03 Fire Sprinkler Systems; Exception

91.04 Location of Meters

91.05 Meter Setting

91.06 Meter Costs

91.07 Meter Repairs

91.08 Right of Entry

91.09 Meter Installation Fee

91.10 Meter Accuracy and Tests

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 INSTALLATION FEE. The property owner shall pay an installation fee of \$75.00 for each new installation of a water meter to a three-quarter inch line. Such meter is to remain the property of the City.

91.10 METER ACCURACY AND TESTS. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent shall

make a test of the accuracy of any water meter when requested in writing. If it is found that such meter overruns to the extent of two percent or more, the cost of the tests shall be paid by the City, and the City will credit on the next bill the overcharges collected since the last known date of accuracy, not to exceed 30 months. If the meter is found to be accurate or slow, the customer shall pay the reasonable costs of the test.

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CHAPTER 92

WATER RATES

92.01 Service Charges
 92.02 Rates For Service
 92.03 Billing for Water Service
 92.04 Service Discontinued
 92.05 Lien for Nonpayment

92.06 Lien Exemption
 92.07 Lien Notice
 92.08 Customer Deposits
 92.09 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. each customer shall pay for water serviced on a monthly basis as follows:

(Code of Iowa, Sec. 384.84)

1. Residential and Governmental Rates.

A. Base Rate. All residential and governmental users shall pay a water availability charge of \$30.00 per month, while water service is turned on, which includes 1,000 gallons of usage plus a usage charge as identified in Paragraph B below. The water availability charge is \$12.50 per month, minimum charge while water service is turned off.

B. Usage Rate. All residential and governmental users shall for water used based on the number of gallons used per month in addition to the base rates identified in Paragraph A above, as follows:

Usage in Gallons	Rate per 1,000 Gallons
1,000 - 6,000 gallons	\$4.00 per 1,000 gallons
6,001 and greater gallons	\$3.00 per 1,000 gallons

2. Commercial Rates.

A. Base Rate. All commercial users shall pay a base rate of \$30.00 per month which includes 1,000 gallons of usage plus a usage rate as identified in Paragraph B below.

B. Usage Rate. All commercial users shall pay for water used based on the number of gallons used per month in addition to the base rates identified in Paragraph A above, as follows:

Usage in Gallons	Rate per 1,000 Gallons
1,000 - 15,000 gallons	\$2.60 per 1,000 gallons
15,001 - 25,000 gallons	\$1.95 per 1,000 gallons
25,001 and greater gallons	\$1.30 per 1,000 gallons

92.03 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 on or before the fifth day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the first day of the following month.
3. Late Payment Penalty. Charges not paid by the next billing period shall be deemed delinquent and a late penalty of \$15.00 and sewer fee shall be split evenly and added to the amount of the water fee.

92.04 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. The City will also tag doors of delinquent customers 24-hours prior to discontinuance or disconnection of service as a final notice of shutoff. An administrative fee of \$75.00 shall be charged for issuance of the tag.
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 within 10 days after notice, the Utility Committee shall conduct an informal hearing and shall make a determination as to whether the discontinuance or disconnection is justified. The customer has the right to appeal the Utility Committee's decision to the Council, and if the Council 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 shall be charged to turn on or off water service during normal City business hours. The fee is \$75.00 if water service is turned on or off after normal City business hours.
5. Administration Fee. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$25.00, which amount shall be added to the lien and collected at the time of payment of the assessment.

92.05 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)

92.06 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, stormwater drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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.

92.07 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)

92.08 CUSTOMER DEPOSITS. There shall be required from every customer not the owner of the premises served a \$300.00 deposit intended to guarantee the payment of bills for service.

(Code of Iowa, Sec. 384.84)

1. If a person fails to pay any amount due for water, penalty or water goods or services as a result of moving out of the premises, the Clerk may draw on the deposit for the amount of the arrears and the balance of the deposit, if any, shall be returned to the last known address of the customer, or to the customer in person. Where the customer pays all amounts due at the time of moving out of the City, the full amount of deposit shall be paid to the customer in person or by mail. Where the person fails to pay after a turn-off the Clerk may draw on the deposit for the amount of arrears, and the balance of the deposit held to apply on the succeeding deposit required at the same or other premises, and water shall not be turned on until the deposit is sufficient to meet the requirements under this chapter.

2. If a deposit is not adequate to pay all arrears at time of the customer's moving from the premises, the balance shall be rebilled and the bill sent to the last known address of the customer. Where such rebilling is not paid within 30 days from the mailing of the rebilling, the Clerk shall collect by any means appropriate. Where the customer applies for water service at a new premises, the past due amount shall be paid and an adequate deposit made before the water may be turned on.

92.09 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. The City will not drain pipes or pull meters for temporary vacancies. Base fees for water and sewer rates will still apply for vacancies beyond a normal or emergency repair. See Section 92.04(4) for rates.

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CHAPTER 93

WELL PROTECTION

93.01 Definitions
93.02 Application

93.03 Exception
93.04 Non-Conforming Uses

93.01 DEFINITIONS. The following terms are defined as used in this chapter:

1. “Aquifer” means a rock formation, group of rock formations, or part of a rock formation that contains enough saturated permeable materials to yield significant quantities of water.
2. “Contamination” means the presence of any harmful or deleterious substances in the water supply.
3. “Deep public well” means a public well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which the water is drawn.
4. “Shallow public well” means a public well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which the water is drawn.
5. “Well” means a pit or hole sunk into the earth to reach a resource supply such as water.

93.02 APPLICATION. No structure or facility of the enumerated types set out in the following Table A shall be located within the distances set forth in said Table from public wells within the City.

93.03 EXCEPTION. Proscriptions set forth in Table A apply to all public water wells existing within the City except public water wells formerly abandoned for use by resolution of the Council.

93.04 NON-CONFORMING USES. The use of structures or facilities existing as of the date of adoption of the ordinance codified in this chapter may be continued even though such use may not conform to the regulations in this chapter; in other words, such uses may be located within the distances set forth. However, such structure or facility that is not in conformance with the terms of this chapter may not be enlarged, extended, reconstructed, or substituted subsequent to such date.

TABLE A: SEPARATION DISTANCES		
SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well ¹	Shallow Well ¹
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface		
Sanitary and industrial discharges	400	400
Water treatment plant wastes	50	50
Well house floor drains	5	5
Sewers and Drains²		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1,000 feet if sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Land Disposal of Treated Wastes		
Irrigation of wastewater	200	400
Land application of solid wastes ³	200	400
Other		
Cesspools and earth pit privies	200	400
Concrete vaults and septic tanks	100	200
Lagoons	400	1,000
Mechanical wastewater treatment plants	200	400
Soil absorption fields	200	400

SOURCE OF CONTAMINATION	REQUIRED MINIMUM LATERAL DISTANCE FROM WELL AS HORIZONTAL ON THE GROUND SURFACE, IN FEET	
	Deep Well ¹	Shallow Well ¹
CHEMICALS:		
Chemical application to ground surface	100	200
Chemical & mineral storage above ground	100	200
Chemical & mineral storage on or under ground	200	400
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200	400
ANIMALS:		
Animal pasturage	50	50
Animal enclosure	200	400
Earthen silage storage trench or pit	100	200
Animal Wastes		
Land application of liquid or slurry	200	400
Land application of solids	200	400
Solids stockpile	200	400
Storage basin or lagoon	400	1,000
Storage tank	200	400
MISCELLANEOUS:		
Basements, pits, sumps	10	10
Cemeteries	200	200
Cisterns	50	100
Flowing streams or other surface water bodies	50	50
GHEX loop boreholes	200	200
Railroads	100	200
Private wells	200	400
Solid waste landfills and disposal sites ⁴	1,000	1,000

¹ Deep and shallow wells, as defined in IAC 567-40.2(455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least five feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

² The separation distances are dependent upon two factors: the type of piping that is in the existing sewer or drain, as noted in the table, and that the piping was properly installed in accordance with the standards.

³ Solid wastes are those derived from the treatment of water or wastewater. Certain types of solid wastes from water treatment processes may be land-applied within the separation distance on an individual, case-by-case basis.

⁴ 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.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.10 Abandoned Sewer Lines

95.11 Compliance with Clean Water Act

95.12 Use of Project Related Revenues

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

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

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Combined sewer” means a sewer receiving both surface run-off and sewage.
5. “Customer” means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.
6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.
7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 15 persons (1,500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, or institutions, and free from storm, surface water, and industrial waste.
14. “Sanitary sewer” means a sewer that carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.
16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
18. “Sewer” means a pipe or conduit for carrying sewage.
19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. “Slug” means any discharge of water, sewage, or industrial waste that in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.
21. “Storm drain” or “storm sewer” means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. “Superintendent” means the Superintendent of sewage works or of water pollution control of the City or any authorized deputy, agent, or representative.
23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and that are removable by laboratory filtering.
24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.
3. Records. Maintain a complete and accurate record of all sewers, sewage connections, and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment that is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-Off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain that is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 60 days after date of official notice from the City to do so provided that said public sewer is located within 100 feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(567 IAC 69.1[3])

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

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall

have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

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

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

95.11 COMPLIANCE WITH CLEAN WATER ACT. The user charge provisions set forth in this chapter shall take precedence over any terms or conditions contained in any agreements or contracts between the City and users which is inconsistent with the requirements of Section 204(b)(1)(A) of the *Clean Water Act* and the corresponding regulation.

95.12 USE OF PROJECT RELATED REVENUES. All project related revenues, such as the sale of sludge, shall first be applied to payment of the cost of operation and maintenance of the wastewater system. All user charges shall be reduced proportionately to the decreased cost of operation paid by the project related revenues.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee and Connection Charge

96.03 Plumber Required

96.04 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 following information:

1. The location and description of the property to be connected with the sewer system.
2. The purpose for which the sewer is to be used.
3. 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 AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount of \$75.00 to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of \$75.00 paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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

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

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

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of

another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

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

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

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Stormwater

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent

97.06 Special Facilities

97.07 Control Manholes

97.08 Testing of Wastes

97.01 STORMWATER. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers that are specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes:
 - (1) Having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or
 - (2) Containing more than 350 parts per million by weight of suspended solids; or
 - (3) 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:
 - (1) Reduce the biochemical oxygen demand to 300 parts per million by weight; or
 - (2) Reduce the suspended solids to 350 parts per million by weight; or
 - (3) Control the quantities and rates of discharge of such waters or wastes.
 - A. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150°F (65°C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials that exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration, or create any other condition deleterious to structures and treatment processes.
13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES; POWERS OF SUPERINTENDENT. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage

works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

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

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

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

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 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.

(567 IAC 69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location, and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(567 IAC 69.1[3 and 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(567 IAC 69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

(Code of Iowa, Sec. 364.12[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 Rental Rates
99.02 Special Rates
99.03 Private Water Systems

99.04 Payment of Bills
99.05 Lien for Nonpayment
99.06 Special Agreements Permitted

99.01 RENTAL RATES. Each customer shall pay sewer service charges in the amount outlined in the following subsections per month.

1. Residential and Governmental Rates.

A. Base Rate. All residential and governmental users shall pay a base rate of \$41.75 per month, regardless of whether the sewer is turned on, off, or used, which includes 1,000 gallons of water usage plus a usage charge as identified in Paragraph B below.

B. Usage Rate. All residential and governmental users shall pay for sewer service used based on the number of water used per month in addition to the base rates identified in Paragraph A above as follows:

A.	Usage in Gallons	A.	Rate per 1,000 Gallons
B.	1,000 - 6,000 gallons	B.	\$6.00 per 1,000 gallons
C.	6,001 and greater gallons	C.	\$3.60 per 1,000 gallons

2. Commercial Rates.

A. Base Rate. All commercial users shall pay a base rate of \$27.00 per month which includes 1,000 gallons of water usage plus a usage rate as identified in Paragraph B below.

B. Usage Rate. All commercial users shall pay for sewer service used based on the number of gallons used per month in addition to the base rates identified in Paragraph A above, as follows:

A.	Usage in Gallons	A.	Rate per 1,000 Gallons
B.	1,000 - 15,000 gallons	B.	\$4.00 per 1,000 gallons
C.	15,001 - 25,000 gallons	C.	\$3.00 per 1,000 gallons
D.	25,001 and greater gallons	D.	\$2.00 per 1,000 gallons

3. Sewer Improvement Charge. The sewer improvement charge, assessed to residential, commercial, and industrial customers, is \$41.75.

99.02 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.03 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's

expense. Any negotiated or agreed-upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.04 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.03 of this Code of Ordinances. Sewer service may be discontinued or disconnected in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

99.05 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 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)

99.06 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial 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

SUMP PUMP

100.01 Permit	100.06 Storm Drainage Previously Discharging Into Sewer
100.02 Application Requirements	100.07 Inspection
100.03 Floor Elevation	100.08 Rules
100.04 Connecting Storm Drainage to Sanitary Sewers: New Construction	100.09 Exceptions
100.05 Prohibited Acts	100.10 Penalty

100.01 PERMIT. No person shall construct a building, make an addition thereto, or provide for the removal of ground or stormwater on a building site without obtaining a building permit for that purpose. The applicant shall pay a permit fee as established by the Council before receiving a permit. A permit shall be granted if the plans comply with this chapter.

100.02 APPLICATION REQUIREMENTS. The application shall be in writing and be accompanied by a plan to scale that shows how the roof, storm, and ground water drainage will be provided including, where applicable, information as to the method of connection to a public drainage system involving the interior plumbing or the building sewer. The plan may be in pencil or ink and shall show the following elevations, related to the centerline elevation of the street:

1. Elevations at curb line or edge of traveled way.
2. Ditch or waterway bottom and top elevations where involved.
3. Sidewalk elevation, or elevation at street property line if no sidewalk exists.
4. Elevation, or elevations, at the ground line at the edge of the building's foundation.
5. The first-floor elevation.

100.03 FLOOR ELEVATION. The floor elevation of all dwellings shall be at least one foot about the elevation of the centerline of the street which shall be taken as that elevation of the existing street surface taken opposite that main doorway, or the official grade at that point, but if an official grade is not set and a different elevation is contemplated, at the approximate grade agreed to by Council after recommendation of the City Engineer or other competent official. In no event shall floor elevation be less than one resulting from calculating a gradient starting at curb or the edge of traveled way and using one-eighth inch per foot to the front edge of foundation above the centerline elevation.

1. Exceptions for Dwellings. The floor of a dwelling on a site having a downward slope away from the street to a suitable drain or waterway which will receive storm and ground water drainage without dumping on private property (unless there is a permanent drainage easement granted to the applicant's property) may be set at different grade elevation with the approval of Council.
2. Exception for Commercial Buildings. The floor of stores and similar structures whose fronts immediately about the sidewalks in the Central Business District or other permitted locations shall be one inch above the established sidewalk grade at the edge of the sidewalk nearest the property line and in no event less than the elevation

calculated at one-fourth inch per foot rise from said edge to the face of the doorway into the interior of the building. Side grading shall be sloped away from the building at least one percent toward the lower points of the grading.

100.04 CONNECTING STORM DRAINAGE TO SANITARY SEWERS: NEW CONSTRUCTION. No roof drain, downspout, footing drain, or stormwater, drain, sump pump, or drainage tile shall be connected with the sanitary sewer system. Stormwater conducted from roofs or other impervious areas shall be dispersed entirely upon the grounds of the owner of the contributing property, or it shall be drained or conducted into ditches, storm drains, or gutters where available on public property or easements legally usable for that purpose, or into public streams. No building sewer or roof or footing drain outlets shall be covered or backfilled until the City's Inspector has viewed the completed work.

100.05 PROHIBITED ACTS. It shall be unlawful to discharge a roof drain, downspout, footing drain or stormwater drain, sump pump, or drainage tile into any sanitary sewer within the City. The owner of the building so connected as to permit such discharge shall disconnect or otherwise prevent such discharge upon order of the authorized City officer.

100.06 STORM DRAINAGE PREVIOUSLY DISCHARGING INTO SEWER. Any roof drain, downspout, footing drain, or stormwater drain, sump pump or drainage tile discharging into a sanitary sewer prior to the adopting of this chapter or illegally discharging into a sanitary sewer subsequent to said passage, is hereby declared to be a nuisance and may be abated in the same manner as any other nuisance.

100.07 INSPECTION. After the giving of sufficient public notice in a newspaper or other publication in general circulation, employees of the City are hereby authorized to conduct an inspection of all homes, commercial buildings, and other structures to determine whether any roof drain, downspout, footing drain, or storm sewer drain, sump pump, or drainage tile is discharging or pumping directly into the sanitary sewer system of the City in violation of this chapter.

100.08 RULES. The Council may provide by resolution such further rules as necessary to clarify and implement the requirements of this chapter.

100.09 EXCEPTION. The provisions of this chapter do not apply to residents who have discharge during a specified period (October 15 - April 15) of each calendar year.

100.10 PENALTY. If a violation is found, the owner will be given notice of the violations and will be required to make correction of the violation within 30 days after receiving the notice of violation. Reinspection by an authorized City employee will be made to determine whether the correction has been made. Anyone failing to make the appropriate corrections within the time stated in the notice shall be deemed guilty of a simple misdemeanor and, upon conviction, be subject to a fine as listed in Chapter 3.

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CHAPTER 105

SOLID WASTE CONTROL

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

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

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

1. “Business collection” means service provided the owner or occupant of any other establishment not defined as a residential collection. Including multiple-family dwellings with three or more dwelling units.
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.
(567 IAC 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.
(567 IAC 20.2)
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. “Multiple-family dwelling” means a structure containing more than one dwelling unit.

9. "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.

10. "Property served" means any property which is being used or occupied and is eligible to receive solid waste collection and disposal service as provided herein.

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

(567 IAC 100.2)

12. "Residential collection" means service provided the owner or occupant of a single or multiple-family dwelling who has purchased City solid waste collection bags for collection.

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

(567 IAC 20.2)

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

(567 IAC 100.2)

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

(567 IAC 100.2)

16. "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)

17. "Single-family dwelling" means a structure containing one dwelling unit only.

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

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

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

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

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

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

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

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

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

(1) Processed at a pyrolysis or gasification facility.

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

19. “Toxic and hazardous waste” means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

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

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

(Code of Iowa, Ch. 657)

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

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

(567 IAC 23.2 and 100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(567 IAC 23.2[3]“a”)

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

(567 IAC 23.2[3]“b”)

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

(567 IAC 23.2[3]“c”)

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

(567 IAC 23.2[3]“d”)

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

(567 IAC 23.2[3]“g”)

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

(567 IAC 23.2[3]“i”)

7. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(567 IAC 23.2[3]“j”)

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(567 IAC 23.2[2])

9. Backyard Burning. Backyard burning, not including garbage, at dwellings of four family units or less is permitted. Backyard burning shall be prohibited from 10:00 p.m. to 12:00 p.m..

A. No person shall kindle or maintain any premise fire or authorize any such fire to be kindled or maintained on any private land unless:

(1) the location is not less than 50 feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or

(2) The fire is contained in an approved waste burner located safely not less than 15 feet from any structure. Such fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply, or other fire extinguishing equipment readily available for use.

B. Authority. The Fire Chief is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection.

1. Tree Limbs and Brush Collection. Tree limbs of less than four inches in diameter and brush will be collected by the City on a time available basis provided it is placed at the curb. Tree limbs and brush shall be separated from other waste to be collected by the City's solid waste collection crew. The City may, at its discretion, assess the property owner or occupant for the collection of large quantities of tree limbs and brush.

2. Yard Waste Collection. Yard waste may be collected by the City on a seasonal basis on dates so designated by the City. Such waste shall be placed in plastic leaf bags. It shall be the duty of the landowner or occupant of the property to separate yard waste from other waste to be collected by the City solid waste collection crew, and the City reserves the right to refuse collection of any non-conforming materials. Green grass clippings and other landscaped waste will not be collected by the City's solid waste crew and may be disposed of by the landowner in any manner in compliance with this Code of Ordinances.

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

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

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources.

(567 IAC 100.2)

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

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than five gallons or more than 95 gallons in nominal capacity, and shall be leak-proof and waterproof. The total weight of any container and contents shall not exceed 340 pounds. Disposable containers shall be kept securely fastened and

shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

- (1) Be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container.
- (2) Have handles, bails, or other suitable lifting devices or features.
- (3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying.
- (4) Be of lightweight and sturdy construction.

B. Galvanized metal containers, rubber or fiberglass containers, and plastic containers that do not become brittle in cold weather may be used.

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 at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection. Garbage carts must be placed on the street along the collection truck's route.

4. **Non-conforming Containers.** The City will not collect bags outside of the container. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected. Custom service trash must be placed within five feet of the curb along the collection truck's route.

