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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
1.02 Definitions
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1.09 Catchlines and Notes
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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 Macedonia, Iowa.

1.02 DEFINITIONS. Where words and phrases used in this Code of Ordinances are defined by State law, such definitions apply to their use in this Code of Ordinances and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings, unless specifically defined otherwise in another portion of this Code of Ordinances:

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means the ordinances of the City of Macedonia, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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

14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
15. "Shall" imposes a duty.
16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
17. "State" means the State of Iowa.
18. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.
19. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

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

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

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

CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties of City Officers

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

2.01 TITLE. This chapter may be cited as the charter of the City of Macedonia, 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)

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CHAPTER 3

BOUNDARIES

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

Beginning at the southeast corner of Section 22, Township 74 North, Range 40 West of the 5th P.M., Pottawattamie County, Iowa; thence north along the east line of the SE¹/₄ of Sec. 22-74-40, a distance of 1,320 feet; thence east a distance of 528 feet; thence north a distance of 1,320 feet; thence west a distance of 1,840 feet to the northwest corner of the NE¹/₄ SE¹/₄, Sec. 22-74-40; thence south a distance of 1,320 feet to the northeast corner of the SW¹/₄ SE¹/₄, Sec. 22-74-40; thence west a distance of 1,567.5 feet; thence south a distance of 1,320 feet; thence S89°51'37"E, along the north line of the NE¹/₄ of Section 27-74-40, a distance of 1,804.69 feet; thence S0°00'22"W a distance of 669.04 feet; thence S89°34'45"E a distance of 520.84 feet; thence N0°10'10"W a distance of 671.56 feet; thence S89°51'37"E, along the north line of the NE¹/₄ of Sec. 27-74-40, a distance of 550.50 feet to the point of beginning.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties

4.04 Civil Citations
4.05 Alternative Relief
4.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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.

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

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

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent 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 \$2,500.00 in a fiscal year.

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Capital Improvements Reserve Fund. Except where specifically prohibited by State law, moneys may be transferred from any City fund to the Capital Improvements

Reserve Fund. Such transfers must be authorized by the original budget or a budget amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Copies of Budget on File. Not less than 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 City Clerk and have a copy posted at one of the places designated for the posting of notices.

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by the Clerk and Treasurer or the Clerk and Mayor following Council approval, except as provided by subsection 5 hereof.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 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 fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Zoning Permit Commissioner

15.04 COMPENSATION. The salary of the Mayor is \$1,000.00 per year.
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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])

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

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

17.06 COMPENSATION. The salary of each Council member is \$20.00 for each meeting of the Council attended.

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

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CHAPTER 18

CITY CLERK

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

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

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve at the discretion of the Council, and shall establish by resolution the Clerk's compensation.

(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 Treasurer/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, the Clerk shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by the 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.

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City, except that ordinances and amendments may be published by posting in the following places:

Post Office

City Hall

Treynor State Bank

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.
2. Record Receipts. Keep an accurate record of all money or securities received on behalf of the City and specify the date, from whom, and for what purpose received.
3. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
4. Special Assessments. Keep a separate account of all money received from special assessments.
5. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council and shall establish by resolution the City Attorney's compensation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 21

PLANNING AND ZONING COMMISSION

21.01 Planning and Zoning Commission
21.02 Term of Office
21.03 Vacancies

21.04 Compensation
21.05 Powers and Duties

21.01 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 & 392.1)

21.02 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)

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

(Code of Iowa, Sec. 392.1)

21.04 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)

21.05 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 30

CONTRACT LAW ENFORCEMENT

30.01 CONTRACT LAW ENFORCEMENT. The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such other entity shall have and exercise the powers and duties as provided in said contract and as required by law or ordinance.

(Code of Iowa, 28E.30)

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CHAPTER 35

FIRE PROTECTION

35.01 CONTRACT FOR FIRE SERVICE. Pursuant to Chapter 28E of the *Code of Iowa*, an agreement for fire protection was entered into between the City and the Macedonia Volunteer Fire Department, a legal corporation registered with the State of Iowa, for fire protection and emergency medical ambulance service.

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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
36.08 Penalty

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 County Sheriff's Department of the occurrence of a hazardous condition as soon as possible but not later than six hours after the onset of the hazardous condition or discovery of the hazardous condition. The County Sheriff's Department shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the County Sheriff's Department, which shall then notify the Department of Natural Resources.