5. Homeowner is responsible for the garbage cart that is provided by the City. If cart is damaged by the customer, they may be charged the cost of a new cart.

105.10 BUSINESS COLLECTION REGULATIONS. Business collection service is provided subject to the following regulations:

1. **Containers.** All business customers will be provided a dumpster or a cart, based on their need.
2. **Sunday Collection.** No Sunday collections shall be made except in cases of danger to public health.
3. **Bulky or Hazardous Items.** Appliances, furniture, dangerous or hazardous items, and all items over 50 pounds will not be collected by the City.

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

1. **Unlawful Use of Containers.** Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste that has been placed out for collection on any premises, unless such person is an authorized solid waste collector.
5. Unlawful Disposal. Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
6. Unlawful Collection. Engage in the business of collecting, transporting, processing, or disposing of refuse within the City without a contract with the City, or possessing a City solid waste hauler permit.

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities approved by the City are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection

106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Collection Fees
106.08 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leak-proof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

(567 IAC 104.9)

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

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

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

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

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

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:

A. For each residential rollaway receptacle, the rate is as follows per household:

AMENDMENT:

Garbage	Current
One person household	\$15.00

Garbage	Current
Two person household	\$16.00
Three or more persons	\$17.00

B. For commercial, industrial, and institutional premises.

Container	Per Month
90 Gallon	\$22.00
2-yard dumpster	\$82.00
3-yard dumpster	\$122.00
6-yard dumpster	\$224.00

C. Recycling. The recycling rate is \$5.00 per household and per business or location.

(Paragraphs A-C – Ord. 2025-0108-001 – Jan. 25 Supp.)

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.03 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.04 if the combined service account becomes delinquent, and the provisions contained in Section 92.07 relating to lien notices shall also apply in the event of a delinquent account.

106.08 LIEN FOR NONPAYMENT. Except as provided for in Section 92.06 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted	110.13 Franchise Fee Modification
110.02 Mains and Pipes	110.14 Franchise Fee Company Responsibility
110.03 Excavation	110.15 Franchise Fee Company Reimbursement
110.04 Relocation	110.16 Franchise Fee Cease of Collection
110.05 Uninterrupted Service	110.17 Franchise Fee Exempt
110.06 Franchise Fee	110.18 Management Fees
110.07 Franchise Fee Applicable	110.19 Nonexclusive
110.08 Franchise Fee Collection	110.20 Term of Franchise
110.09 Franchise Fee Reimbursement	110.21 Publication Expense
110.10 Franchise Fee Annexation	110.22 Franchise Acceptance
110.11 Indemnification	110.23 Validity
110.12 Remit Franchise Fee	110.24 Entire Agreement

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

110.02 MAINS AND PIPES. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers, and fire plugs which have been or may hereafter be placed in any street, alley, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation, and maintenance of said natural gas distribution system.

110.03 EXCAVATION. In making any excavations in any street, alley, avenue, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused, shall repair the same.

110.04 RELOCATION. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such

[†] **EDITOR’S NOTE:** Ordinance No. 2010-3, adopting a natural gas franchise for the City, was passed and adopted on October 4, 2010.

improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

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

110.06 FRANCHISE FEE. In its monthly billing the Company shall include a franchise fee of five percent on the gross revenues from the sale of natural gas to the Company's natural gas customers located within the corporate limits of the City.

110.07 FRANCHISE FEE APPLICABLE. The franchise fee shall be applied to all customers' bills in accordance with Chapter 364.2 and 423B.5 of the *Code of Iowa*. The amount of the franchise fee shall be shown separately on the utility bill to each customer.

110.08 FRANCHISE FEE COLLECTION. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee. This information shall include, but not be limited to, a copy of the City's Revenue Purpose Statement and written proof of legal adoption and publication of the Revenue Purpose Statement, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed Nondisclosure Agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of its amended tax rider tariff from the Iowa Utilities Board.

110.09 FRANCHISE FEE REIMBURSEMENT. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company, in its sole opinion, deems to be in excess of typical costs of franchise fee administration.

110.10 FRANCHISE FEE ANNEXATION. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than 90 days from receipt of the

information required of the City to implement the franchise fee. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

110.11 INDEMNIFICATION. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

110.12 REMIT FRANCHISE FEE. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

110.13 FRANCHISE FEE MODIFICATION. The City shall give the Company a minimum of six-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to Section 110.06 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying, or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than 90 days following written notice to the Company by certified mail. The Company shall not be required to implement such a new percentage unless and until it determines that it has received appropriate official documentation of final action by the Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

110.14 FRANCHISE FEE COMPANY RESPONSIBILITY. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

110.15 FRANCHISE FEE COMPANY REIMBURSEMENT. The Company shall not, under any circumstances, be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.16 FRANCHISE FEE CEASE OF COLLECTION. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the franchise term.

1. The obligation to collect and remit the fee imposed by this chapter is modified if:
 - A. Any other person is authorized to sell natural gas to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case

the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

B. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or

C. The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee, if in its sole opinion, it believes it is required to do so in order to comply with revised legal requirements.

2. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified below with no liability therefor, if:

A. The imposition, collection, or remittance of a franchise fee is judicially determined to be unlawful by a court of competent jurisdiction within the State. Such determination shall be effective only after all available appeals have either been exhausted or have expired; or

B. The Iowa General Assembly enacts legislation making imposition, collection, or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

C. The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect, or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

110.17 FRANCHISE FEE EXEMPT. That said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys, and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductor and appliances in, along and under the streets, avenues, alleys, and public places in the said City for the purpose of distributing, supplying, and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof shall be exempt from any special tax, assessment, license, or rental charge during the entire term of this chapter.

110.18 MANAGEMENT FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting, or inspections of Company work sites and projects or related matters.

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

110.20 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after its acceptance by the said Company, as herein provided.

110.21 PUBLICATION EXPENSE. The expense of the publication of this chapter shall be paid by the Company.

110.22 FRANCHISE ACCEPTANCE. The franchise granted by this chapter shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the Clerk within 90 days from passage of this chapter.

110.23 VALIDITY. If any section or provision of this chapter is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this chapter which can be given effect without the invalid portion or portions and to this end each section and provision of this chapter is severable.

110.24 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified, or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate, and repeal the prior gas system chapter between the Company and the City as of the date this chapter is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company, or which delay utility operations.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Placement of Appliances
111.03 Term of Franchise
111.04 System Authorized
111.05 Nonexclusive

111.06 Uninterrupted Service
111.07 Rights Granted
111.08 Publication Expense
111.09 Acceptance of Franchise
111.10 Entire Agreement

111.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain, and operate in the City of Armstrong, Emmet County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power, and the right to erect and maintain the necessary poles, lines, wires, conduits, and other appliances for the transmission of electric current along, under, and upon the streets, avenues, alleys, and public places in the said City; also the right to erect and maintain upon the streets, avenues, alleys, and public places, transmission lines through the City, to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat, and power for the period of 25 years subject to a limited right of cancellation at the end of the fifth, 10th, 15th, and 20th year anniversaries of the anniversary date as defined within: also the right to eminent domain as provided in Section 364.2 of the *Code of Iowa*.[†]

111.02 PLACEMENT OF APPLIANCES. The poles, wires, and appliance shall be placed and maintained so as not to unnecessarily with the travel on said streets, alleys, public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 TERM OF FRANCHISE. The Company, its successors, and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company’s tariff filed with the Iowa Utilities Board.

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

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

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

[†] **EDITOR’S NOTE:** Ordinance No. 2004-2, adopting an electric franchise for the City, was passed and adopted on August 2, 2004.

111.07 RIGHTS GRANTED. The term of the franchise granted by this chapter and the rights granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after its acceptance by the said Company as herein provided. The City may cancel this franchise on the fifth, 10th, 15th, or 20th anniversary of the anniversary date of this franchise by notifying the Company in writing of its desire to so do, said notification to be given within 30 days of the fifth, 10th, 15th, or 20th anniversary of this franchise. If Company is not notified of the cancellation by the fifth, 10th, 15th, or 20th anniversary, then this franchise is filed with the Clerk or otherwise effective by operation of law.

111.08 PUBLICATION EXPENSE. The expense of the publication of this chapter shall be paid by the Company, its successors and assigns.

111.09 ACCEPTANCE OF FRANCHISE. The franchise granted by this chapter shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the Clerk within 90 days from passage of this chapter.

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

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CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted	112.08 Service Standards
112.02 Nonexclusive	112.09 Assignment
112.03 Rights Granted	112.10 Legality
112.04 Acceptance of Franchise	112.11 Compliance
112.05 Conditions of Street/Public Way Occupancy	112.12 Entire Agreement
112.06 Indemnification and Insurance	112.13 Franchise Violations and Enforcement
112.07 City Expenses and Fees	

112.01 FRANCHISE GRANTED. In consideration of the benefits to said City of Armstrong, Iowa (“City”), and citizens thereof, to be derived from the installation and operation of a telephone and other telecommunications system in said City, Independent Networks, L.C., (“Grantee”) is hereby granted and vested with the nonexclusive franchise right, power, privilege, and authority for a period of 25 years from and after the adoption and approval hereof, as provided by law, to acquire, construct, and maintain in the City the necessary facilities for the receiving and transmitting of messages by telephone, telegraph, radio, microwave, and electronic or other means for public and private use, and to construct and maintain along, upon, across, or under the streets, rights-of-way, avenues, alleys, bridges, parks, highways, and public places of said City the poles, wires, lines, appliances, and equipment necessary or suitable for the operation of said system in said City.[†]

112.02 NONEXCLUSIVE. The rights granted in this chapter shall not be exclusive and shall not restrict in any manner the right of the Council or other governing body of the City in the exercise of any regulatory power which may now or hereafter be authorized or permitted by the laws of the State.

112.03 RIGHTS GRANTED. The rights granted in this chapter shall be in full force and effect from and after its final passage and approval by the qualified electors of said City at an election and its publication and acceptance by Grantee as hereinafter provided.

112.04 ACCEPTANCE OF FRANCHISE. Within 30 days from and after the approval of this chapter by the qualified electors of said City, Grantee shall file with the Clerk of said City its written acceptance hereof and thereupon this chapter shall be deemed to be in effect for a period of 25 years.

112.05 CONDITIONS OF STREET/PUBLIC WAY OCCUPANCY.

1. All poles, wires, cable, and underground conduit facilities of every kind shall be located, installed, and maintained so as to cause minimum interference with the proper use of streets and to assure that the safety, functioning and appearance of property, and the convenience and safety of other persons and the public shall not be adversely affected thereby. The telephone system shall be constructed, installed, operated, and maintained in compliance with applicable governmental regulations. All equipment and facilities shall be installed in accordance with sound and reasonable engineering practices.

[†] **EDITOR’S NOTE:** Ordinance No. 98-3, adopting a telephone franchise for the City, was passed and adopted on July 13, 1998.

2. In case of disturbance of any street, sidewalk, or area caused by the telephone system or the Grantee, the Grantee shall, at its expense, and in a manner approved by the City, replace or restore such street or paved area to a condition which is reasonably similar to the condition existing prior to the disturbance.
3. In case of fire, earthquake, flood, or other similar occurrence, the City may temporarily remove any of the Grantee's facilities or equipment, with advance notice payment for any damage caused by this removal, unless the City acted with gross negligence or willful misconduct.
4. If the City decides to alter or change any street, sidewalk, alley, or other public way, or to undertake any improvement on or about the street, sidewalk, alley, or other public way, the City shall give the Grantee reasonable advance notice of such alteration and the Grantee shall relocate its facilities and equipment or take such other reasonable action as may be necessary to accommodate the public improvements, at the Grantee's expense.
5. The Grantee agrees to temporarily remove, reroute, or move any or all of its equipment and facilities to accommodate public or private works or construction, and movement of buildings or extra-large truckloads, etc. The Grantee shall be entitled to reasonable compensation from any private party causing such relocation but not from the City.
6. Before undertaking any construction or installation of equipment or facilities which would materially disrupt the use of public rights-of-way, the Grantee shall provide the City with reasonable prior notice of the work to be performed and location and period of time involved in the undertaking. The City shall have the right to inspect the work at any time to be certain it is being done in accordance with this chapter. When completed, the Grantee shall, upon request, submit a plan to the City showing the location of facilities and equipment and identifying the equipment and facilities comprising the telephone system.
7. Th Grantee agrees to compensate property owners for or to restore all damages caused to private and public property including landscaping by the construction, operation, or maintenance of its telephone system. Notwithstanding any agreement it may have with any construction company, the Grantee shall be primarily responsible for all such damages.

112.06 INDEMNIFICATION AND INSURANCE.

1. The Grantee shall at all times indemnify, protect, and hold the City harmless from all claims, actions, suits, liabilities, losses, expenses, or damages of every kind and description, including investigation costs, court costs and reasonable attorney's fees which may accrue to or be suffered or claimed by any person or persons by reason of or relating to the ownership, construction, repair, replacement, operation, and maintenance of the telephone system and by reason of any licenses, copyright, property right, or patent of any article used in said system.
2. In order for the City to assert its rights to be indemnified, defended, and held harmless, the City shall provide:
 - A. Prompt notice to the Grantee of any claim or legal proceeding which gives rise to such rights;

B. Full cooperation with the requests of the Grantee with respect to the Grantee's participation in, and control, compromise, settlement, or resolution or other disposition of such claim or proceeding.

3. The Grantee shall maintain in full force and effect public liability and property insurance with the following minimum coverage: property damage \$100,000.00 per occurrence, \$300,000.00 aggregate; bodily injury \$300,000.00 per occurrence, \$500,000.00 aggregate, which insurance shall name the City as additional insured, and which shall require 30 days' notice of cancelation to be given to the City. The Grantee also shall carry insurance coverage for all claims under any applicable workers compensation law. On the request of the City, the Grantee shall file with the City certificates of insurance for the above coverage.

112.07 CITY EXPENSES AND FEES. The Grantee shall pay or reimburse the City for costs, fees, expenses, and charges reasonably incurred by the City for the following:

1. Protection, removal, or relocation of the Grantee's equipment or facilities if such action has been reasonably requested by the City and the Grantee has failed to perform the work within a reasonable period of time.
2. Restoring or remedying any damage or condition resulting from the construction, installation, maintenance, removal, or any work performed by the Grantee.
3. Any costs, fees, expenses, and charges incidental to the awarding or renewal of the franchise, provided that the City will provide the Grantee with advance notice of any anticipated extraordinary charges to be incurred.
4. Any costs, fees, expenses, and charges including reasonable attorney's fees, incurred in the collection of fees or expenses or in the enforcement of this chapter.

112.08 SERVICE STANDARDS.

1. Technical and Operational Standards:
 - A. The Grantee shall maintain the telephone system so that it is capable of providing continuous, reliable, and good quality service to the users of the system.
 - B. The Grantee shall make repairs promptly. Service interruptions due to repairs, maintenance modifications, or installations shall be for the shortest time possible, and shall, to the extent practicable, be preceded by notice to users and shall occur during periods of minimal use.
 - C. The Grantee shall maintain sufficient replacement and repair equipment, facilities and supplies, and trained personnel to perform necessary and prompt repairs to the telephone system in the event of damage thereto. In the event of major damage to the equipment and facilities, the Grantee shall make every effort to restore service as expeditiously as possible and to provide for alternative means of providing service to as many users as possible while making necessary repairs.
2. User Service Standards.
 - A. The Grantee shall maintain a publicly listed, toll-free telephone number to receive user complaints, or the Grantee shall otherwise notify users of this telephone number on a periodic basis. The Grantee may provide separate

telephone numbers for complaints made after normal business hours, but must be capable of handling complaints 24 hours a day.

B. The Grantee shall investigate all user complaints regarding quality of service, equipment malfunctions, and similar matters expeditiously and no later than the next business day. Upon notification of a service complaint, the Grantee shall dispatch a qualified employee to investigate the complaint and adjust, repair, or replace equipment as necessary to resolve the complaint.

C. If there is an interruption of service for 48 consecutive hours or more, the affected users shall receive, upon request, a pro-rata reduction of charges, provided that the user has notified the Grantee immediately of the outage and made claim for credit within 90 days of its occurrence. The loss of service must be caused directly by failure of the Grantee's equipment in order to qualify for a credit. No credit will be given if the service interruption is caused by any of the user's equipment or any action taken with respect to the Grantee's equipment by someone other than the Grantee's employees. The Grantee is not responsible for the operation, maintenance, service, or repair of any user's equipment.

D. Notwithstanding any provision contained herein to the contrary, the Grantee will not be liable for any inconvenience, loss, liability, or damage resulting from any circumstance beyond its control, and any such circumstance also shall toll the Grantee's obligation to perform hereunder until such circumstance has passed.

112.09 ASSIGNMENT. The right, privilege, and franchise given to the Grantee by this chapter shall not be assigned or transferred without the prior approval of such transfer by the City. Such approval shall not be withheld unreasonably. For the purpose of this section, an "assignment" or a "transfer" shall not be deemed to include any (i) transfer to an entity which is affiliated with the Grantee through common control, ownership, or otherwise, (ii) transfer of a portion or all of the control of the Grantee or any of its affiliates, (iii) restructuring of the Grantee or any of its affiliates, or (iv) grant of a security interest or collateral assignment in or of the telephone system or the Grantee's rights hereunder to secure repayment of indebtedness.

112.10 LEGALITY. The Grantee shall, at all times during the term of this franchise, be subject to all lawful exercise of the police power by the City, which reserves the right to adopt from time to time such ordinances as may be necessary to the exercise of that police power as it may relate to this franchise.

112.11 COMPLIANCE. This franchise does not supersede any other provisions of any City ordinance or regulation which may require the Grantee to obtain other permits, licenses, etc., or relieve the Grantee from compliance with such ordinances. Specifically, the Grantee is not relieved from the requirements to obtain building permits, utility pole agreements, etc.

112.12 ENTIRE AGREEMENT. This chapter contains the entire agreement between the City and the Grantee, and may be amended or modified as agreed upon by the City and the Grantee.

112.13 FRANCHISE VIOLATIONS AND ENFORCEMENT.

1. If the Grantee violates any provision of this chapter, the City:
 - A. Shall comply with Subsection 2 hereafter; and

- B. If such hearing and procedures set forth in Subsection 2 hereof have not resolved the dispute, the City may proceed in any appropriate court of law or administrative agency to compel compliance with the provisions of this chapter or to terminate the franchise granted hereby. Except as expressly provided herein, the Grantee shall not otherwise be liable to the City. In no event shall the Grantee be liable for any consequential damages.
2. If the City believes that the Grantee has violated any provision of this chapter, it shall hold a hearing and take the actions as set forth hereunder.
- A. The City shall notify the Grantee in writing of the alleged violations and of the City's proposed remedy; the Grantee shall have 30 days after its actual receipt of such notice to cure such violations.
- B. If the Grantee disputes the existence of the violation or the proposed remedy, or if such default is not cured within the 30 days after the Grantee's actual receipt of such default notice, then the matter shall be referred to a public hearing to be held after public notice at least 10 days prior to the date of the hearing.
- C. At the hearing, the City shall publicly list all the alleged violations, and shall give the Grantee and all other interested parties an opportunity to be heard as to the alleged violation.
- D. Within a reasonable time after the hearing, the City shall determine whether the Grantee has violated this chapter and the remedy for the violation, and shall issue written findings and conclusions with respect thereto, and the Grantee shall be given a reasonable opportunity of not less than 30 days after the issuance of said findings and conclusions to remedy the matter or comply with this chapter.
3. Prevention or delay of any performance under this franchise due to circumstances beyond the reasonable control of the Grantee, unforeseen circumstances, or acts of God, shall not be deemed noncompliance with or a violation for this franchise.

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CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 Granting of Authority	113.09 Service Standards
113.02 Nonexclusive Franchise	113.10 Report Requirements
113.03 Definitions	113.11 Assignment or Transfer
113.04 Conditions of Street/Public Way Occupancy	113.12 Franchise Subject to Police Power
113.05 Indemnification and Insurance	113.13 Other Permits Required
113.06 Franchise Fee	113.14 Modifications of Chapter
113.07 City Expenses and Fees	113.15 Franchise Violations and Enforcement
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113.01 GRANTING OF AUTHORITY. A nonexclusive right, privilege, and franchise is hereby granted to the Company, to erect, maintain, and operate a system of antennas, cables, wires, lines, facilities, and additions thereto, in, under, over, along, across, and upon the streets, lanes, avenues, sidewalks, alleys, and any easement or right-of-way now or hereinafter held by the City, or dedicated for use by the City or the general public, for the purpose of transmission and distribution of television signals in accordance with laws and regulations of the United States of America, the State, and the ordinances and regulations of the City, and for such other uses compatible with the cable system as the Company may, from time to time, determine, including, but not limited to, the transmission of voice and data. The Company is hereby granted the further right, privilege, and authority to lease, rent, or in any lawful manner, obtain the use of towers, poles, lines, cables, underground conduits, and other equipment and facilities from any and all holders of public licenses or franchises within the limits of the City and to use such towers, poles, lines, cables, and underground conduits, and other equipment and facilities subject to all existing ordinances and regulations of the City. The poles used by the Company shall be those erected and maintained by the local public utility companies when and where practical, providing mutually satisfactory rental agreements can be entered into with said companies.†

113.02 NONEXCLUSIVE FRANCHISE. The right, privilege, and franchise granted by this chapter is not exclusive. To induce the Company to incur the costs of constructing, owning, and operating the cable system, the City agrees that it will not directly or indirectly construct, own, or operate a cable television system within its territorial limits. Further, the City shall have the right to grant to other persons or entities who own and operate cable television system rights similar to those granted to the Company herein at any time terms and conditions as the City may determine and as may be permitted under applicable law with due consideration of the interests of the public and the Company; provided that no other franchise shall be granted upon terms which are more favorable to the operator than the terms hereunder.

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

1. “Basic subscriber service” means the initial service including, but not limited to, mandatory carriage signals and local access channels and such other service as the Federal Communications Commission (the “FCC”) may mandate or the Company may include. This shall not include optional premium services, as long as they are sold separately from basic tier service.

† **EDITOR’S NOTE:** Ordinance No. 98-2, adopting a cable television franchise for the City, was passed and adopted on June 22, 1998.

2. “Cable system” means a system designed to receive, transmit, amplify, and distribute television, radio, and satellite signals, data, and electronic communications, or designated for such other uses which are compatible therewith, including, but not limited to, the transmission of voice and data.
3. “Gross revenue” means any and all compensation or receipts derived by the Company from the transmission and carriage of broadcast signals and FCC mandated non-broadcast services within the City, but shall not include any deposits delivered to the Company until such time as the Company legally is entitled to the same, nor installation, disconnection, and reinstallation charges, and shall be net of all refunds or credits made to subscribers and any taxes imposed upon or with respect to the services furnished by the Company. Nor shall gross revenues include revenue from “ancillary” or “auxiliary” services, which include, but are not limited to, advertising, leased channels, and programming supplied on a per program or per channel charge basis, if any.
4. “Subscriber” means any person who pays the applicable rates to receive cable television or other communications service from the Company.
5. “Television” means any transmission of audio, video, digital, or other electrical signals and any other transmission by means of impulses.

113.04 CONDITIONS OF STREET/PUBLIC WAY OCCUPANCY.

1. All poles, wires, cable, and underground conduit facilities of every kind shall be located, installed, and maintained so as to cause minimum interference with the proper use of streets and to assure that the safety, functioning, and appearance of property, and the convenience and safety of other persons and public shall not be adversely affected thereby. The cable system shall be constructed, installed, operated, and maintained in compliance with applicable governmental regulations. All equipment and facilities shall be installed in accordance with sound and reasonable engineering practices.
2. In case of disturbance of any street, sidewalk, or area caused by the cable system or the Company, the Company shall at its expense, and in a manner approved by the City, replace or restore such street or paved area to a condition which is reasonably similar to the condition existing prior to the disturbance.
3. In case of fire, earthquake, flood, or other similar occurrence, the City may temporarily remove any of the Company’s facilities or equipment, with advance notice to the Company given as promptly as possible. The Company shall not be entitled to payment for any damage caused by this removal, unless the City acted with gross negligence or willful misconduct.
4. If the City decides to alter or change any street, sidewalk, alley, or other public way, or to undertake any improvement on or about the street, sidewalk, alley, or other public way, the City shall give the Company reasonable advance notice of such alteration and the Company shall relocate its facilities and equipment or take such other reasonable action as may be necessary to accommodate the public improvements, at the Company’s expense.
5. The Company agrees to temporarily remove, reroute, or move any or all of its equipment and facilities to accommodate public or private works or construction, and movement of buildings or extra large truckloads, etc. The Company shall be entitled to

reasonable compensation from any private party causing such relocation, but not from the City.

6. Before undertaking any construction or installation of equipment or facilities which would materially disrupt the use of public rights-of-way, the Company shall provide the City with reasonable prior notice of the work to be performed and location and period of time involved in the undertaking. The City shall have the right to inspect the work at any time to be certain it is being done in accordance with this chapter. When completed, the Company shall, upon request, submit a plan to the City showing the location of facilities and equipment and identifying the equipment and facilities comprising the cable system.

7. The Company agrees to compensate property owners for or to restore all damages caused to private and public property including landscaping by the construction, operation, or maintenance of its cable system. Notwithstanding any agreement it may have with any construction company, the Company shall be primarily responsible for all such damages.

113.05 INDEMNIFICATION AND INSURANCE.

1. The Company shall at all times indemnify, protect, and hold the City harmless from all claims, actions, suits, liabilities, losses, expenses, or damages of every kind and description, including investigation costs, court costs, and reasonable attorney's fees which may accrue to or be suffered or claimed by any person or persons by reason of or relating to the ownership, construction, repair, replacement, operation, and maintenance of the cable system and by reason of any licenses, copyright, property right, or patent of any article or system used in said system.

2. In order for the City to assert its rights to be indemnified, defended, and held harmless, the City shall provide:

A. Prompt notice to the Company of any claim or legal proceeding which gives rise to such rights.

B. Full cooperation with the requests of the Company's participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding.

3. The Company shall maintain in full force and effect public liability and property insurance with the following minimum coverage: property damage \$100,000.00 per occurrence, \$300,000.00 aggregate; bodily injury \$300,000.00 per occurrence, \$500,000.00 aggregate, which insurance shall name the City as additional insured, and which shall require 30 days' notice of cancellation to be given to the City. The Company also shall carry insurance coverage for all claims under any applicable workers compensation law. On the requires of the City, the Company shall file with the City certificates of insurance for the above coverage.

113.06 FRANCHISE FEE.

1. The Company shall pay to the City a franchise fee in an amount equal to three percent of all gross revenue receipts received from subscribers located within the City for basic subscriber service.

2. The Company shall pay this fee to the City at the end of each calendar quarter, and shall be based on the total gross revenue receipts received by the Company from subscribers located within the City for basic subscriber service during the quarter

preceding that most recently competed. For example, payments due June 30, if due quarterly, would be based on the quarter ending June 30.

3. The Company shall submit with each payment a report concerning the information upon which the fee owed the City was based and shall provide additional information or records as the City may reasonably request in order to review and determine the fee obligation.

4. Nothing in this chapter shall waive, limit, or otherwise affect the right of the City to adopt ordinances or to enforce existing ordinances regarding, and to collect other fees and taxes permitted by law.

113.07 CITY EXPENSES AND FEES. The Company shall pay or reimburse the City for costs, fees, expenses, and charges reasonably incurred by the City for the following:

1. Protection, removal, or relocation of the Company's equipment or facilities if such action has been reasonably requested by the City and the Company has failed to perform the work within a reasonable period of time.

2. Restoring or remedying any damage or condition resulting from the construction, installation, maintenance, removal, or any work performed by the Company.

3. Any costs, fees, expenses, and charges incidental to the awarding or renewal of the franchise, provided that the City will provide the Company with advance notice of any anticipated extraordinary charges to be incurred.

4. Any costs, fees, expenses, and charges, including reasonable attorney's fees, incurred in the collection of fees or expenses or in the enforcement of this chapter.

5. Any costs, fees, expenses, and charges, including reasonable attorney's fees, incurred by reason of the Company's failure to comply with its obligations under this chapter or under State or federal laws and regulations.

113.08 TERM. The initial terms of this franchise shall be 25 years from the effective date of this chapter. At the end of this initial term, the Company may renew the franchise by giving written notice to the City not less than 90 days prior to the expiration hereof; unless the consent of the City to such renewal is required by applicable federal, State, or local laws and regulations, which consent shall not be withheld unreasonably after public notice and opportunity to be heard; in determining whether to grant a renewal, the City shall consider those factors prescribed by applicable law and, among other things:

1. Whether the Company has substantially complied with the material terms of this franchise and with applicable law;

2. The extent and quality of the Company's service;

3. Whether the Company remains financially, legally, and technically qualified; and

4. Whether the Company's renewal would reasonably meet the future cable-related community needs and interests.

Any renewal of the initial hereof shall be for an additional five years.

113.09 SERVICE STANDARDS.

1. Technical and Operational Standards.
 - A. The Company shall maintain the cable system so that it is capable of providing continuous, reliable, and good quality reception and service to subscribers.
 - B. The Company shall make repairs promptly. Service interruptions due to cable system repairs, maintenance modifications or installations shall be for the shortest time possible, and shall, to the extent practicable, be preceded by notice to subscribers and shall occur during periods of minimal viewership.
 - C. The Company shall maintain the cable system so that it meets the technical standards applied by the FCC. Procedures for testing the technical capacity of the cable system shall conform with the technical and testing standards applied to cable systems by the FCC.
 - D. The Company shall maintain sufficient replacement and repair equipment, facilities, and supplies and trained personnel to perform necessary and prompt repairs to the cable system in the event of damage thereto. In the event of major damage to the equipment and facilities, the Company shall make every effort to restore service as expeditiously as possible and to provide for alternative means of providing service to as many subscribers as possible while making necessary repairs.
2. Subscribers Service Standards.
 - A. The Company shall maintain a publicly listed, toll-free telephone number to receive subscriber complaints, or the Company shall otherwise notify subscribers of this telephone number on a periodic basis. The Company may provide separate telephone numbers for complaints made after normal business hours, but must be capable of handling complaints 24 hours a day.
 - B. The Company shall investigate all subscriber complaints regarding quality of service, equipment malfunctions, and similar matters expeditiously and no later than the next business day. Upon notification of a service complaint, the Company shall dispatch a qualified employee to investigate the complaint and adjust, repair, or replace Company equipment as necessary to resolve the complaint.
 - C. If there is an interruption of service for 48 consecutive hours or more, the affected subscribers shall receive, upon request, a pro-rata reduction of charges, provided that the subscriber has notified the Company immediately of the outage and made claim for credit within 90 days of its occurrence. The loss of service must be caused directly by failure of the Company's equipment in order to qualify for a credit. No credit will be given if the service interruption is caused by any of the subscribers' equipment or any action taken with respect to the Company's equipment by someone other than the Company's employees. The Company is not responsible for the operation, maintenance, service, or repair of any subscribers' televisions, radios, VCR's, or other receivers and related equipment.
 - D. Notwithstanding any provision contained herein to the contrary, the Company will not be liable for any inconvenience, loss, liability, or damage resulting from any circumstance beyond its control, and any such circumstance

also shall toll the Company's obligation to perform hereunder until such circumstances has passed.

3. Services to be Provided.
 - A. The Company shall provide, basic subscriber service to all subscribers within the area of the City reasonably serviceable by the cable system installed.
 - B. The Company shall provide upon request and without charge, basic subscriber service to each governmental building, fire station, police station, or public school building located in an area served by the cable system.

113.10 REPORT REQUIREMENTS. In addition to the other reporting requirements set forth in this chapter, the Company shall, upon request, submit to the City copies of reports submitted to the FCC which relate to the cable system. The City may, on reasonable notice, inspect the FCC public files and technical files maintained by the Company at its local office with respect to the cable system.

113.11 ASSIGNMENT OR TRANSFER. The right, privilege, and franchise given to the Company by this chapter shall not be assigned or transferred without the prior approval of such transfer by the City. Such approval shall not be withheld unreasonably. For the purpose of this section, an "assignment" or a "transfer" shall not be deemed to include any (i) transfer to an entity which is affiliated with the Company through common control, ownership, or otherwise, (ii) transfer of a portion or all of the control of the Company or any of its affiliates, (iii) restructuring of the Company or any of its affiliates, or (iv) grant of a security interest or collateral assignment in or of the cable system or the Company's rights hereunder to secure repayment of indebtedness.

113.12 FRANCHISE SUBJECT TO POLICE POWER. The Company shall, at all times during the term of this franchise, be subject to all lawful exercise of the police power by the City, which reserves the right to adopt from time to time such ordinances as may be necessary to the exercise of that police power as it may relate to this franchise.

113.13 OTHER PERMITS REQUIRED. This franchise does not supersede any other provisions of any City ordinance or regulation which may require the Company to obtain other permits, licenses, etc., or relieve the Company from compliance with such ordinances. Specifically, the Company is not relieved from the requirements to obtain building permits, utility pole agreements, etc.

113.14 MODIFICATIONS OF CHAPTER. This chapter contains the entire agreement between the City and the Company, and may be amended or modified as agreed upon the City and the Company.

113.15 FRANCHISE VIOLATIONS AND ENFORCEMENT.

1. If the Company violates any provision of this chapter, the City:
 - A. Shall comply with Subsection 2 hereafter; and
 - B. If such hearing and procedures set forth in Subsection 2 hereof have not resolved the dispute, the City may proceed in any appropriate court of law or administrative agency to compel compliance with the provisions of this chapter, to collect any sums due hereunder which have not been paid, or to terminate the franchise granted hereby. Except as expressly provided herein,

the Company shall not otherwise be liable to the City. In no event shall the Company be liable for any consequential damages.

2. If the City believes that the Company has violated any provision of this chapter it shall hold a hearing and take the actions as set forth hereunder.

A. The City shall notify the Company in writing of the alleged violations and of the City's proposed remedy; the Company shall have 30 days after its actual receipt of such notice to cure such violations.

B. If the Company disputes the existence of the violation or the proposed remedy, or if such default is not cured within the 30 days after the Company's actual receipt of such default notice, then the matter shall be referred to a public hearing to be held after public notice at least 10 days prior to the date of the hearing.

C. At the hearing, the City shall publicly list all the alleged violations, and shall give the Company and all other interested parties an opportunity to be heard as to the alleged violation.

D. Within a reasonable time after the hearing, the City shall determine whether the Company has violated this chapter and the remedy for the violation, and shall issue written findings and conclusions with respect thereto, and the Company shall be given a reasonable opportunity of not less than 30 days after the issuance of said findings and conclusions to remedy the matter or comply with this chapter.

3. Prevention or delay of any performance under this chapter due to circumstances beyond the reasonable control of Company, unforeseen circumstances, or acts of God, shall not be deemed noncompliance with or a violation for this franchise.

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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 Cemetery Lots Without Perpetual Care

115.08 Rules and Regulations

115.01 DEFINITION. The term “cemetery” means the Armstrong Grove Cemetery and the Mount Calvary Cemetery, which are a 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.

(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.

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 CEMETERY LOTS WITHOUT PERPETUAL CARE. Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

115.08 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)

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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 retail alcohol license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122, and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a retail alcohol license, 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 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 retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

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

2. Sell or dispense any alcoholic beverage on the premises covered by the license, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

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

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, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

(Code of Iowa, Sec. 142D.2[1])

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

(Code of Iowa, Sec. 142D.2[17])

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

(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.

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

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

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

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue 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 Iowa Department of Revenue.

(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 or employees of the licensee 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[2k])

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 retail alcohol license, as specifically authorized in said Chapter 99B.)

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

1. As used in this section, "registered electrical or mechanical amusement device" means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

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

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

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

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

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 and 453A.47A)

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

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August, or September	\$ 75.00
October, November, or December	\$ 56.25
January, February, or March	\$ 37.50
April, May, or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 and 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22, and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Hearing
122.03 License Required	122.13 Record and Determination
122.04 Application for License	122.14 Appeal
122.05 License Fees	122.15 Effect of Revocation
122.06 Bond Required	122.16 Rebates
122.07 License Issued	122.17 License Exemptions
122.08 Display of License	122.18 Charitable and Nonprofit Organizations
122.09 License Not Transferable	122.19 Consumer Protection Law
122.10 Time Restriction	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors, and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions, or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever, or who operates out of a vehicle 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 \$20.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein. Fees for special events will be set by resolution of the City Council.

(Section 122.04 – Ord 2025-0514-002 – Dec. 25 Supp.)

122.05 LICENSE FEES. In addition to the application fee identified in Section 122.04 of this chapter, the following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of \$25.00 per year.
2. Peddlers or Transient Merchants.
 - A. For one day.....\$25.00
 - B. For one week (Monday – Friday only).....\$100.00

Fees for special events will be set by Resolution of the City Council
(Section 122.05 – Ord 2025-0514-002 – Dec. 25 Supp.)

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 8:00 p.m. Sales are not allowed on Saturday or Sunday.

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

(Code of Iowa, Sec. 364.3[15])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit to the Clerk in writing the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

122.19 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 82.3 of the *Code of Iowa*, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to which they sell a product or service and comply with the other requirements of the law.

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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.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk on a form provided by the City. 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 Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of \$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 set by resolution by the Council shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk, or public property, the permittee shall maintain 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 124

MOBILE FOOD VENDORS

124.01 Definitions

124.02 Mobile Food Vendor Locations

124.03 Property Owner/Lessee Responsibility

124.04 Compliance with the Law

124.01 DEFINITIONS.

1. “Mobile food vendor:” a person engaged in the business of selling food or beverages from a mobile food unit.
2. “Mobile food unit:” a self-contained motorized/un-motorized vehicle or trailer that is equipped for selling food and/or beverages from non-permanent dining locations.

124.02 MOBILE FOOD VENDOR LOCATIONS.

1. Mobile Food Units on Public Property. A mobile food unit may not be parked on public property, in a residential area or street. Mobile food units may not park within a City park, green-way, or other public access area. Mobile units also are prohibited from parking within 100 feet of any façade or outdoor seating of a ground level establishment that sells prepared food or beverages (this only applies from one hour before the establishment’s opening to an hour after closing) without approval from the food establishment owner. Except this prohibition shall not apply to any street, sidewalk, highway, parade route, park or public venue, which has been temporarily closed by action of the City Council during the period of temporary closure designated for special events, such as RAGBRAI or the City 4th of July Independence Celebration. Fees for special events shall be set by resolution of the Council.

(Subsection 1 – Ord. 2025-0514-002 – Dec. 25 Supp.)

2. A mobile food truck shall not be parked in a residential area (R-1 or R-2) for the purpose of selling food even if on private property.
3. No mobile food unit shall be left unattended or stored on any site overnight, unless that property is under the ownership or control of (by way of a lease or other contractual agreement) the operator of the unit, or permission is granted by owner of property and is being done so in compliance with all other City Code requirements or the mobile food unit is a participant in a multiple (contiguous) day, City permitted, public special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to towing, or any other action legal allowed.
4. Music and Sound Making Devices. The noise of music or sound making devices as a part of a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.
5. Mobile Food Unit Performance Standards. Persons conducting business from a mobile food unit must do so in compliance with the following standards:
 - A. The mobile food vendor must obtain expressed written consent of the property owner or lessee to use the property on which they propose to operate. The written consent must be kept in the unit at all times that the unit is on the property. Written consent does not excuse or permit violation of any other imposable regulations.

- B. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.
- C. The mobile food unit must be located on a paved, rocked or gravel surface. Exceptions to this rule is if the mobile food unit is a participant in a City permitted public special event.
- D. No mobile food unit may be located on a vacant property or lot with a vacant building. Exceptions to this rule may be granted by the City Clerk after review of the particular property and the vendor has been able to make arrangements to ensure safe and sanitary conditions. This would include but is not limited to: adequate access for fire and police personnel/vehicles, and that the site in general is free from hazards or dangerous conditions.
- E. All mobile food units shall maintain a minimum separation from buildings of ten feet as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the food unit shall not impede pedestrians entering or exiting a building.
- F. The window or area where a patron orders and receives their purchase shall be located so as to not require a patron to stand, or create a line that may cause pedestrians to be in the public right of way, vehicle travel lane, including parking lot drive aisles, or similar space for patrons waiting for their order must be available on the property where the mobile food unit is located.
- G. Signs on a mobile food unit are to be attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than six inches (6") from the exterior of the unit. Any freestanding signs, banners, flags, or similar items may be permitted within five feet (5') of said mobile food unit, provided, however, that they may not infringe on the space of any other mobile food unit that is properly situated in compliance with the provisions of this ordinance and terms of it. Off premises signs directing patrons to the mobile food unit are prohibited.
- H. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers and shall keep the area around the mobile food unit clear of litter and debris at all times.
- I. All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

124.03 PROPERTY OWNER/LESSEE RESPONSIBILITY. By allowing the mobile food unit on their property, the property owner or lessee jointly and severally with the vendor are responsible for compliance with this chapter and to ensure the safety of pedestrians and access of emergency vehicles to and around the site. Failure to do so could result in the property owner or lessee being party to any enforcement actions or penalties allowed by law.