36.06 POLICE AUTHORITY. If the circumstances reasonably so require, the Macedonia Fire Department, the County Sheriff 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].

36.08 PENALTY. Any person violating any provision of this chapter shall be in violation of this Code of Ordinances. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

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CHAPTER 45

PUBLIC OFFENSES

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| 45.01 Assault | 45.14 Abandoned or Unattended Refrigerators |
| 45.02 Harassment | 45.15 Antenna and Radio Wires |
| 45.03 Disorderly Conduct | 45.16 Barbed Wire and Electric Fences |
| 45.04 Unlawful Assembly | 45.17 Discharging Weapons |
| 45.05 Failure to Disperse | 45.18 Throwing and Shooting |
| 45.06 Urinating and Defecating | 45.19 Criminal Mischief |
| 45.07 Distributing Dangerous Substances | 45.20 Defacing Proclamations or Notices |
| 45.08 False Reports to or Communications with Public Safety Entities | 45.21 Unauthorized Entry |
| 45.09 Providing False Identification Information | 45.22 Trespassing |
| 45.10 Refusing to Assist Officer | 45.23 Fraud |
| 45.11 Harassment of Public Officers and Employees | 45.24 Theft |
| 45.12 Interference with Official Acts | 45.25 Fireworks |
| 45.13 Removal of an Officer's Communication or Control Device | 45.26 Amusement Devices |
| | 45.27 Drug Paraphernalia |
| | 45.28 Other Public Property Offenses |

45.01 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)

45.02 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 such 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.

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

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

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

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

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

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

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

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

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

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

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

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States,

with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault. As used in this subsection:

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

- A. “Deface” means to intentionally mar the external appearance.
 - B. “Defile” means to intentionally make physically unclean.
 - C. “Flag” means a piece of woven cloth or other material designed to be flown from a pole or mast.
 - D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.
 - E. “Show disrespect” means to deface, defile, mutilate, or trample.
 - F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.
7. Obstruct Use of Street. Without authority or justification, obstruct any street, sidewalk, highway, or other public way, with the intent to prevent or hinder its lawful use by others.

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

8. Funeral or Memorial Service. Within 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)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

45.06 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 public or private land.

45.07 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)

45.08 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.

45.09 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)

45.10 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)

45.11 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)

45.12 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 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, jailer, emergency medical care provider, or firefighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal

harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

45.13 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)

45.14 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)

45.15 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])

45.16 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.

45.17 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.

45.18 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])

45.19 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)

45.20 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)

45.21 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.

45.22 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.

45.23 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*)

45.24 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*)

45.25 FIREWORKS. The sale, use or exploding of fireworks within the City is subject to the following:

(*Code of Iowa, Sec. 727.2*)

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

candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance.

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

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

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

45.26 AMUSEMENT DEVICES. The following provisions pertain to electrical or mechanical amusement devices possessed and used in accordance with Chapter 99B of the *Code of Iowa*. (Said devices are allowed only in premises with a liquor control license or beer permit, as specifically authorized in said Chapter 99B.)

(Code of Iowa, Sec. 99B.57)

1. As used in this section, “registered electrical or mechanical amusement device” means an electrical or mechanical device required to be registered with the Iowa Department of Inspection and Appeals, as provided in Section 99B.53 of the *Code of Iowa*.

2. It is unlawful for any person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing a registered electrical or mechanical amusement device, or an employee of a person owning or leasing a registered electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of a registered electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of a registered electrical or mechanical amusement device with a person under the age of 21.

45.27 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

1. As used in this section “drug paraphernalia” means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled

substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

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

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

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

45.28 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 offenses:

- 1. Chapter 105 – Solid Waste Control and Recycling.
 - A. Section 105.07 – Littering Prohibited
- 2. 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
- 3. 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 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:
 - A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury, or loss of life.
 - B. “Knowingly” means knowledge that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - C. “Minor” means any unemancipated person under the age of 18 years.
 - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys, and sidewalks dedicated to public use and also includes such parts of buildings and other premises, whether publicly or privately owned, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

- F. “Responsible adult” means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 10:00 p.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 11:00 p.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 18 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 a person under

eighteen years of age shall not constitute a violation of this section if said person 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 Nuisances Prohibited

50.04 Nuisance Abatement
50.05 Abatement of Nuisance by Written Notice
50.06 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.
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.