124.04 COMPLIANCE WITH THE LAW. Each mobile food unit vendor shall comply with all applicable federal, State, and local laws, regulations and rules.

(Chapter 124 – Ord. 2024-1113-001 – Jan. 25 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

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

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass, or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled, or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer, or member of the Fire Department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale, or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street, or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking, or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder or property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of \$1,000.00 may be filed with the City.
5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys, and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder or 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 or property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder 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 set by resolution by the Council shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond set by resolution by the Council to guarantee such compliance.

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

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

necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 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. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.
5. "Portland cement" means any type of cement except bituminous cement.
6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.
7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner in a commercial district does not remove snow, ice, or accumulations within a reasonable time which shall be 48 hours from the cessation of snowfall. In all other areas of the City, a reasonable time shall be deemed to be 48 hours from the cessation of snowfall, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The rate is \$75.00 per hour. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City and shall be accompanied by a permit fee of \$0.00.

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 feet wide and four inches thick, and each section shall be no more than six feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length.
 - C. Driveway areas shall be not less than six inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) within one foot of the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

136.12 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 seven 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 Notice of Vacation Hearing
137.03 Findings Required

137.04 Disposal of Vacated Streets or Alleys
137.05 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.03 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.04 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.05 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] and 364.7[3])

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Armstrong, 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 141

DRIVEWAYS

141.01 Definitions
141.02 Sidewalks

141.03 Excavations
141.04 Inspection and Approval

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

1. “Driveway” means that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
2. “Paving” means any kind of hard surfacing including, but not limited to, Portland cement concrete, bituminous concrete, brick, stabilized gravel, or combinations of such materials, with the necessary base. Paving shall not include surfacing with oil, unstabilized gravel, oil and gravel, or chloride.

141.02 SIDEWALKS. The grade of any sidewalk already at proper grade shall not be altered by the work done. The driveway shall be at the same level as any existing sidewalk, except as expressly permitted by the Council upon recommendation of the Public Works Superintendent.

141.03 EXCAVATIONS. Excavations to do work under this chapter shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation, the earth must be placed in layers and each layer tamped thoroughly. Any street, sidewalk, or other public property that is affected by the work shall be restored to as good a condition as it was previous to the excavation. The affected area shall be maintained in good repair to the satisfaction of the Council for three months after refilling.

141.04 INSPECTION AND APPROVAL. The driveway must be inspected and approved in writing by the Superintendent within 30 days after completion of the work. The Superintendent shall keep a record of such approvals in their office. If they refuse to approve the work, it must be corrected immediately so that it will meet with their approval. If the work has been done improperly, the Superintended shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes and in the same manner.

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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 Council and Peace Officer are responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time, and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF ARMSTRONG, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 and 414.28)

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Plan

150.04 Building Numbering Map
150.05 Enforcement

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 four 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 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

150.04 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map, in accordance with the following provisions, and filing it in their office.

1. Base Lines. (Street name) constitutes the base line for the numbering system as applied to streets running east and west. (Street name) constitutes the base line for the numbering system as applied to streets running north and south.
2. Diagonal and Curved Streets. Diagonal and curved streets are classified as east and west or north and south streets depending in which classification their general alignment most nearly conforms.
3. Even Numbers. Even numbers shall be assigned to principal buildings fronting on the west side of streets running north and south and on the south side of streets running east and west.

4. Odd Numbers. Odd numbers shall be assigned to principal buildings fronting on the east side of streets running north and south and on the north side of streets running east and west.

5. Assignment of Numbers to Properties. Each principal building shall be assigned a number in accordance with the provisions of this section. In case there are vacant lots or double lots, numbers shall be reserved to provide for an orderly numbering system when the lots are occupied or divided.

150.05 ENFORCEMENT. The Clerk shall be responsible for enforcing the provisions of this chapter.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Duty To Trim Trees

151.04 Trimming Trees To Be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted inside the property line and not between the sidewalk and the curb.
2. Spacing. Trees shall not be planted on any parking that is less than nine feet in width, or contains less than 81 square feet of exposed soil surface per tree. Trees shall not be planted closer than 20 feet from street intersections (property lines extended) and 10 feet from driveways.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 15 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased, or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the

Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant, or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 160

FLOODPLAIN MANAGEMENT

160.01 Definitions	160.06 Standards for Floodplain (Overlay) District
160.02 Statutory Authority, Findings of Fact, and Purpose	160.07 Appointment and Duties of Board of Adjustment
160.03 General Provisions	160.08 Nonconforming Uses
160.04 Administration	160.09 Penalties for Violation
160.05 Establishment of Zoning (Overlay) Districts	160.10 Amendments

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

1. Appurtenant structure – 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 – The flood having one (1) percent chance of being equaled or exceeded in any given year. (Also commonly referred to as the “100-year flood”).
3. Base flood elevation (BFE) – the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. Basement – 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 – 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 – 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 160.06(2)(D)(1) of this ordinance, and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
 - D. The enclosed area is not a “basement” as defined in this section.
7. Existing construction – 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 – a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. Expansion of existing factory-built home park or subdivision – the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. Factory-built home – 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 ordinance 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 or subdivision – a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. Five hundred (500) year flood – a flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.
13. Flood – 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) – 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) – a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. Floodplain – any land area susceptible to being inundated by water as a result of a flood.
17. Floodplain management – 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 – 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 – 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 (1) foot.

20. Floodway fringe – those portions of the special flood hazard area outside the floodway.
21. Highest adjacent grade – the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. Historic structure – 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; or,
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.
23. Lowest floor – 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 – 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 – small development activities (except for filling, grading and excavating) valued at less than \$500.
26. New construction – (new buildings, factory-built home parks) – 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 – 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 – a vehicle which is:
 - A. Built on a single chassis;
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;

- C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. Routine maintenance of existing buildings and facilities – repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
 - C. Basement sealing;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
30. Special flood hazard area (SFHA) – 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; not 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 – 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 – damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (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 – 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 fifty (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 an “historic structure,” provided the alteration will not preclude the structure’s designation as an “historic structure.”

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the 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 – a grant of relief by a community from the terms of the floodplain management regulations.

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

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

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

3. Statement of Purpose. It is the purpose of this ordinance to protect and preserve the rights, privileges and property of the City of Armstrong and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 160.02(2)(A) of this ordinance 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 or 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 Ordinance Apply.** The provisions of this ordinance shall apply to all lands within the jurisdiction of the City of Armstrong which are located within the boundaries of the Floodplain (Overlay) district as established in Section 160.05.
2. **Establishment of Official Floodplain Zoning Map.** The Flood Insurance Rate Map (FIRM) for Emmet County and Incorporated Areas, City of Armstrong, Panels 19063C0219C and 19063C0238C, dated 9-24-2021, which were prepared as part of the Flood Insurance Study for Emmet County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The Emmet County Flood Insurance Study is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.
3. **Rules for Interpretation of Floodplain (Overlay) District.** The boundaries of the Floodplain (Overlay) district areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Mayor 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 Mayor in the enforcement or administration of this ordinance.
4. **Compliance.** No structure or land shall hereafter be used and not structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.
5. **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.
6. **Interpretation.** In their interpretation and application, the provisions of this ordinance 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 ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from

flooding or flood damages. This ordinance shall not create liability on the part of the City of Armstrong or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

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

160.04 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Local Official.

A. The Mayor is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all Floodplain Development Permit Applications to assure that the provisions of this ordinance will be satisfied.

(2) 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.

(3) 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.

(4) 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.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;

- a. Development placed within the floodway results in any of the following:
 - i. An increase in the base flood elevations, or
 - ii. Alteration to the floodway boundary
- b. 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
- c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this ordinance.

(11) Forward all request 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 Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but no limited to buildings or other structures, mining, filling, grading, paving, storage of materials and equipment, excavation or drilling operation), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of 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 Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this ordinance.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

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 ordinance. 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 ordinance, prior to the use or occupancy of any structure.

160.05 ESTABLISHMENT OF ZONING (OVERLAY) DISTRICTS. The floodplain areas within the jurisdiction of this ordinance are hereby divided into the following districts:

1. Floodplain (Overlay) District – those areas identified as Zone A on the Official Flood Plain Zoning Map. The boundaries shall be as shown on the Official Floodplain Zoning Map. Within these districts, all uses not allowed as permitted uses are prohibited unless a variance to the terms of this ordinance is granted after due consideration by the Board of Adjustment.

160.06 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT.

1. Permitted Uses.

A. All development within the Floodplain District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Floodplain District.

B. Any development which involves placement of structures, factory-built homes, fill or other obstructions, storage of materials or equipment, excavation or alteration of a watercourse shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

C. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where:

- (1) The bridge or culvert is located on a stream that drains less than two (2) square miles, and
- (2) The bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), *Iowa Administrative Code*.

2. Performance Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. All development 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 (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. 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 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 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. Non-Residential Structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of

water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures.

(1) Fully enclosed areas below the “lowest floor” (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- a. A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.)
- b. The bottom of all opening 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. Where the distance between the floor and ceiling of the fully enclosed area below the “lowest floor” is (FIVE(5)) feet or more, the applicant shall be required to sign and record with the Emmet County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in Section 160.06((2)(D)(1).

(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 electric meter, electrical service panel box, hot water heater, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case on non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation.

(4) New and substantially improved structures shall be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.

E. Factory-Built Homes.

(1) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the

lowest floor of the structure is a minimum of one (1) foot above the base flood elevation.

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

F. Utility and Sanitary Systems.

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

(2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) 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 (1) foot above the base flood elevation.

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

G. Storage of Materials and Equipment. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

H. Flood Control Structural Works. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. 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 or Relocations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.

J. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation

of public utilities) shall meet the applicable performance standards of this ordinance. 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 (5) acres of fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Floodplain (Overlay) District.

K Accessory Structures to Residential Uses.

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

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.

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

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to prevent flotation, collapse, and lateral movement which may result in damage to other structures.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

f. The structure's walls shall include openings that satisfy the provisions of Section 160.06(2)(D)(1) of this ordinance.

(2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of Section 160.06(2)(E) of this ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.06(2)(E) of this ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline River and Stream 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 (1) 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 0.2% annual change flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% 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.

160.07 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT.

1. Appointment and Duties of Board of Adjustment. A Board of Adjustment is hereby established which shall hear and decide (i) appeals and (ii) requests for variances to the provisions of this ordinance, 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 ordinance, the aggrieved party may appeal such action. The notice of appeal shall be filed with the Board of Adjustment 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 of Adjustment all the documents constituting the record upon which the action appealed from was taken.

3. Variance. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a choosing 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 locates codes or ordinances.

B. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

D. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

4. Hearings and Decisions of the Board of Adjustment.

A. Hearings. Upon the filing with the Board of Adjustment of an appeal or a request for a variance, the board shall hold a public hearing. The board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and may request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

B. Decisions. The board shall arrive at a decision on an appeal or variance within a reasonable time. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this ordinance, 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 ordinance and may prescribe such conditions as contained in Section 160.07(4)(B)(2).

(1) Factor Upon Which the Decision of the Board of Adjustment Shall Be Based. In passing upon applications for variances, the board shall consider all relevant factors specified in other sections of this ordinances 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 ordinance.

(2) Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this ordinance. 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 ordinance.
- e. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are

consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

5. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment 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.

160.08 NONCONFORMING USES.

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

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance.

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

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in Section 160.08(1)(B), any use which has been permitted as a variance shall be considered a conforming use.

160.09 PENALTIES FOR VIOLATIONS. Violations of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (five hundred dollars) or imprisoned for not more than 30 (thirty) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained prevent the City of Armstrong from taking such other lawful action as is necessary to prevent or remedy violation

160.10 AMENDMENTS. The regulations and standards set forth in this ordinance 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.

(Chapter 160 – Ord. 2024-0813-001 – Jan. 25 Supp.)

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CHAPTER 165

ZONING REGULATIONS

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165.01 SHORT TITLE. This chapter shall be known and may be cited and referred to as the “Zoning Code of the City of Armstrong, Iowa” to the same effect as if the full title were stated.[†]

165.02 INTERPRETATION OF REGULATIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or other rules or regulations or ordinances, the provisions of this chapter shall govern.

165.03 DEFINITIONS. For the purpose of this chapter certain terms and words are hereby defined.

1. Words beginning with “A.”
 - A. “Accessory use” or “Structure” means a use or structure on the same lot width, and of a nature customarily incidental and subordinate to the principal use or structure.
 - B. “Alley” means a public or private thoroughfare which affords only a secondary means of access to abutting property.
 - C. “Apartment” means a single room or set of rooms occupied as a dwelling which is part of a multi-family structure.
2. Words beginning with “B.”
 - A. “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 regulations.
 - B. “Billboard” means to include all structures, regardless of the material used in the construction of the same that are erected, maintained, or used for

[†] **EDITOR’S NOTE:** The Zoning Code for the City was adopted by Ordinance No. 2020-0608-1 on June 8, 2020.

public display of posters, painted signs, wall signs, whether the structure be placed on the wall or painted on the wall itself, pictures, or other pictorial reading material which advertise a business or attraction which is not carried on, manufactured, grown, or sold on the premises which said signs or billboards are located.

C. “Block” means that property abutting on one side of a street and lying within the two nearest intercepting or intersecting streets or lying within the nearest intercepting or intersecting streets and unsubdivided acreage or railroad right-of-way.

D. “Board of Adjustment” means the Zoning Board of Adjustment of the City as established in Section 165.25 of this Code.

E. “Boarding” or “Lodging house” means a building other than a hotel where, for compensation, and by arrangement, lodging and meals are provided for three or more persons.

F. “Buildable area” means the portion of a lot remaining after required yards have been provided.

G. “Building” means a structure that is completely enclosed by a roof and by solid exterior walls along whose outside faces can be traced an unbroken line for the complete circumference of the structure, which is permanently affixed to a lot or lots, and used or intended for the shelter, support, or enclosure of persons, animals, or property of any kind. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structures, with or without a roof, shall not be deemed to make them one building.

H. “Building, height of” means the perpendicular distance measured in a straight line from the curb level to the highest point of the roof beams in the case of flat roofs, and to the average of the height of the roof in the case of pitched roofs, the measurement in all cases to be taken through the center of the front of the house. Where a dwelling is situated on ground above the curb level such height shall be measured from the level of the adjoining ground, provided the distance from the building to the street line is not less than the height of adjoining ground above the curb level. Where a dwelling is on a corner lot and there is more than one grade or level, the measurements shall be taken from the main entrance elevation.

I. “Building, principal” means the principal building is a non-accessory building in which a principal use of the lot, on which it is located, is conducted.

J. “Building, line” means the line of the outside wall of the building or any enclosed projection thereof nearest the street.

K. “Business” means the word “business” or “commercial” and when used herein refers to the engaging in the purchase, sale, or exchange of goods or services, or the operation for the profit of offices or recreational or amusement enterprises.

3. Words beginning with “C.”

A. “Carport” means space for the housing or storage of motor vehicles and enclosed on not more than two sides by walls and is attached to and considered a part of the principal building.

B. “Central business district” means the territory described by the following parts of streets: North from State Highway 9 on both sides of 6th Street (State Highway 15) to the intersection of 4th Avenue.

C. “Club” or “Lodge, private” means an association of persons for the promotion of some non-profit object, who are bona fide members paying annual dues, which owns, hires, or leases a building, or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals to members and their guests on such premises provided adequate dining room space and kitchen facilities are available and are operated in compliance with State and municipal laws.

D. “Commission” means the Planning and Zoning Commission as established by Chapter 23 of this Code.

E. “Comprehensive Plan” means the general plan outlining the development of the community which may also be titled or referred to as the Master Plan, Comprehensive Land Use Plan, or some other title, which has been adopted by the Council. Said Comprehensive Plan shall include any part of such plan separately adopted and any amendment to such plan or parts thereof.

F. “Convalescent home” means a building and premises in or on which care is provided for two or more invalid, infirm, aged, convalescent, or physically disabled or injured persons, not including insane or other mental cases, inebriate, or contagious cases. Nursing homes are convalescent homes.

4. Words beginning with “D.”

A. “Day nursery” or “Nursery school” means any private agency, institution, establishment, or place which provides supplemental parental care or education work, other than overnight lodging, for six or more unrelated children of pre-school age, for compensation.

B. “Developer” means the legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interest in such land.

C. “Development” means any human-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, grading, paving, excavation or drilling operations, or storage of equipment or materials.

D. “District” means any part or parts of the City wherein regulations of this chapter are uniform.

E. “Dwelling” means any building or portion thereof designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home.

F. “Dwelling, multiple” means a residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

G. “Dwelling, single-family” means a detached residence designed for or occupied by one family only.

- H. “Dwelling, two-family” means a residence designed for or occupied by two families only with separate housekeeping and cooking facilities for each.
- I. “Dwelling unit” means a room or group of rooms which are arranged, designed, or used as living quarters for the occupancy of one family containing independent cooking facilities.
5. Words beginning with “E.”
- A. “Essential services” means the erection, construction, alteration, or maintenance by public utilities or governmental agencies of underground or overhead gas, electrical, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.
6. Words beginning with “F.”
- A. “Family” means one or more persons who are related by blood, adoption, or marriage, living together, and occupying a single dwelling unit, or a group of not more than five persons living together by joint agreement and occupying a single dwelling, on a nonprofit cost-sharing basis.
- B. “Farm” means an area which is used for the growing of the usual farm products such as vegetables, fruits, and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory users shall be secondary to that of the normal farming activity and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings.
- C. “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 shall not include porches, garages, or space in a basement or cellar which is used for storage or incidental use.
- D. “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.
7. Words beginning with “G.”
- A. “Garage, private” means an accessory building or portion of rebuilding used only for the shelter or storage of vehicles by the occupants of the premises or the leasing of space as provided herein, including covered parking space or carport.
- B. “Garage, Public” means a building or portion thereof, other than a private or designed, intended, or used for the equipping, servicing, selling, hiring, storing, care, or repair of motor vehicles which is operated for commercial purposes.

- C. “Gasoline service station” means any building or premises used for the retail sale of automotive fuels, oils, and other items customarily associated with the sale of such products, but not for the purpose of making other than minor repairs. When the dispensing, retail sale, or offering for retail sale is incidental to the conduct of a public garage, the premises shall be classified as a public garage.
- D. “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.
8. Words beginning with “H.”
- A. “Home occupation” means an occupation or a profession conducted in a dwelling unit, which:
- (1) Is customarily carried on in a dwelling unit, and
 - (2) Is carried on by a member of the family residing in the dwelling unit, and
 - (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and
 - (4) Does not employ more than one person outside the immediate family, and
 - (5) 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 exterior sign mounted flush with the face of the building, which sign shall not exceed three square feet in area, and
 - (6) Does not occupy more than 30 percent of the area of one floor of the dwelling unit, and
 - (7) Produces no offensive noise, vibration, smoke, dust, odors, heat, or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood, and
 - (8) Does not generate traffic in greater volumes than would normally be expected in a residential area.
- B. “Hotel” means a building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests in contradiction to a boarding house or lodging house as herein defined.
9. Words beginning with “I.”
- A. “Institution” means a building or premises occupied by a non-profit corporation or establishment for public use.
10. Words beginning with “J.”
- A. “Junk yard” or “salvage yard” means any open area of any lot or parcel where waste, discarded or salvaged materials are bought, sold, exchanged,

baled, or packed, disassembled, kept, stored, or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles, or other vehicles, or parts thereof.

11. Words beginning with “K.”
 - A. “Kennel” means an establishment where small animals are boarded for compensation or where four or more dogs, six months old or older, are kept.
12. Words beginning with “L.”
 - A. “Lot” means a parcel of land under one ownership on which a principal building and its accessories are, or may be placed, together with the required open spaces, having its frontage upon one or more streets or an officially approved public place.
 - B. “Lot area” means the area of a horizontal plane bounded by the front, side, and rear lot lines.
 - C. “Lot, corner” means a lot fronting on two intersecting streets.
 - D. “Lot, depth” means the horizontal distance between the front and rear lot lines.
 - E. “Lot, interior” means a lot other than a corner lot.
 - F. “Lot, lines” means the lines bounding a lot.
 - G. “Lot line, front” means in the case of an interior lot, abutting on only one street, the front lot line is the street line of such street. In the case of any other lot, it may be such street line as is elected by the owner to be the front line for the purpose of this chapter.
 - H. “Lot line, rear” means that boundary line which is opposite and most distant from the front line.
 - I. “Lot line, side” means any boundary line not a front lot line or a rear lot line.
 - J. “Lot of record” means a lot which is a part of a legal subdivision of the City, the plat of which has been recorded in the office of the County Recorder, or a lot or parcel of land, the deed or valid contract of sale of which was recorded in the office of the County Recorder prior to the effective date of this chapter.
 - K. “Lot, through” means an interior lot having frontage on two parallel, or approximately parallel streets and also known as a double fronted lot.
 - L. “Lot, width” means the distance between the side lot lines. In the case of a lot of irregular shape, the mean width shall be the lot width.
13. Words beginning with “M.”
 - A. “Manufactured home” means a factory-built structure built under authority of 42 U.S.C. Section 5403, that is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.
(Code of Iowa, Sec. 435.1[3])

B. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets 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 person; but shall also include any such vehicle with motive power not registered as a motor vehicle in the State. A “mobile home” is not built to a mandatory building code, contains no State or federal seals, and was built before June 15, 1976.

(Code of Iowa, Sec. 435.1[5])

C. “Mobile home converted to real estate” means an unencumbered mobile home which has been attached to a permanent foundation on real estate owned by the home owner, which has had the vehicular frame modified or destroyed, rendering it impossible to reconvert to a mobile home and which has been inspected by the assessor, the mobile home title, registration, and license plates collected from the owner and the property entered on the tax rolls of the County.

D. “Mobile home park” means a 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” shall not be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

(Code of Iowa, Sec. 435.1[6])

E. “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 as adopted pursuant to Section 103A.7 of the *Code of Iowa*, and must display the seal issued by the State Building Code Commissioner.

(Code of Iowa, Sec. 435.1[7])

F. “Motel,” “Motor court,” “Motor lodge,” or “Tourist court” means any building or group of buildings containing guest rooms primarily for temporary occupancy, so laid out as to provide space for parking vehicles used by the traveling public. Such building or group of buildings may include quarters for the use of the operating personnel.

14. Words beginning with “N.”

A. “Nursing” or “Convalescent home” means a building or structure having accommodations and where care is provided for invalid, infirmed, aged, convalescent, or physically disabled or injured persons, in which three or more persons not of the immediate family are received, kept, and provided with food and shelter, for compensation.

15. Words beginning with “O.”

16. Words beginning with “P.”

A. “Parking lot” means a parcel of land devoted to unenclosed parking spaces.

- B. "Parking space" means a surfaced area, enclosed or unenclosed, having an area of not less than 180 square feet plus necessary maneuvering space for the parking of a motor vehicle, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way.
- C. "Principal use" means the main use of land or structures as distinguished from an accessory use.
17. Words beginning with "Q."
18. Words beginning with "R."
- A. "Retail store" means an enterprise offering for sale to the ultimate consumer for direct consumption and not for resale.
- B. "Rights-of-way" means the land areas, which are secured or reserved by the contracting authority, that are to be used for road, rail, or other transportation purposes.
- C. "Road" or "street line" means the dividing line between a lot, tract, or parcel of land and a contiguous road, street, or alley.
- D. "Roadside stand" means a temporary structure, unenclosed, and so designed and constructed that the structure is easily portable or can be readily moved, and which is adjacent to a road and used for a sale of farm products produced or grown on the premises.
19. Words beginning with "S."
- A. "Sign" means an identification, description, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, activity, person, institution, or business; provided, however, that the following shall not be included in the application of the regulations herein:
- (1) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, names of occupants of the premises, or other identification of premises not having commercial connotations;
 - (2) Flags and insignia of any government except when displayed in connection with commercial promotion;
 - (3) Legal notices: identification, informational, or directional signs erected or required by government bodies;
 - (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights;
 - (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- B. "Sign area" means the surface area of a sign shall be computed as including the entire area within a regular geometric form or combinations of such forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area.

- C. “Story” means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
- D. “Story, half” means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level.
- E. “Street line” means the right-of-way line of a street, road, or highway.
- F. “Street, public” means a public thoroughfare more than 20 feet in width.
- G. “Structural alteration” means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, beyond ordinary repairs, and maintenance.
- H. “Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards, and poster panels.
20. Words beginning with “T.”
- A. “Trailer camp” or “tourist ground” means any 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.
21. Words beginning with “U.”
22. Words beginning with “V.”
- A. “Variance” means a variance is a relaxation of the terms of the 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 the ordinance would result in unnecessary and undue hardship. As used in this chapter, a variance is 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.
23. Words beginning with “W.”
24. Words beginning with “X.”
25. Words beginning with “Y.”
- A. “Yard” means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from 30 inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side

yard, the least distance between the lot line and the nearest permitted building shall be used.

B. “Yard, front” means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. On corner lots, the front yard shall be considered as the yard adjacent to the street upon which the lot has its least dimension.

C. “Yard, rear” means a yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies, or unenclosed porches. On both corner lots and interior lots, the opposite end of the lot from the front yard shall be considered the rear yard.

D. “Yard, side” means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building.

26. Words beginning with “Z.”

A. “Zoning Administrator” means the individual appointed by the Council to administer and enforce the provisions of this Code.

B. “Zoning Compliance Permit” means a permit issued by the Zoning Administrator authorizing the use of land in the manner and for the purpose specified in the application.

165.04 DISTRICTS. For the purpose and intent of this Zoning Code, the City is hereby divided into five zoning district classifications as follows:

1. A-1 Agricultural and Conservation.
2. R-1 Single- and Two-Family Residential District.
3. R-2 Multi-family Residential District.
4. C-1 General Commercial.
5. M-1 Industrial District.

165.05 BOUNDARIES AND OFFICIAL MAP. The boundaries of these districts are indicated and established as shown upon maps designated as the Official Zoning Map, which, with all their notations, designations, references, and other matters shown thereon, shall be as much a part of this Zoning Code as if fully described and set forth herein. The Official Zoning Map shall be identified by the Mayor attested by the Clerk under the following words: “This is to certify that this is the Official Zoning Map referred to in 165.05 of the Armstrong Zoning Code adopted June 8, 2020.” If in accordance with the provisions of this Code changes are made in the district boundaries or other matter portrayed on the Official Zoning Maps, the ordinance number and date of said change shall be recorded by the Clerk on the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Council may, by ordinance, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Ordinance or any subsequent amendment thereof.

165.06 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or other public rights-of-way shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines;
4. Boundaries indicated as approximately following the City limits shall be construed as following such City limits;
5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
6. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline: boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed as following such center lines;
7. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1-6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8. 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 1-7 above, the Board of Adjustment shall interpret the district boundaries.

165.07 ROAD OR PUBLIC WAY VACATION. Whenever any road, street, or other public way is vacated by the official action of the Council, the zoning district(s) adjoining each side of such road or public way shall automatically extend to the center of such vacation and all area included in such vacation shall then and therefor be subject to all appropriate regulations of the extended district.

165.08 ANNEXED TERRITORY. Upon the annexation of any land into the City, the Council shall determine which zoning district shall be applicable to the annexed land.

165.09 GENERAL REGULATIONS. Except as herein provided:

1. No building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any building or land be used, which does not comply with all of the district regulations established by this Zoning Code for the district in which the building or land is located.
2. No yard or lot existing at the time of passage of this Zoning Code shall be reduced in dimension or area below the minimum required by this Zoning Code. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard, open space, or off-street parking or loading space required under this chapter for another building, structure, or use.

3. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot unless otherwise provided in this chapter.

4. No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with the off-street parking and loading regulations of this chapter.

165.10 OFFICIAL ZONING MAP.

EDITOR'S NOTE			
Ordinance entitled Armstrong Zoning Map, adopted October 2002, and amendments thereto are contained in the Appendix of this Code of Ordinances and are in full force and effect. 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

[The next page is 1399]

165.11 AGRICULTURAL AND CONSERVATION DISTRICT (A-1). The intent of the Agricultural and Conservation District is to protect existing and potential recreation areas while permitting other uses which are not incompatible such as agriculture, institutional related commercial, and residential uses.

1. Principal Uses Permitted. Only the following principal uses and structures shall be permitted in the A-1 District:
 - A. Agriculture including the raising of field crops, horticulture, animal husbandry, or poultry farms.
 - B. Single-family dwellings.
 - C. Non-commercial boat docks.
 - D. Publicly owned or operated park, playground, community building, museum, library, or art gallery.
 - E. Churches, chapels, temples, and similar places of worship.
 - F. Public schools and private education institutions having a curriculum comparable to that of public schools.
 - G. Golf courses: except miniature courses or driving ranges operated for a profit.
 - H. Railroads and public utilities.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the A-1 District:
 - A. Roadside stands.
 - B. Accessory uses and structures normally incidental and subordinate to the permitted principal uses and structures.
 - C. Home occupations.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Private garage or carport.
 - F. Private swimming pools and tennis courts.
 - G. Private greenhouses not operated for commercial purposes.
 - H. Essential services.
3. Special Exception Uses and Structures. The following uses and structures may be permitted in the A-1 District subject to provisions of Section 165.21 and Section 165.25 and with approval of the Board of Adjustment:
 - A. Airports, landing fields, or land strips.
 - B. Hospitals or institutions.
 - C. Cemeteries, crematorium, or mausoleum.
 - D. Sand, gravel, or other raw material extraction.

E. Radio or television broadcasting or transmitting towers or telephone relay towers, provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to one-half their height; and that the height and location shall not interfere with the operation of any public airport or landing strip.

F. Nursing, rest, or convalescent home.

G. Day care or nursery school.

4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.16:

	Lot Area	Lot Width	Yard Setbacks				Maximum Height
			Front	Side	Side – Street Side, Corner Lot	Rear	
Dwellings	20,000 sq. ft.	125 ft.	35 ft.	10 ft.	30 ft.	30 ft.	2.5 Stories (35 ft.)
Other Uses	20,000 sq. ft.	125 ft.	40 ft.	30 ft.	35 ft.	40 ft.	2.5 Stories (35 ft.)

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.19 and Section 165.20 of this chapter.

6. Permitted Signs. Only the following signs shall be permitted in the A-1 District:

A. Name plates attached flat against the wall of the main building not to exceed one square foot in area.

B. Church or public bulletin boards not to exceed 12 square feet in area.

C. Temporary signs advertising the lease or sale of the premises not to exceed six square feet in area.

D. Billboards or advertising signs provided:

(1) They are not within 300 feet of an intersection, highway structure, residence, or another billboard.

(2) They are not within 100 feet of a park, school, cemetery, public or semi-public building.

(3) They are not within 75 feet of the centerline of a City or County road, or 100 feet of a State or federal highway.

E. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.

F. Any sign not conforming to the provisions of this Zoning Code shall be made to conform or be removed within three years after the adoption of this Zoning Code.

7. Special Requirements. No Construction Compliance Certificate shall be issued for a dwelling unit in the A-1 District for any parcel of land that is designated for commercial or industrial uses on the Future Land Use Plan of the City.

[The next page is 1407]

165.12 SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT (R-1). The Single- and Two-Family Residential (R-1) District is intended to provide for single- and two-family residential development.

1. Principal Uses Permitted. Only the use of structures or land listed in this subsection shall be permitted in the R-1 District:
 - A. Single-family dwellings.
 - B. Two-family dwellings.
 - C. Community meeting, cultural, or recreation buildings.
 - D. Public and parochial schools, elementary and secondary; colleges, and other institutions having an established curriculum comparable to that of public schools.
 - E. Churches, chapels, temples, and similar places of worship.
 - F. Private kindergartens and day nurseries.
 - G. Park, playground, or playfield.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the R-1 Residential Districts:
 - A. Private garage or carport.
 - B. Private swimming pools, or tennis courts.
 - C. Private greenhouses not operated for commercial purposes.
 - D. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any permitted principal use.
 - F. Home occupations.
 - G. Essential services.
3. Special Exception Uses and Structures. The following uses and structures may be permitted in the R-1 District subject to the provisions of Section 165.21 and Section 165.25 of this Zoning Code and with the approval of the Board of Adjustment:
 - A. Hospitals; sanitariums, rest, nursing, and convalescent homes; homes for orphan and aged on sites of one acre or more; off-street parking and yards comparable for other institutional uses of this Zoning Code be provided.
 - B. Railroads and public utilities but not including equipment storage, maintenance yards and buildings, or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard requirements for dwellings and shall provide side yards of not less than 25 feet.
 - C. Multiple-family dwellings having not more than 12 units provided that such use will be in character with existing land uses in the area and that a minimum lot area of 6,000 square feet for the first unit and 1,500 square feet for each additional unit be provided and that the height shall not exceed three

stories or 40 feet; that two off-street parking spaces per unit be provided; and that the minimum required front, rear, and side yards be not less than:

- (1) Front yard - 30 feet
- (2) Rear yard - 30 feet
- (3) Side yard - Street side, corner lot - 25 feet

D. Mobile Home Parks.

4. The following minimum requirements shall be observed subject to modifications contained in Section 165.16:

	Lot Area	Lot Width	Yard Setbacks				Maximum Height
			Front	Side	Side – Street Side, Corner Lot	Rear	
Single-Family Dwellings	10,000 sq. ft.	50 ft.	25 ft.	10 ft.	20 ft.	30 ft.	2.5 Stories (35 ft.)
Two-Family Dwelling and Other Uses	14,000 sq. ft.	100 ft.	35 ft.	10 ft.	30 ft.	35 ft.	2.5 Stories (35 ft.)

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.19 and Section 165.20.

6. Permitted Signs. Only the following signs shall be permitted in the R-1 District:

- A. Nameplates attached flat against the wall of the main building not to exceed three square feet in area.
- B. Church or public bulletin board not to exceed 12 square feet in area.
- C. Temporary signs advertising the lease or sale of the premises not to exceed six square feet in area.
- D. Illumination of signs, bulletin boards, and nameplates shall not exceed 60 watts and shall be lighted only with indirect, nonintermittent lighting.
- E. Signs and bulletin boards shall be at least 20 feet from the front lot line or not more than five feet in front of the main building. '
- F. All signs shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.
- G. Any sign not conforming to the provisions of this Code shall be made to conform or be removed within three years after the adoption of this Zoning Code.

A. [The next page is 1413]

165.13 MULTI-FAMILY RESIDENTIAL DISTRICT (R-2). The Multi-Family Residential District (M-2) is a medium density residential district accommodating multiple family structures of any number of units in an acceptable relationship with single- and two-family units. Institutional uses which are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs.

1. Principal Uses Permitted. Only the use of structures or land listed in this subsection shall be permitted in the R-2 District:

- A. Single-family dwellings.
- B. Two-family dwellings.
- C. Multiple family dwellings.
- D. Rooming and boarding houses.
- E. Nursing, rest, and convalescent homes.
- F. Hospitals.
- G. Funeral homes.
- H. Churches, chapels, temples, and similar places of worship.
- I. Public and parochial schools, elementary and secondary; colleges, and other institutions having an established curriculum comparable to that of public schools.
- J. Park, playground, or playfield.
- K. Private kindergarten or day nurseries.
- L. Community meeting, cultural, or recreation buildings.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the R-2 District:

- A. Private garage or carport.
- B. Private swimming pools and tennis courts.
- C. Private greenhouses not operated for commercial purposes.
- D. Other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any permitted principal use.
- E. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon completion or abandonment of the construction work.
- F. Home occupations.
- G. Essential services.

3. Special Exception Uses and Structures. The following uses and structures may be permitted in the R-2 District subject to the provisions of Section 165.21 and Section 165.25 of this Zoning Code and with the approval of the Board of Adjustment:

- A. Railroads and public utilities, but not including equipment storage, maintenance yards and buildings, or general administrative and sales offices, provided that any substation or building shall meet the front and rear yard

requirements for dwellings and shall provide the side yards of not less than 25 feet.

B. Private clubs or lodges, except one in which the principal activity is customarily carried on as a business.

C. Mobile home parks.

4. Bulk Regulations. The following minimum requirements shall be observed subject to modifications contained in Section 165.16:

R-2	Lot Area	Lot Width	Yard Setbacks				Maximum Height
			Front	Side	Side – Street Side, Corner Lot	Rear	
Single-Family Dwellings	10,000 sq. ft.	75 ft.	25 ft.	8 ft.	20 ft.	30 ft.	4 Stories (50 ft.)
Two-Family Dwellings	14,000 sq. ft.	100 ft.	25 ft.	8 ft.	20 ft.	30 ft.	4 Stories (50 ft.)
Multi-Family Dwelling	8,400 sq. ft. ¹	100 ft.	25 ft.	10 ft. ² 15 ft. ³	20 ft.	30 ft.	4 Stories (50 ft.)
Institutional	1 acre (43,560 sq. ft.)	200 ft.	35 ft. ⁴	15 ft. ⁴	30 ft. ⁴	35 ft. ⁴	4 Stories (50 ft.)
Clubs and Lodges	15,000 sq. ft.	100 ft.	35 ft.	15 ft.	30 ft.	35 ft.	4 Stories (50 ft.)
Other Uses	9,600 sq. ft.	100 ft.	35 ft.	15 ft.	30 ft.	35 ft.	4 Stories (50 ft.)
¹ For the first unit, plus 1,600 square feet for each additional unit up to 12, and 900 square feet for each additional unit over 12. ² 3-12 units ³ over 12 units ⁴ Schools, churches or other public or institutional buildings							

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.19 and Section 165.20.

6. Permitted Signs. Only the following signs shall be permitted in the R-2 District:

A. Nameplates attached flat against the wall of the main building not to exceed three square feet in area.

B. Church or public bulletin board not to exceed 12 square feet in area.

C. Temporary signs advertising the lease or sale of the premises not to exceed six square feet in area.

D. Illumination of signs, bulletin boards, and nameplates shall not exceed 60 watts and shall be lighted only with indirect, nonintermittent lighting.

E. Signs and bulletin boards shall be at least 20 feet from the front lot line or not more than five feet in front of the main building.

F. All signs shall be maintained in a neat and presentable condition and in the event that use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

G. Any sign not conforming to the provisions of this Zoning Code shall be made to conform or be removed within three years after the adoption of this Zoning Code.

[The next page is 1421]

165.14 GENERAL COMMERCIAL DISTRICT (C-1). The intent of the General Commercial District (C-1) is to provide for a wide variety of commercial and institutional activities.

1. Principal Uses Permitted. Only the use of structures or land listed in this section shall be permitted in the C-1 District:

- A. Retail stores.
- B. Personal service stores.
- C. Business service and supply store.
- D. Offices and office buildings.
- E. Bank or financial institution, including drive-in bank.
- F. Automobile parking lot or storage or parking garage.
- G. Commercial recreation.
- H. Restaurants, nightclubs, cafes, taverns.
- I. Hotels or motels or tourist campgrounds.
- J. Medical, dental, and health services offices and clinics.
- K. Radio or television broadcasting station or studio.
- L. Business, commercial, dance or music school.
- M. Printing and publishing plants.
- N. Bakery and candy manufacture.
- O. Jewelry manufacture.
- P. Laboratory.
- Q. Laundry and dry cleaners.
- R. Funeral home.
- S. Dwelling units above a store or shop.
- T. Clubs and lodges.
- U. Automotive or farm implement display, sales, service, and repair.
- V. Plant nursery and garden supplies sales.
- W. Lumberyard or building materials sales.
- X. Drive-in eating and drinking establishment.
- Y. Bowling alley.
- Z. Bus or truck terminal.
- AA. Railroads, public buildings, and public utilities, but not including storage or maintenance yards and buildings.
- BB. Monument and marker display and sales.
- CC. Plumbing, heating and air conditioning sales, service, and repair.

- DD. Drive-in theatre.
 - EE. Golf driving range, miniature golf.
 - FF. Mobile home or recreation vehicle sales.
 - GG. Gasoline filling stations.
 - HH. Furniture and appliance sales and repair.
2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the C-1 District:
- 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. Essential services.
3. Special Exception Uses and Structures. The following uses and structures may be permitted in the C-1 District subject to the provisions of Section 165.21 and Section 165.25 of this Zoning Code and with the approval of the Board of Adjustment:
- A. Multiple dwellings.
 - B. Mobile Home Parks.
4. Bulk Regulations. The following requirements shall be observed subject to the modifications contained in Section 165.16:

C-1	Lot Area	Lot Width	Yard Setbacks				Maximum Height
			Front	Side	Side – Street Side, Corner Lot	Rear	
Single-Family Dwellings	10,000 sq. ft.	75 ft.	40 ft. ¹	None	20 ft.	10 ft. ³	4 Stories (50 ft.)
Two- Family Dwellings	14,000 sq. ft.	100 ft.	40 ft. ¹	None	20 ft.	10 ft. ³	4 Stories (50 ft.)
Multi-Family Dwelling	8,400 sq. ft. ¹	100 ft.	40 ft. ¹	None	20 ft.	10 ft. ³	4 Stories (50 ft.)
Commercial	None	None	None ² .	None ²	35 ft.	None ²	4 Stories (50 ft.)

¹ except within the designated Central Business District where a front yard setback of zero feet shall apply. Commercial Buildings within the Central Business District where adjacent to a "R" District and a front or side yard of 10 feet and a rear yard of 20 feet shall be provided.

² None except where apartments are above a shop or store when a rear yard of 20 feet shall be provided and where adjacent to an "R" District when a front or side yard of 10 feet and a rear yard of 20 feet shall be provided.

³ For residential uses a rear yard of 20 feet and a side yard of 10 feet shall be provided. When any C-1 District is adjacent to an "A" or "R" District, a side yard of 10 feet and a rear yard of 20 feet shall be provided.

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with provisions of Section 165.19 and Section 165.20.

6. Permitted Signs. Only the following signs shall be permitted in the C-1 District:
- A. Trade, business, or industry identification signs provided that they:
 - (1) Do not exceed 25 feet in height.
 - (2) Are not within 25 feet of an “A” or “R” District.
 - (3) Do not overhang the public right-of-way except those signs which project not more than one foot beyond the front face or integral part of the building other than identification signs of less than two square feet in area.
 - (4) Are not within 25 feet of a highway intersection or highway structure.
 - B. Advertising signs and billboards provided that they:
 - (1) Do not exceed 25 feet in height.
 - (2) Are not within 25 feet of an “A” or “R” District.
 - (3) Are not within 75 feet of another billboard.
 - (4) Do not exceed 100 square feet in area.
 - C. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.
 - D. Any sign not conforming to the provisions of this Zoning Code shall be made to conform or be removed within three years after the adoption of this Zoning Code.
 - E. Signs attached to a building shall not project above the height of the building or more than four feet from the wall of the building.
 - F. No sign shall overhang the public right-of-way except those signs located in the Central Business District which project not more than one foot beyond the front face or integral part of the building other than identification signs of less than two square feet in area.
 - G. Minimum height of sign at intersections is seven feet from bottom of sign.
 - H. No sign or billboard shall be located in, overhang or project into a required yard.

[The next page is 1429]

165.15 INDUSTRIAL DISTRICT (M-1). The Industrial District (M-1) is intended primarily for manufacturing, processing, storage, wholesaling, and distribution but also permits some commercial uses.

1. Principal Uses Permitted. Only the uses of structures or land listed in this section shall be permitted in the M-1 District:

- A. Manufacturing and processing uses that are wholly contained within a building and have no exterior storage, creates no offensive noise, odor, vibration, and causes no electrical interference.
- B. Wholesaling and warehousing but not including the bulk storage of petroleum products or liquid fertilizer under pressure.
- C. Farm implement display, sales, service, and repair.
- D. Truck and freight terminal.
- E. Animal hospital or kennel.
- F. Truck display, sales, repair, and storage.
- G. Grain elevator and feed mill.
- H. Automobile paint and body shop.
- I. Contractor shop and storage yard.
- J. Welding and repair shop.
- K. Railroads and public utilities including storage and maintenance yards.
- L. Lumber yard and building material sale and storage.
- M. Plumbing, heating, air conditioning and sheet metal shops.
- N. Frozen food locker.
- O. Appliance repair and servicing.

2. Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the M-1 District:

- 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.
- D. Essential services.

3. Special Exception Uses and Structures. The following uses and structures may be permitted in the M-1 District subject to the provisions of Section 165.21 and Section 165.25 of this Code and with approval of the Board of Adjustment:

- A. The following uses provided that they are not closer than one-fourth mile to any dwelling unit other than that of the owner or operator, or any park,

school, church or place of public assembly; that the provisions for drainage, sanitation, waste disposal, and fly control are approved by the local health officer: that they are located so that prevailing winds will not cause dust or odors to create a nuisance for developed properties in the vicinity; that one off-street parking space for each two employees and one off-street space for each vehicle used by the industry be provided:

- (1) Acid manufacture.
- (2) Cement, lime, gypsum, or plaster of parts manufacture.
- (3) Chemical plants.
- (4) Distillation of bones.
- (5) Explosives manufacture or storage.
- (6) Fat rendering.
- (7) Fertilizer manufacturing
- (8) Garbage, offal, or dead animals, reduction or dumping.
- (9) Gas manufacture.
- (10) Glue manufacture.
- (11) Refining of petroleum and natural gas and their products.
- (12) Smelting of tin, copper, zinc, iron, and other metallic ores.
- (13) Storage of radioactive material.
- (14) Stockyards or slaughter of animals.

B. Sanitary landfill or waste disposal area, provided it is not used for the disposal of dead animals; that refuse shall be covered with dirt daily if it contains raw garbage; that a nuisance due to smoke, odor, or blowing of trash and debris shall not be created; and that the site shall be restored to a condition compatible with the adjacent area upon conclusion of the dump operation. An access road having at least a graveled surface and five off-street parking spaces shall be provided. No landfill or waste disposal area shall be located closer than one-fourth mile to any dwelling, park, school, or place of public assembly. Such areas shall meet all applicable regulations of the Department of Environmental Quality.

C. Auto wrecking and Junkyards on sites of two acres or more provided that the front yard be maintained as an open space free of weeds and debris; that the site be enclosed with a six-foot high 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.

D. The bulk storage of oils, petroleum, and similar inflammable liquids and chemicals when stored underground in tanks located no closer to any property line than the greatest depth to the bottom of such tanks or above ground in tanks located at least 150 feet from any property line.

E. Communications stations and towers provided that they shall not be closer to a dwelling or place of public assembly than a distance equal to one-

half their height, that the height and location shall 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 be provided.

4. Bulk Regulations. The following requirements shall be observed subject to the modifications contained in Section 165.16:

	Lot Area	Lot Width	Yard Setbacks				Maximum Height
			Front	Side	Side – Street Side, Corner Lot	Rear	
Dwellings	15,000 sq. ft.	90 ft.	40 ft.	20 ft.	35 ft.	30 ft.	4 Stories (50 ft.)

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Sections 165.19 and 165.20.

6. Permitted Signs. Only the following signs shall be permitted in the M-1 District:

A. Temporary sign advertising the sale or lease of the premises, not exceeding 12 square feet in area.

B. Billboards and advertising signs, provided:

(1) That they are not within 150 feet of a highway intersection, highway structure, residence, part, school, cemetery, public, or semi-public building.

(2) That they are not within 150 feet of another billboard or advertising sign.

C. Trade, business, or industry identification signs for the firm located on the site provided that:

(1) Free standing signs shall not exceed 150 square feet in area or 25 feet in height.

(2) Signs mounted flush on the wall of a building shall not exceed 10 percent of the area of the wall of the building on which they are located or 200 square feet, whichever is smaller.

(3) Overhanging signs, attached to a building shall not project above the height of the building, or more than four feet from the wall of the building and shall not have more than 100 square feet of area.

(4) Not more than one sign of each category above may be provided for any single use, although each sign may be a double-faced or back-to-back sign.

(5) That the minimum height of sign at intersections is seven feet from bottom of sign.

D. All signs shall be maintained in a neat and presentable condition and in the event that they shall become illegible, or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free from refuse and debris.

E. Any sign not conforming to the provisions of this Zoning Code shall be made to conform or moved to a conforming location, or be removed within three years after the adoption of this Zoning Code.

7. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner or operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, noise vibrations, refuse matter or water-carried waste. All facilities required for the discharge, collection, and treatment of liquid, solid, or gaseous wastes shall be designed, constructed, and operated in accordance with applicable regulations of the Department of Environmental Quality.

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165.16 ADDITIONAL AREA AND HEIGHT REGULATIONS. The regulations set forth in this section qualify, supplement, or modify the area and height regulations set forth elsewhere in this Zoning Code.

1. Yard and Area Regulations.
 - A. Through Lots. Buildings on through lots, extending from street to street, shall provide the required front yard on both streets.
 - B. Visibility at Intersection. On a corner lot in any district, except the C-1 General Commercial District, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two feet and 10 feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed, by connecting the right-of-way lines at points which are 25 feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.
 - C. Accessory Buildings. Accessory buildings and uses customarily incidental to that of the main building may be erected or established upon any lot or tract of land, provided they comply with the following:
 - (1) No accessory buildings shall be erected in any required front or side yard and such accessory building shall not be nearer to the lot knee than would be required for the building wall of a main building on the same lot.
 - (2) No detached accessory building shall be erected within five feet of any main buildings or any property line, and shall not occupy more than 30 percent of the required rear yard.
 - (3) No detached accessory building is permitted within the limits of a front yard.
 - (4) No accessory building shall be used for dwelling purposes.
 - (5) No detached accessory building shall exceed 12 feet in height.
 - (6) An open unenclosed porch may project into a front yard for a distance not exceeding 10 feet.
 - D. Hedges and Fences. Fences or hedges in residential districts 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, subject to the further restriction of Section 165.16. Fences shall not be closer than one foot to any property line and hedges shall not be planted closer than two and one-half feet to any property line.
 - E. Buildings to Have Access. Every building hereafter erected or structurally altered, shall be on a lot or parcel having a frontage on a public street or road.
 - F. 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 structure for storage or display purposes, or to provide any parking or loading space required by this Zoning Code.

G. Temporary Building. Temporary buildings with construction work may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed within 30 days after completion of the construction work.

2. Height Requirements. The building height limitations of this Zoning Code shall be modified as follows:

A. Chimneys, cooling towers, elevator bulk-heads, fire towers, monuments, ornamental towers and spires, radio or television or necessary mechanical appurtenances may be erected to a height in accordance with existing or hereafter adopted regulations of the City, provided, however, that no structure including the above shall be permitted to extend into the approach zones, clear zones, or other restricted air space required for the protection of any public airport.

165.17 FILLING STATIONS. Gasoline service stations shall be subject to the following regulations:

1. Location of Exits and Entrances. No gasoline service station or automobile repair shop shall have an entrance or exit for vehicles within 150 feet as measured along the public street in which there exists a school, public playground, church, chapel, convent, hospital, public library, or the property line of any residentially zoned district. Such access shall be not closer to any intersection than 40 feet.

2. Location of Oil Drainage Pits and Hydraulic Lifts. All oil drainage pits and hydraulic lifts shall be located within an enclosed structure.

3. Gasoline Pumps. Gasoline service stations shall have their gasoline pumps, including other service facilities, set back at least 15 feet from any street line.

165.18 MOBILE HOMES OR TRAILERS. Mobile homes occupied as a permanent or temporary place of residence shall be located only in an approved mobile home park or mobile home subdivision unless otherwise provided in this Zoning Code and occupied travel trailers and camping trailers shall be located only in an approved tourist or trailer campground. Non-conforming mobile homes shall be moved to an approved mobile home court, mobile home subdivision, or converted to real estate on said property.

165.19 OFF-STREET PARKING.

1. In all districts, except a General Commercial District, in connection with every manufacturing business, institutional, recreational, residential, or any other use, there shall be provided at the time any new building or structure is erected, off-street parking spaces open to the public at no charge for automobiles in accordance with the requirements set forth herein.

A. Automobile sales and service - one space for each 300 square feet of gross floor area.

B. Banks, clinics, business, and professional offices - three spaces plus one additional space for each 400 square feet of gross floor area in excess of 1,000 square feet.

C. Bowling alleys - five spaces for each bowling lane.

- D. Churches, funeral homes, and mortuaries - one space for each four seats in the main auditorium.
- E. Dance halls and assembly halls without fixed seats - one space for each 50 square feet of gross floor area.
- F. Dwellings:
- (1) One- and two-family structures - two spaces for each dwelling unit.
 - (2) Multi-family structures - one and one-half spaces for each dwelling unit.
- G. Fraternity or sorority houses - one space for each four beds.
- H. Furniture and appliance stores, household equipment or furniture repair shops - two spaces plus one additional space for each 300 square feet of gross floor area in excess of 1,000 square feet.
- I. Hospitals - one space for each four beds.
- J. Hotels, rooming or lodging houses - one space for each two sleeping rooms.
- K. Manufacturing or industrial plants - one space for each two employees on the maximum working shift, plus space to accommodate all trucks or other vehicles used in connection therewith.
- L. Motels - one space for each sleeping room.
- M. Nursing, convalescent or retirement homes - one space for each eight beds, plus one space for each three employees, plus one space for each resident staff member.
- N. Restaurants, taverns, and nightclubs - one space for each 100 square feet of gross floor area.
- O. Retail stores, shops, or personal service establishments, except as otherwise specified herein - one space for each 200 square feet of gross floor area.
- P. Schools -
- (1) Elementary schools - one space for each 10 seats in the auditorium, or one space for each classroom, whichever is greater.
 - (2) Secondary schools and colleges - one space for each eight seats in the auditorium or three spaces for each classroom and offices, whichever is greater.
- Q. Sports Arenas, Stadium, Gymnasium (other than in schools) - one space for each four seats or seating space.
- R. Supermarkets - one space for each 100 square feet of gross floor area.
- S. Theaters or auditorium (except in schools) - one space for each four seats or bench seating spaces.

- T. Wholesale establishments or warehouses - one space for each two employees, but in no case less than one space for each 1,000 square feet of gross floor area.
2. Computation of Spaces.
- A. In case of any building, structure, or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, shall apply, as determined by the Commission.
- B. Where fractional spaces occur, the parking spaces required shall be construed to be the nearest whole number.
- C. Whenever a building or use constructed or established after the effective date of this Zoning Code is changed or enlarged in floor area, number of employees, number of dwelling units, eating capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this Zoning Code is enlarged to the extent of 50 percent or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
- D. In the case of mixed or joint uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
3. Location and Type of Parking Spaces. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from an institutional or other nonresidential building served.
- A. Up to 50 percent of the parking spaces required for:
- (1) Theaters, public auditoriums, bowling alleys, dance halls, night clubs or cafes, and up to 100 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by two banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in Subparagraph (1); provided, however, that written agreement thereto is properly executed and filed as specified below.
- B. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, shall be properly drawn, and executed by the parties concerned, approved as to form and execution by the City Attorney, and shall be filed with the application for a building permit.
- C. Off-street parking space may be located within the required front yard of any "C" or "M" District, but no off-street parking shall be permitted in the required front yard of any "R" District except upon a driveway providing access to a garage, carport, or parking area for dwelling.

D. All required off-street parking areas including any commercial parking lot of more than five spaces shall be surfaced with an asphaltic or Portland cement binder pavement of similar surface, as approved by the Council, so as to provide a durable and dustless surface. They shall be graded and drained to dispose of all surface water accumulation within the area and shall be arranged and marked to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.

E. Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any "R" District.

F. No part of any parking space shall be closer than five feet to any established street right-of-way line. In case the parking lot adjoins an "R" District, it shall be set back at least five feet from the "R" District boundary and shall be effectively screen planted.

165.20 OFF-STREET LOADING SPACES REQUIRED. In any district, in connection with every building or part thereof hereafter erected having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space plus one additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area, so used, in excess of 10,000 square feet.

1. Each loading space shall be not less than 12 feet in width and 40 feet in length.
2. Such space may occupy all or any part of any part of any required yard or open space, except where adjoining a residential district, it shall be set back five feet and be effectively screenplanted.

165.21 SPECIAL EXCEPTION USES, PROCEDURES, AND REQUIREMENTS. Special exceptions shall be permitted only upon authorization of the Board of Adjustment, provided that such uses shall be found by the Board to comply with the following requirements and other applicable requirements set forth in this Zoning Code:

1. Special Use Requirements.
 - A. That the use is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.
 - B. That the use will not substantially increase traffic hazards or congestion.
 - C. That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
 - D. That the use will not substantially increase fire hazards.
 - E. That the use will be compatible with adjoining development and the proposed character of the zone district where it is to be located.
 - F. That the use will not overburden public utilities.
 - G. That adequate landscaping and screening is provided as required herein.

- H. That the use will not be in major conflict with the Comprehensive City Plan.
 - I. That adequate off-street parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.
2. Mobile Home Parks.
- A. Plan Issuance and Approval Procedure - Mobile Home Parks.
 - (1) The initial application shall be accompanied by three copies of the mobile home park plan, drawn to scale, and prepared by a civil engineer or land surveyor duly licensed by the State showing in detail the following:
 - a. The extent and area used for mobile home park purposes with a location insert in smaller scale showing the park location on the entire property.
 - b. Roadways, driveways, and sidewalks.
 - c. Location of mobile home lots with dimensions and boundary lines.
 - d. Location of parking facilities for cars and two vehicles.
 - e. Method and plan of sewage disposal system showing sizes of pipe, type of pipe and connection locations.
 - f. Location and number of auxiliary sanitary facilities including toilets, washrooms, laundries, utility rooms and storm shelters.
 - g. Method and plan of solid waste collection and disposal systems.
 - h. Plan of water supply showing location of all home and auxiliary connections; all fire hydrants.
 - i. Plan of electric power and lighting system, with location of power plug for each lot as well as location and wattage of street lighting facilities.
 - (2) The Zoning Administrator shall submit said application and plan to the Board of Adjustment who shall consider the application in accordance with its procedures for acting on special uses.
 - B. General Design Requirements for Mobile Home Parks.
 - (1) The park shall be located on a well-drained site suitable for the purpose, with an adequate entrance road of 24-foot pavement width constructed to the Municipality's street or road specifications capable of handling heavy service vehicles such as fire and garbage trucks without injury to surface of base.
 - (2) The park shall be located on a minimum lot size of two acres.

- (3) Each mobile home park shall be served by a sanitary sewer system acceptable to the City.
- (4) Each mobile home park shall be served by a public and Council approved central water supply system.
- (5) The sale of mobile homes from a mobile home park shall be prohibited if located in a residential district.
- (6) No mobile home shall be located nearer the street or highway than the required front yard setback within the district in which it is proposed to be located, or nearer than 25 feet to any property line.
- (7) Such mobile home park shall comply with applicable ordinances and codes of the City and the laws of the State.
- (8) Such mobile home park shall contain all-weather hard surfaced, interior roadways free from dust and mud. This requirement shall be applicable no later than one year following the initial construction of said interior private roadways. Where streets are dedicated to the City, they shall be constructed in accordance with applicable City standards.
- (9) Interior roads shall be not less than 20 feet in width for two-lane roads where no parking is desired. Eight feet of additional width shall be required per each side where roadside parking is desired.
- (10) Off-street (or road) parking for the mobile home park shall be provided in the ratio of one and one-half spaces per mobile home unit.
- (11) Additional requirements as to screening, landscaping, and space reserved for recreation and playground may be required by the Board for proper development and protection of the mobile home park's occupants and that of the surrounding area.

C. Bulk Regulations.

- (1) No mobile home park shall exceed a gross density of 12 units per acre. In computing the gross density, one-half of an adjoining public street, highway, or alley may be included.
- (2) Each mobile home space shall have a minimum area of 3,000 square feet exclusive of roadways and common space and shall measure at least 40 feet by 75 feet.
- (3) No mobile home shall be placed closer than 20 feet to any adjacent mobile home.

165.22 NON-CONFORMING USES.

1. Within the various districts established by this Zoning Code or amendments that may later be adopted there exists structures and uses of land and structures which were lawful prior to the adoption of this Zoning Code but which would be prohibited, regulated, or restricted under provisions of the Zoning Code. It is the intent of this Zoning Code to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Zoning Code to be incompatible with permitted uses in the districts involved. It is further the intent of this

Zoning Code that such non-conformities shall not be enlarged upon, expanded, or extended.

2. Non-Conforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Zoning Code, 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 this Zoning Code. 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. 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 this Zoning Code and if all or part of the lots do not meet the requirements for lot width and area as established by this Zoning Code, the land involved shall be considered to be an undivided parcel for the purpose of this Zoning Code, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Zoning Code, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Zoning Code.

3. Non-Conforming Uses of Land. Where, at the effective date of adoption or amendment of this Zoning Code, lawful use of land exists that is made no longer permissible under the terms of this Zoning Code as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Code.

B. No such non-conforming 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 this Zoning Code.

C. If any such non-conforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this Zoning Code for the district in which such land is located.

4. Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Zoning Code that could not be built under the terms of this Zoning Code by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity.

B. 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 Zoning Code.

5. Non-Conforming Uses or Structures in any “A” or “R” Districts. No existing structure or premises devoted to a use not permitted by this Zoning Code in the district in which such structure or premises is located, except when required by law, shall be enlarged, extended, reconstructed, substituted, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such structure or premises is located, except as follows:

A. Substitution. If no structural alterations are made, a non-conforming use of a structure may be changed to another non-conforming use of the same or more restrictive classification. Whenever a non-conforming use has been changed to a more restrictive use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

B. Discontinuance. In the event that a non-conforming use of any structure or premises is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

6. Non-Conforming Uses Or Structures in Any District Other Than an “A” or “R” District. The regulations described in Subsection 5(A), above shall also apply to this section with following exceptions:

A. Structural Alterations and Enlargements. Any building in districts other than an “A” or “R” District devoted to a use made non-conforming by this Zoning Code may be structurally altered or enlarged in conformity with the lot area, lot width, yard and height requirements of the district in which situated, provided such construction shall be limited to buildings on land owned of record by the owner of the land devoted to the non-conforming use prior to the effective date of this Zoning Code. In the event of such structural alteration or enlargement of structures, the premises involved may not be used for any non-conforming use other than the use existing on the effective date of this Zoning Code, other provisions of this Zoning Code notwithstanding.

B. Discontinuance. In the event that a non-conforming use of any structure or premises is discontinued for a period of one year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.

7. Replacing Damaged Buildings. Any non-conforming building or structure damaged more than 50 percent of its replacement value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or Act of God shall not be restored or reconstructed and used as before such happening, but if less than 50 percent damaged above the foundation, it may be restored, reconstructed, or used as before provided that it be started within one year of such happening.

8. Uses Under Exception Provisions, Not Non-Conforming Uses. Any use for which a special exception is permitted as provided in this Zoning Code shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in such district.

165.23 ZONING ADMINISTRATOR. The Council shall appoint a Zoning Administrator, and it shall be the duty of said officer to enforce this Zoning Code. Such officer may be a person holding other public office in the City or in another governmental agency.

165.24 ZONING COMPLIANCE PERMITS. No land shall be occupied or used, and no building hereafter erected or structurally altered, shall be occupied or used in whole or in part for any purpose whatsoever, until a permit is issued by the Zoning Administrator, stating that the building and use comply with the provisions of this Code.

1. Permit Required. No change of use shall be made in any building or part thereof, now, or hereafter erected or structurally altered, without a permit being issued therefor by the Zoning Administrator. No permit shall be issued to make a change unless the changes are in conformity with the provisions of this Code. Nothing in this part shall prevent the continuance of a non-conforming use as hereinbefore authorized unless a discontinuance is necessary for the safety of life or property.

2. Application for Zoning Compliance Permit. Zoning Compliance Permits shall be obtained from the Zoning Administrator before starting or proceeding with the erection, construction, moving in, or the structural alteration of a building or structure including billboards. Permits shall be kept on file in the office of the Zoning Administrator and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected. Zoning Compliance Permits shall be issued to complying applicants within seven days after application is made.

3. Plats. Each application for a Zoning Compliance Permit shall be accompanied by a plat in duplicate drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape, and location of the building to be erected, the dimensions of the required yards, parking, and open spaces, and such other information as may be necessary to provide for the enforcement of this Code.

4. Construction and Use to be as Provided in Application, Plans, and Permit. Zoning Compliance Permits issued on the basis of plans and applications, approved by the Zoning Administrator, authorize only that use, arrangement, and construction. Use, arrangement, and construction at variance with that authorized shall be deemed a violation of this Code and punishable as provided by Section 165.28.

5. Fees. Before receiving a Zoning Compliance Permit the owner or his agent shall pay to the City the permit fee as provided by resolution of the Council. Such fee shall be based on valuation City, County, State, and federal governments shall be exempt from paying said fees.

6. Special Exceptions. A Zoning Compliance Permit for a special exception may be issued by the Zoning Administrator after review by the Planning and Zoning Commission and upon the order of the Board of Adjustment.

165.25 BOARD OF ADJUSTMENT.

1. A Board of Adjustment is hereby established. The Board shall consist of five members to be appointed by the Council for a term of five years, except that when the Board shall first be created one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member. A majority of the members of the Board of Adjustment shall be persons representing the public at large and shall not be involved in the business of purchasing or selling real estate.

2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this Code. Meetings shall be held at the call of the chair and at such other times as the Board may determine. The chair, or in their absence, the acting chair, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such 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. The presence of three members shall constitute a quorum.

3. Hearings, Appeals, Notice. Appeals to the Board of Adjustment concerning interpretation or administration of this Zoning Code may be taken by any person aggrieved or by any officer or bureau of the City affected by a decision of the Zoning Administrator. Such appeals should be taken within a reasonable time, not to exceed 60 days, by filing with the Zoning Administrator and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notices 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.

4. Fees. A fee to be determined by resolution of the Council shall be paid to the Zoning Administrator at the time the notice of appeal is filed, which the Zoning Administrator shall forthwith pay over to the credit of the General Fund of the City.

5. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with them, that by reason of facts stated in the certificate, a stay would, in their opinion, 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, on notice to the Zoning Administrator from whom the appeal is taken, and on due cause shown.

6. Powers and Duties. The Board of Adjustment shall have the following powers and duties:

A. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Code.

B. Special Exceptions. To hear and decide only such exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this Zoning Code. A special exception shall not be granted by the Board unless and until:

(1) A written application for a special exception is submitted indicating the section of this Code under which the special exception is sought and stating the grounds on which it is requested.

(2) Notice shall be given at least four days but not more than 20 days in advance of the public hearing by publication in a newspaper of general circulation in the City.

(3) The public hearing shall be held. Any party may appear in person, by agent, or attorney.

(4) The Board of Adjustment shall make a finding that it is empowered under the section of this Zoning Code described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Code. 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 Code and punishable under Section 165.28 of this Code. The Board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

C. Variances. To authorize upon appeal in specific cases such variance from the terms of this Zoning Code as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Zoning Code would result in unnecessary hardship. A variance from the terms of this Zoning Code shall not be granted by the Board of Adjustment unless and until:

(1) A written application for a variance is submitted demonstrating:

a. That 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. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.

c. That the special conditions and circumstances do not result from the actions of the applicant.

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, structures, or buildings in the same district. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures or buildings in other districts, shall be considered grounds for the issuance of a variance.

(2) Notice of public hearing shall be given as in Paragraph B(1) above.

(3) The public hearing shall be held. Any party may appear in person, by agent, or by attorney.

(4) The Board of Adjustment shall make findings that the requirements of Paragraph C above 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 the variance is the minimum variance 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 Zoning Code, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Code. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code and punishable under Section 165.28.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Code in the district involved, or any use expressly or by implication prohibited by the terms of this Code in said district.

7. Decisions of the Board of Adjustment.

A. In exercising the powers mentioned in Subsection 6, the Board of Adjustment may, in conformity with the provisions of law and particularly by Chapter 414 of the *Code of Iowa*, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determinations as it believes proper, and to that end shall have all the powers of the Zoning Administrator. The concurring vote of three of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter; provided, however, that the action of the Board shall not become effective until it has filed a written decision in the Board office describing the action taken, the vote of each member participating therein and the reasons for such action, specifying the manner in which the applicant either satisfied or failed to satisfy each of the applicable standards, conditions, or elements set forth in Subsection 6. Decisions shall be filed promptly following the Board's action and shall be open to public inspection.

B. Every variation and exception granted or denied by the Board shall be supported by a written testimony or evidence submitted in connection therewith.

C. If any application for a variance or exception shall have been denied by the Board of Adjustment, no new application for the same relief shall be considered for two years by the Board unless the Board shall find that conditions have changed.

D. Any taxpayer or any officer, department, board, or bureau of the City or any persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition for writ of certiorari, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board. All decisions of the Board,

except decisions granting use variances or a variance from any separation requirement shall be final immediately upon filing. Each decision granting a use variance or a variance from any separation requirement shall be referred to the Council for review pursuant to Section 414.7 of the *Code of Iowa*. The Council shall review such decision within 30 days after the decision is filed. After such review, the Council may remand the decision to the Board for further study. If the Council does not act to review the decision within 30 days after it is filed, the decision shall become effective on the 31st day. If the Council declines to remand a decision, that decision shall become final on the date of the Council's action. If the Council remands a decision to the Board, the effective date of the decision is delayed for 30 days from the date of remand.

E. Upon remand of a decision from the Council, the matter shall be placed on the agenda for further study at the first Board meeting after such Council action. If, for any reason, the Board does not hold a regularly scheduled meeting during such 30-day period, it shall be required to hold a special meeting and consider an act upon the remanded decision within such 30-day period. At such meeting the Board shall act to either affirm its earlier decision or grant a rehearing. A rehearing shall be treated in the same manner as an appeal pursuant to Subsection 3, except that no fee shall be payable. If the Board grants a rehearing, its initial decision shall be deemed to have been withdrawn. The Board decision on rehearing is not reviewable by the Council and shall be final upon filing.

165.26 CHANGES AND AMENDMENTS. This Zoning Code and the districts created by the Zoning Code may be amended from time to time. However, no amendment shall become effective unless it shall have been proposed by, or shall have been first submitted to the Planning and Zoning Commission for review and recommendation. The Planning and Zoning Commission shall have 45 days in which to submit its report to the Council. If the Planning and Zoning Commission fails to submit a report within the 45-day period, it shall be deemed to have approved the proposed amendment. A public hearing shall be held by the Council before adoption of any proposed amendment to this Code. A notice of such public hearing shall be published at least seven days but not more than 20 days prior to the date established for such hearing in a newspaper of general circulation within the City. Such notice shall include the time and place for the public hearing. In no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. In case the Planning and Zoning Commission does not approve the change or, in a 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 200 feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three-fourths of all the members of the Council.

165.27 APPLICATION FOR CHANGE IN 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.

1. Such application shall be filed with the Zoning Administrator accompanied by a fee as determined by resolution by the Council and shall contain the following information:

A. The legal description and local address of the property.

- B. The present zoning classification and the zoning classification requested for the property.
- C. The existing use and proposed use of the property.
- D. The names and addresses of the owners of all property within 200 feet of the property for which the change is requested.
- E. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.
- F. 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.

All fees shall be deposited to the General Fund of the City. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

2. Upon receipt of the application by the Zoning Administrator a copy shall be forwarded immediately to the Planning and Zoning Commission for study and recommendation. The Planning and Zoning Commission shall, prior to making a recommendation, determine the following:

- A. Whether or not the current district classification of the property to be rezoned is valid.
- B. Whether there is a need for additional land zoned for the purpose requested.
- C. Whether the proposed change is consistent with the current land use plan, considering such factors as:
 - (1) Whether the rezoning would result in a population density or development which would in turn cause a demand for services and utilities in excess of the capacity planned for the area.
 - (2) Whether the rezoning would result in the generating of traffic in excess of the capacity of existing or planned streets in the vicinity.
- D. Whether there is an intent on the part of the applicant to develop the property to be rezoned diligently and within a reasonable time.

3. The Planning and Zoning Commission shall report its determinations and recommendations to the Council within 45 days from receipt of the application, except that when no report is issued within that time, the application will be deemed approved by the Planning and Zoning Commission. The Council shall then hold a public hearing as provided in Section 165.26 above.

165.28 VIOLATION AND PENALTY. The violation of any of the provisions of this Zoning Code shall constitute a misdemeanor. Any person, firm, or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this Zoning Code, upon conviction, shall be subject to a fine of not more than \$500.00. Each day that a violation is permitted to exist constitutes a separate offense. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this Code.

165.29 RESTRAINING ORDER. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Code, the City Attorney, in addition to other remedies, may institute any proper action or proceed in the name of the City, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation; to prevent any illegal act, conduct, business, or use; in or about said premises.

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CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Short Title	170.13 Resubdivisions
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170.01 SHORT TITLE. This chapter may be known and cited as the “Subdivision Regulations of Armstrong, Iowa.”

170.02 PURPOSE. It is deemed essential to establish minimum standards for the design, development, and improvements of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, so that adequate provisions are made for public facilities and services, so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote and improve the public health, safety, and general welfare of the City.

170.03 JURISDICTION. In accordance with the provisions of Chapter 354 of the *Code of Iowa* and amendatory acts thereto, this chapter is adopted by the City, governing the subdivisions of all lands within the corporate limits of the City and all lands within two miles of the corporate limits.

170.04 APPLICATION. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract of land or parcel into two or more parts, for the purpose of laying out an addition, subdivision, building lot or lots, acreage or suburban lots within the City or within two miles from the corporate limits of the City, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

170.05 RECORDING OF PLAT. No subdivision plat, resubdivision plat, or street dedication within the City, or within two miles of the City limits, as provided in Chapter 354.9 of the *Code of Iowa*, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with provisions of this chapter. Upon the approval of the final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revokable after 30 days, unless such plat has been duly recorded and evidence thereof filed with the Clerk within such 30 days.

170.06 DEFINITIONS. For the purpose of this chapter certain terms and words are hereby defined.

1. Words beginning with “A.”
 - A. “Access street” means a street that is parallel to and adjacent to a major thoroughfare or highway; and which provides access to abutting properties and protection from through traffic.
 - B. “Aliquot part” means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
 - C. “Alley” means public property dedicated to public use primarily for vehicular access to the back side of properties otherwise abutting on a street.
 - D. “Auditor’s plat” means a subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the auditor.
2. Words beginning with “B.”
 - A. “Block” means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
 - B. “Building line” means they shall be shown on all lots intended for residential use of any character, and on commercial and industrial lots when required by this Code. Such building line shall not be less than required by this Code. Where the subdivided area is not under zoning control, the Planning and Zoning Commission shall require building lines in accordance with the needs of each addition.
3. Words beginning with “C.”
 - A. “City Engineer” means the professional engineer registered in the State designated as City Engineer by the Council or other hiring authority.
 - B. “Collector streets” means streets which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of residential development and streets for circulation within such a development.
 - C. “Commission” means the Planning and Zoning Commission of the City.
 - D. “Comprehensive Plan” means the general plan for the development of the community, that may be titled Master Plan, Comprehensive Plan, or some other title, which plan has been adopted by the Council. Such “Comprehensive Plan” shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
 - E. “Cul-de-sac” means a short, minor street, having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
4. Words beginning with “D.”

5. Words beginning with “E.”
 - A. “Easement” means a grant by the property owner of the use for a specific purpose, of a strip of land by the general public, a corporation, or a certain person or persons, and within the limits of which the owner of the fee shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees which interfere with the use of such easements.
 - B. “Engineer” means a registered engineer authorized to practice civil engineering, as defined by the registration act of the State.
6. Words beginning with “F.”
7. Words beginning with “G.”
8. Words beginning with “H.”
 - A. “Half street” means a one-half width street right-of-way on the boundary of a subdivision dedication by the subdivider to the City; for future development when another subdivision is platted along the side of the half street, half streets are not permitted.
9. Words beginning with “I.”
10. Words beginning with “J.”
11. Words beginning with “K.”
12. Words beginning with “L.”
 - A. “Lot” means the portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership, or for building development.
13. Words beginning with “M.”
 - A. “Major thoroughfare” means a street used primarily for fast, large volume traffic.
 - B. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to the physical features of the land.
 - C. “Minor street” means a street used primarily for access to the abutting properties.
14. Words beginning with “N.”
15. Words beginning with “O.”
 - A. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
16. Words beginning with “P.”
 - A. “Parcel” means a part of a tract of land.
 - B. “Performance bond” means a surety bond or cash deposit made out to the City in an amount equal to the full cost of the improvements which are

required by this Code, said cost being estimated by the Council, and said surety bond or cash deposit being legally sufficient to secure to the City that said improvements will be constructed in accordance with this Code.

C. “Plat” means a map, drawing, or chart on which the subdivider’s plan of the subdivision is presented and which they submit for approval and intend to be in final form to record.

D. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.

17. Words beginning with “Q.”

18. Words beginning with “R.”

A. “Resubdivision” means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

B. “Right-of-way” means the area measured between property lines, dedicated to, and accepted for public use and providing access to abutting properties.

C. “Roadway” means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back-to-back of curbs.

19. Words beginning with “S.”

A. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.

B. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on behalf of the owner.

C. “Subdivision” means a division of land into three or more lots for the purpose, whether immediate or future of transfer of ownership or building development; or any change in existing street lines or public easement. The term, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or if a new street is involved, any division of land.

D. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

E. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114 of the *Code of Iowa* authorized to practice surveying, as defined by the registration act of the State.

20. Words beginning with “T.”

A. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

21. Words beginning with “U.”
 - A. “Utilities” means systems for the distribution or collection of water, gas, electricity, wastewater, and stormwater.
22. Words beginning with “V.”
23. Words beginning with “W.”
24. Words beginning with “X.”
25. Words beginning with “Y.”
26. Words beginning with “Z.”

170.07 PRELIMINARY PLAT PROCEDURES. In obtaining final approval of a proposed subdivision by the Commission and the Council, the subdivider shall submit a preliminary plat and a final plat in accordance with the following order and procedure:

1. Number of Copies.
 - A. For preliminary plats proposed within the City limits the subdivider shall provide the Clerk with 10 copies of the final plat conforming in detail to the requirements set forth in this Code.
 - B. For preliminary plats proposed outside the City limits but within two miles of the City limits the subdivider shall provide the Clerk with 12 copies of the final plat conforming in detail to the requirements set forth in this Code. The Clerk shall immediately forward one copy of the final plat to the County Engineer and one copy to the County Planning and Zoning Commission.
2. Commission Reconsideration.
 - A. In the case of a proposed subdivision within the City limits the Commission shall study the preliminary plat and other material for conformity thereof to these regulations. The Commission may confer with the subdivider on changes deemed advisable and the kind and extent of such improvements to be made. The Commission shall approve or reject such plan within 45 days after the date of submission thereof to the Commission. If the Commission does not act within 45 days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed 60 days.
 - B. In the case of a proposed subdivision outside the City limits but within two miles, the Commission shall not take any action on the proposed preliminary plat until it has received the comments and recommendation from the County Planning and Zoning Commission. The County Planning and Zoning Commission shall be provided with 30 days in which to make a recommendation unless otherwise agreed upon by the City.
3. Council Consideration. The Council, upon receipt of the Commission’s recommendation, and within 60 days, or an extension thereof, shall by resolution grant approval or reject the preliminary plat. If the preliminary plat is rejected, the Council shall advise the owner or developer 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 the preparation of the final plat, but shall not be deemed approval of the subdivision.

4. The Council and the Commission may request such professional assistance as it deems necessary to properly evaluate the plats as submitted.

170.08 FINAL PLAT PROCEDURES.

1. **Subdivider Responsibility.** Upon approval of the preliminary plat by the City Council, the subdivider may proceed with the preparation of the final plat, together with any detailed construction drawings and specifications for the improvements required under this Code. The approval of the preliminary plat by the Council shall be null and void unless the final plat is presented to the Council within 12 months after the date of approval of said preliminary plat.
2. **Number of Copies.**
 - A. For final plats proposed within the City limits, the subdivider shall provide the Clerk with 10 copies of the final plat conforming in detail to the requirements set forth in this Code.
 - B. For final plats proposed outside the City limits but within two miles of the City limits, the subdivider shall provide the Clerk with 12 copies of the final plat conforming in detail to the requirements set forth in this Code. The Clerk shall immediately forward one copy of the final plat to the County Engineer and one copy to the County Planning and Zoning Commission.
3. **Commission Consideration.**
 - A. In the case of a proposed subdivision within the City limits the Commission shall then consider the final plat according to the procedures set out for preliminary plats in Section 170.07. If the final plat is approved, the Commission shall forward its recommendation of approval to the Council, together with a certified copy of their resolution showing action of the Commission.
 - B. In the case of a proposed subdivision outside the City limits but within two miles, the Commission shall not take any action on the proposed final plat until it has received the comments and recommendation from the County Planning and Zoning Commission. The County Planning and Zoning Commission shall be provided with 30 days in which to make a recommendation unless otherwise agreed upon by the City.
4. **Council Consideration.** The Council shall then consider the final plat according to procedures set out for preliminary plats in Section 170.07. If the final plat is found acceptable and in accordance with this Code, the Council shall accept the same. If said plat is disapproved by the Council, such disapproval shall point out in writing wherein said proposed plat is objectionable.
5. **Approval or Denial.** The passage of a resolution by the Council accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder as provided in Chapter 354 of the *Code of Iowa*, and amendatory acts thereto, and shall file satisfactory evidence of such recording in office of the Clerk before the City shall recognize the plat as being in full force and effect.

170.09 PRELIMINARY PLAT DATA. The preliminary plat of a subdivision is not intended to serve as a record plat. Its purpose is to show on a map all facts needed to enable the Commission to determine whether the proposed layout of the land in question is satisfactory

from the standpoint of the public interest. The subdivider, or their representative, may notify the City in advance of the preliminary plat in order to discuss the proposed subdivision and in order to obtain information as to the requirements necessary for approval of the plat.

1. Requirements of the Preliminary Plat. The subdivider shall prepare and file with the Clerk 10 copies of the preliminary plat, drawn at a scale of 1" = 100' or larger. Sheet size shall not exceed 24" x 36". Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

- A. Title, scale, north point, and date.
- B. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the County.
- C. The name and address of the owner and the name, address, and profession of the person preparing the plan.
- D. A key map showing the general location of the proposed subdivision in relation to surrounding development.
- E. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within 200 feet of the subdivision boundary shall be attached.
- F. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.
- G. Existing and proposed zoning of the proposed subdivision and adjoining property.
- H. 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.
- I. The legal description of the area being platted.
- J. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
- K. The layout, numbers, and approximate dimensions of proposed lots.
- L. The location, width, and dimensions of all streets and alleys proposed to be dedicated for public use.
- M. The proposed names for all streets in the area being platted.
- N. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities.
- O. Proposed easements, showing locations, widths, purposes, and limitations.

- P. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the Comprehensive Plan or other adopted plans.
 - Q. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
 - R. Any other pertinent information, as necessary.
 - S. The fee, as required by this Code.
2. Accompanying Material.
- A. An attorney's opinion in duplicate showing that the fee title to the subdivision land is in the owner's name as shown on the plat and showing any encumbrances that may exist against said land.
 - B. Any plat that cannot reasonably be served by public sewer shall show results of soil percolation tests made by the engineer preparing the plat. Such tests shall be made in accordance with specifications approved by the Council.
 - C. Written statement by the appropriate officials of the availability of gas and electricity to the proposed subdivision.
 - D. Written and signed statements explaining how and when the subdivider proposes to provide and install all required improvements required by this Code. Such statement shall acknowledge required inspections and approvals by the Council.

170.10 FINAL PLAT REQUIREMENTS.

1. The subdivider shall, within one year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the Clerk, 10 copies of the final plat and required attachments, as set forth in Section 170.08(2). Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above.
2. The final plat shall be drawn at a scale of 1" = 100' or larger. Sheet size shall be no greater than 18" x 24" nor smaller than 8 1/2" x 11" and shall be of a size acceptable to the County Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin.
3. The final plat shall be clearly marked "Final Plat" and shall show the following:
 - A. The name of the subdivision.
 - B. Name and address of the owner and subdivider.
 - C. Scale, and a graphic bar scale, north arrow, and date on each sheet.
 - D. All monuments to be of record, as required by Chapter 114A of the *Code of Iowa*.
 - E. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.

- F. All distance, bearing, curve, and other survey data, as required by Chapter 114A of the *Code of Iowa*.
- G. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient lines shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Resubdivision shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
- H. Street names and clear designation of public alleys.
- I. Block and lot numbers.
- J. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
- K. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress, and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
- L. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat."
- M. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use or service as determined by the Council.
- N. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
- O. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.
4. Attachments to the Final Plat. The following shall be attached to and accompany any final plat:
- A. A certificate by the owners, if any, that the subdivision is with their free consent, and is in accordance with the desire of the owner. This certificate must be signed and acknowledged by the owner before some officer authorized to take the acknowledgments of deeds.
- B. A complete abstract of title and an attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.
- C. A certificate from the County Treasurer that the subdivision land is free from unpaid taxes.

- D. A certificate from the Clerk of the District Court that the subdivision land is free from all judgements, attachments, or mechanics or other liens of record in their office.
- E. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.
- F. The encumbrance bond, if any.
- G. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots .
- H. A certificate by the City Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved and in substantial compliance with the approved preliminary plat. Prior to such certification, "as built" plans for all improvements shall have been provided to the City Engineer. In lieu thereof, the Clerk may certify that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the Clerk, or that the Council has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider of future property owners in the subdivision.
- I. Where the improvements have been installed, a resolution accepting and approving such improvements along with the maintenance bond required by this Code.
- J. If private streets or other private improvements have been approved, an agreement in the form of a covenant running with the land, in a form approved by the City Attorney, providing for the construction or reconstruction of any improvements to meet City standards, and the assessment of all costs to the property owners in the event of annexation and dedication and acceptance, shall be required.
- K. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
- L. The applicable fee, if any.

170.11 DESIGN STANDARDS. The standards and details of design herein contained are intended only as minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of a plat, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant, and durable neighborhood.

- 1. Streets.
 - A. Comprehensive Plan. All proposed plats and subdivisions shall conform to additional proposed street plans as set out by the City.
 - B. Continuation of Existing or Planned Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) or any streets which are a part of an approved preliminary subdivision plan, in adjoining property, at equal or greater width, but not less than 50 feet in width, and in similar alignment, unless variations are recommended by the Commission.

C. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the Commission. In a case where a street will eventually be extended beyond the plat, but is temporarily dead-ended, an interim turnaround may be required.

D. Street Intersections. Street intersections shall be as nearly at right angles as possible.

E. Cul-de-sac. Whenever a cul-de-sac is permitted, such street shall be no longer than 600 feet and shall be provided at the closed end with a turnaround having a street property line diameter of at least 130 feet in the case of residential subdivisions. The right-of-way width of the street leading to the turnaround shall be a minimum of 50 feet. The property line(s) at the intersection of the turnaround and the lead-in portion of the street shall be rounded at a radius of not less than 150 feet; or equal straight approach lines. A turnaround diameter greater than 130 feet may be required by the Commission in the case of commercial or industrial subdivisions if it is deemed necessary.

F. Street Names. All newly platted streets shall be named and, in a manner, conforming to the prevailing street naming system. A proposed street that is obviously in alignment with other existing streets, or with a street that may logically be extended although the various portions be at a considerable distance from each other, shall bear the same name. Names of new streets shall be subject to the approval of the Commission in order to avoid duplication or close similarity of names.

G. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded areas, and other natural features which would lend themselves to attractive treatment.

H. Half Streets. Dedication of half streets will not be permitted. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if deemed necessary by the Commission.

I. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-end alleys shall be provided with a means of turning around at the dead-end thereof.

J. Neighborhood Plan. If any overall plan has been made by the Commission for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.

K. Land Not Platted. Where the plat to be submitted includes only part of the tract owned by the subdivider, the Commission may require topography and a sketch of a tentative future street system of the unsubdivided portion.

L. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy traffic way, the

street layout shall provide motor access to such frontage by one of the following means:

- (1) A parallel street supplying frontage for lots backing onto the trafficway.
 - (2) A series of cul-de-sacs or short loops entered from and planned at right angles to such a parallel street, with their terminal lots backing onto the highway.
 - (3) An access drive separated by a planting strip from the highway to which a motor access from the drive is provided at points suitably spaced.
 - (4) A service drive or alley at the rear of the lots. Where any one of the above mentioned arrangements is used, deed covenants or other means shall prevent any private residential driveways from having direct access to the trafficway.
- M. A deed to the City shall be given for all streets before the same will be accepted for City maintenance.
- N. Railroads. If a railroad is involved, the subdivision plan should:
- (1) Be so arranged as to permit, where necessary, future grade separations at highway crossings of the railroad.
 - (2) Border the railroad with a parallel street at a sufficient distance from it to permit deep lots to go back onto the railroad; or form a buffer strip for park, commercial, or industrial use.
 - (3) Provide cul-de-sacs at right angles to the railroad so as to permit lots to back thereonto.
- O. Street Grades. Streets and alleys shall be completed to grades which have been officially determined or approved by the Council. All streets shall be graded to the full width of the right-of-way and adjacent side slopes graded to blend with the natural ground level. The maximum grade shall not exceed six percent for main and secondary thoroughfares, or 10 percent for minor or local service streets. All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length in feet equivalent to 20 times the algebraic difference between the rates of grades, or greater, if deemed necessary to the Council; for minor streets, 15 times. The grade alignment and resultant visibility, especially at intersections, shall be worked out in detail to meet the approval of the Council.
- P. Street Rights-of-Way. Minimum rights-of-way shall be provided as follows:
- (1) Thoroughfares - 100 feet.
 - (2) Residential collector streets - 70 feet.
 - (3) Commercial collector streets - 80 feet.
 - (4) Residential streets - 60 feet.
 - (5) Cul-de-sacs - 130 feet in diameter.
 - (6) Alleys - 20 feet.

- Q. Other Considerations.
- (1) The street and alley layout shall provide access to all lots and parcels of land within the subdivision.
 - (2) Street jogs of less than 150 feet shall be avoided.
 - (3) No dead-end streets or alleys will be permitted except at subdivision boundaries.
 - (4) Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof; unless a terminal point within the subdivision, unless otherwise approved by the Council.
 - (5) Intersection of more than two streets at a point shall not be permitted.
 - (6) Dedication of half streets will be discouraged. Where there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if deemed necessary by the Commission.
2. Easements.
- A. 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.
 - B. 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.
 - C. Utility easements shall convey to the City, its successors and assigns, the perpetual right within the areas shown on the plat and described in the easement, to construct, reconstruct, operate, and maintain electric lines consisting of poles, wires, cables, conduits, fixtures, anchors, and other similar equipment, including the right to trim or remove trees within such areas where necessary to secure a clearance of four feet from the wires or poles, together with the right to extend to any telephone, telegraph, electric, or power company, the right to use separately or jointly with the City, the areas included in the easement for the purposes above enumerated.
 - D. Whenever any stream or important surface water course is located in an area that is being subdivided, the subdivider shall, at their own expense, make adequate provision for widening the channel so that it will properly carry the surface water, and shall provide and dedicate to the City an easement along each side of the stream, which easement shall be for the purpose of widening, improving, or protecting the stream and for the purpose of installation of public utilities. The waterway easement shall be adequate to provide for these purposes, and said easement shall be a minimum of 20 feet on each side plus stream design width and a total width adequate to provide any necessary channel straightening or relocation.

3. Blocks.
 - A. No block shall be longer than 1,320 feet, nor less than 500 feet.
 - B. At street intersections, block corners shall be rounded with a radius of not less than 20 feet; unless at any one intersection a curve radius has been previously established, then such radius shall be used as standard.
 - C. Crosswalks may be required in blocks over 700 feet long or in areas where curved streets require excessive out-of-the-way travel. If required, they shall be constructed by the developer. Right-of-way for crosswalks shall not be less than 30 feet, nor more than 45 feet.
4. Lots.
 - A. Corner lots shall be not less than 20 feet greater in width than the minimum required interior lot width so as to permit adequate building setbacks on both front and side streets.
 - B. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major street or highway or except in the case of large commercial or industrial lots.
 - C. Each lot shall be provided by means of a public street with satisfactory access to an existing public street.
 - D. Each lot shall be provided with not less than 20 feet of access frontage to a public street.
 - E. No lot shall be less in size or shape than that required to provide an adequate building site in compliance to the Zoning Code. **(See Chapter 165)**
 - F. For the purpose of complying with minimum health standards, the following minimum lot sizes shall be observed.
 - (1) Lots which cannot be reasonably served by an existing public sanitary sewer system and public water mains, shall have a minimum width of 100 feet, measured at the building line, and an area of not less than 20,000 square feet or the minimum permitted by the Zoning Code, whichever is the larger.
 - (2) Lots which are not within a reasonable distance of a public sanitary sewer system but are connected to a public water supply main shall have a minimum width of 80 feet and an area of 10,000 square feet or the minimum permitted by the Zoning Code, whichever is the larger.
 - G. Side lot lines where possible shall be at right angles or radial to the street lines.
5. Monuments. Monuments shall be placed at block corners, point of curves, change in direction along lot lines and at each lot corner in accordance with City specifications.

170.12 IMPROVEMENTS.

1. The subdivider shall be responsible for the installation or construction of all improvements required by this Code, and shall warrant the design, material and workmanship of such improvements, installation or construction for a period of two

years from and after acceptance of the improvements. Such warranty shall be by bond or other acceptable collateral (subject to review by the City Attorney); shall specifically assure the expedient repair or replacement of defective improvements under warranty; and shall indemnify the City from any and all costs or losses resulting from, contributed to, etc., such defective improvements.

2. Before the Council approves the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the Council. Before passage of said resolution of acceptance, the Commission shall report that said improvements meet all City specifications or other requirements and agreements between the subdivider and the City.

3. This requirement may be waived if the subdivider will post a performance bond or certified check with the City, guaranteeing that said improvements will be constructed within a period of one year from final acceptance of the plat; however, if a performance bond is posted, final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

4. If a performance bond is posted, such bond shall be:

- A. Subject to review by the City Attorney prior to acceptance;
- B. Shall specifically assure the expedient installation and completion of all improvements within the specified construction time period; and
- C. Shall indemnify the City from any and all costs or losses of the development and construction.

5. The Council may waive the requirements of this Code for the construction and installation of some or all of the improvements in cases of dedications of land or rights-of-way to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation.

170.13 RESUBDIVISIONS. The Council may waive the requirements for the construction and installation of some or all of the foregoing improvements in cases of resubdivisions where only the size, shape, and arrangement of the lots is being changed and no new streets are required and in case of dedications of land or rights-of-way to public use where such dedication is in excess of the needs of the subdivision and is desired by a public agency in lieu of a purchase or condemnation proceeding.

170.14 REQUIRED IMPROVEMENTS. All plans, specifications, installation, and construction required by this Code shall be subject to the review, approval, and inspection by the City or authorized City representative. The subdivider shall furnish the City with a construction schedule prior to commencement of any or all construction. The Council shall cause the installation of all improvements to be inspected to insure compliance with the requirements of this Code. The cost of said inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

1. Grading. The subdivider shall, at his expense, bring all streets and alleys within the platted area which are being dedicated for public use to the grade approved by the Council after receiving the report and recommendations of the Commission.

2. Sanitary Sewers. The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one of 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 the City specifications.
 - B. Local or Community Treatment System. Where it is not practical to connect the subdivision sanitary sewer system to the City sewer, the subdivider shall install a local or community treatment system in accordance with the requirements of the State and the County Board of Health.
 - C. Private Disposal System. If it is demonstrated that the above are 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 the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Code. In no case, however, shall private disposal systems be permitted where rock, impervious clay, or ground water is closer than 30 inches to the surface of the ground.
3. Water. The subdivider shall provide the subdivision with an approved water supply and distribution system in accordance with one of 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. Local Community Water System. Where a public water system is not available, the subdivider shall install a local or community water supply and distribution system, including all necessary mains, valves, hydrants, and other appurtenances, in accordance with the standards and requirements of the State and the County Board of Health.
 - C. Individual Water System. If it is demonstrated that the above are not practical, the Council may, upon request, permit the subdivider to install individual wells on each lot, or other water system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Code.
4. Stormwater. 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. These improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.
5. Street Signs. The subdivider shall provide the subdivision with acceptable street signs at the intersection of all streets.
6. Markers. An iron rod not less than one-half inch in diameter and 24 inches in length shall be placed as follows:
 - A. At the intersection of all lines forming angles in the boundary of the subdivision.

B. At block and lot corners and changes in direction of block and lot boundaries.

7. Curb and Gutter. Curb and gutter shall be installed on all streets in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with design and specifications and at grades approved by the Council.

8. Surfacing. All streets being dedicated for public use shall be surfaced to the width required by the Council. Surfacing shall be Portland cement concrete or asphalt and shall be constructed in accordance with design and specifications and at grades approved by the Council.

9. Specifications. 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.

170.15 GENERAL REQUIREMENTS FOR INSTALLATION OF UTILITIES. The Council may require that all utility lines except electric lines of nominal voltage in excess of 15,000 volts, be installed underground. The subdivider shall be responsible for making the necessary arrangements with the utility companies for installation of such facilities. If overhead utility lines or wires are permitted, they shall be placed in the easements provided in the rear of the lots. In their determination on whether or not to require underground utilities, the Council may consider that soil, topographical, or other conditions make such installations within the subdivision unreasonable or impractical. Utilities shall be provided in rear lot easements wherever possible. When it is necessary to install utilities in street rights-of-way, the following requirements shall apply:

1. After grading is completed and approved and before any pavement base is applied, all of the in-street underground work (water mains, gas mains, etc., and all service connections) shall be completely installed and approved through the length of the street and across the flat section. Where the utility mains are outside the pavement area, the subdivider may be allowed to omit the installation of service connections provided that at such time as these service connections are needed, they may be jacked across the street without breaking or weakening the existing pavement.

2. Where rock is known to exist beneath the pavement area and at such depth as to interfere with the jacking of service connections, the complete installation of service connections before any base is applied shall be required. In cases where underground utilities must be provided within the right-of-way of streets, they should not be installed under the paved portions of such streets.

170.16 SPECIFICATION. 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.

170.17 ACCEPTANCE. All of the improvements shall, upon their completion, inspection, approval, and acceptance by the City, become the property of the City.

170.18 IMPROVEMENTS WITHIN EXTRATERRITORIAL JURISDICTION.

1. Improvements in the two-mile control area shall be the same as required above, provided they are not less than that required by the County subdivision policy, and provided further that all road and drainage construction plans shall be approved by the County Engineer, and completed roads shall be accepted by the Board of Supervisors for public maintenance.
2. Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees, or other physical facilities necessary or desirable for the welfare of the area and which are of common use of benefit and are not or cannot be satisfactorily maintained by an existing public agency, provisions shall be made by trust agreements made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities.

170.19 SCHOOL AND PARK LAND DEDICATION. Dedication or reservation of land for schools and parks shall be required for all major-subdivisions, with location of such lands preferably recommended by the Council or by the Armstrong-Ringsted Community School District.

1. **Park and Open Space Dedication.** A minimum of five percent of the net area of subdivisions of five acres or over shall be dedicated for public parks, playgrounds, or open space. In lieu of such dedication, an equal area of land may be developed and used by residents for such purposes on a cooperative basis or by a non-profit civic group.
2. **Payments in Lieu of Dedication.** The subdivider may, in lieu of dedication of such land, donate in cash to the Armstrong Park Commission Trust Account, a sum equal to the value of five percent of the net area of the subdivision for such park, playground, or open space purposes to benefit residents of the subdivision.
3. **School Reservations.** Areas which are planned for public school use, by the Armstrong-Ringsted Community School District, shall be reserved for purchase by the school district within one year from the endorsement date of the final plat. After such time or upon written waiver from the school district, the subdivider may re-plat such areas for their own purposes.
4. **Other Regulations.**
 - A. Public open spaces shall, wherever possible, be located contiguous to other such areas in adjacent subdivisions, in order to provide for maximum use of the resulting area. Such areas shall be shown on the preliminary plat. The Council may not approve a site which is undesirable for such public or civic uses.
 - B. If the City requires a public open space larger than five percent of the net area of the proposed subdivision, the subdivider shall reserve the area in excess of the dedication requirement for purchase by the appropriate public agency within one year from the endorsement date of the final plat. After such time, the subdivider may re-plat such acreage for his own purposes.
 - C. Natural features, historic sites, and similar community assets shall be preserved.

170.20 FEES ESTABLISHED. The Council shall from time to time, establish by resolution, fees for review of plats. No plat for any subdivision or resubdivision shall be considered filed with the Clerk, unless and until said plat is accompanied by the fee, as established by resolution of the Council, as required by this Code.

170.21 VARIANCES. Where, in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Council may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured, provided, however, that such variance modification or waiver will not have the effect of nullifying the intent and the purpose of this chapter. In no case shall any variance or modification be more than the minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Council may impose such additional conditions as are necessary to secure substantially the objectives of the requirements so varied, modified, or waived.

170.22 ENFORCEMENT. In addition to other remedies and penalties prescribed by law, the provisions of this chapter shall not be violated subject to the following:

1. No plat or subdivision in the City or within 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 Code and has been approved by the Council as prescribed herein.
2. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this chapter, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements required by this chapter have been accepted by the City.
3. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the date of adoption of this chapter[†] unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.
4. Any person who shall dispose of or offer for sale or lease any lot or lots in the City, addition thereto, or within two miles thereof, until the plat shall have been approved, acknowledged and recorded as provided by this chapter and Chapter 354 of the *Code of Iowa*, shall forfeit and pay \$500.00 dollars for each lot or part thereof sold, disposed of, leased, or offered for sale.
5. No zoning compliance permit required by the Zoning Code shall be issued until, and unless, all improvements required by this chapter have been made in accordance with City plans and specifications and accepted by the Council.

170.23 AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council; provided, however, that such amendments shall first be submitted to the Planning and Zoning Commission for review and study. The Commission shall report within 30 days after which the Council shall give notice of and hold a public hearing on the proposed amendment. Such notice shall be published in a newspaper of general circulation at least once, not less than four nor more than 20 days before the date of the public

[†] **EDITOR'S NOTE:** Chapter 170 was originally adopted by Ordinance No. 02, on November 4, 2002.

hearing. The amendment shall become effective from and after its adoption and required publication.

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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 _____, 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 _____, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of _____, 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 _____, 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 _____, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of _____, 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 _____, IOWA, BY AMENDING PROVISIONS PERTAINING TO SEWER SERVICE CHARGES

BE IT ENACTED by the City Council of the City of _____, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of _____, 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 _____, IOWA

Be It Enacted by the City Council of the City of _____, Iowa:

SECTION 1. The *(location or legal description of street or alley)* to _____, 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 _____, 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 _____, 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 _____, 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 _____, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of _____, 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 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 _____, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of _____, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of _____, 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 _____, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER

REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of _____, 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 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