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

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

50.03 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)

50.04 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 50.05 of this chapter or the municipal infraction procedure referred to in Section 50.06.

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

50.05 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.

[†] **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.

2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

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

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

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

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

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

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

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$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.

50.06 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.05, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 4 of this Code of Ordinances.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

51.05 NOTICE TO ABATE.

1. 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])

2. Any such junk or junk vehicle, not promptly removed from the property, as mentioned in this section, shall be removed by the City, and an itemized statement of the cost thereof shall be returned to the Clerk, which cost shall not be less than \$75.00 per hour, per equipment usage per lot, together with a legal description of the lot on which the junk or junk vehicle was removed. Upon filing the same, the Clerk shall first endeavor to collect the same, and if not collected within 30 days, the Clerk shall cause the same to be assessed against the property and certify the same to the County Treasurer to be collected as other special taxes.

CHAPTER 52

WEEDS

52.01 CUTTING WEEDS.

1. The owner, occupant, or agent of the owner of any premises shall prevent the growth of and shall destroy all weeds and other noxious growths upon any such premises and the parkings and alleys adjacent thereto before such weeds and noxious growths become a breeding place for mosquitoes, or the harboring place of filthy deposits, so as to be dangerous to the health of the community.

2. Any such growth, not promptly destroyed or cut, as mentioned in this section, shall be cut by the City without notice to the property owner, occupant, or agent of the owner and an itemized statement of the cost thereof shall be returned to the Clerk, which cost shall not be less than \$62.50 per hour, per every 4 inches per lot, and \$75.00 per hour, per equipment usage per lot, together with a legal description of the lot on which the weeds were cut. Upon filing the same, the Clerk shall first endeavor to collect the same, and if not collected within 30 days, the Clerk shall cause the same to be assessed against the property and certify the same to the County Treasurer to be collected as other special taxes.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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| 55.01 Title | 55.11 Dangerous Animals Allowed |
| 55.02 Purpose and Scope | 55.12 Impoundment |
| 55.03 Jurisdiction | 55.13 Refusal of Admittance |
| 55.04 Applicability | 55.14 Miscellaneous Prohibited Acts |
| 55.05 Definitions | 55.15 License Required |
| 55.06 Animals At Large | 55.16 Enforcement |
| 55.07 Owner Duties | 55.17 Violations and Penalties |
| 55.08 Barking Dogs or Other Animals – Public Nuisance | 55.18 Domestic Cats |
| 55.09 Police Dogs | 55.19 Pet Awards Prohibited |
| 55.10 Dangerous/Vicious Animals Prohibited | 55.20 Livestock |

55.01 TITLE. This chapter shall be known and may be referred to as the “Pottawattamie County, Iowa, Animal Control Chapter.

55.02 PURPOSE AND SCOPE. This chapter es

-tablishes responsibilities for animal owners or custodians in order to effectively manage animals and to control the danger to the public health, safety, and welfare presented by animals in the County and provides a mechanism to address animal control issues, problems, and complaints.

55.03 JURISDICTION. The provisions of this chapter shall apply to all of the unincorporated areas of Pottawattamie County, Iowa.

55.04 APPLICABILITY. In the event of a difference between the provisions of this chapter and those contained in applicable state rules and regulations, the most stringent standards will prevail.

55.05 DEFINITIONS. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. “Altered” means an animal that is either spayed or neutered.
2. “Animal” means any member of the animal kingdom except human beings.
3. “Animal control officer” means any animal control officer under contract with the County to maintain compliance with this chapter.
4. “Animal shelter” means a facility which is used to house or contain dogs, cats, or other animals, and which is owned, operated, or maintained by the County or operated under contract with the County for the purpose of the provisions of this chapter or any other chapter.
5. “At large” means off the premises of the owner or custodian, whether by accident, design, or otherwise.
6. “Board of Health” means the Board of Health of Pottawattamie County, Iowa.
7. “Cat” means members of the feline species, male or female, altered or unaltered.

8. “County Sheriff” means the County Sheriff of Pottawattamie County, Iowa, or his duly deputized representative.

9. “Dangerous animals” are:

A. Any genus/species of animal which is capable of killing, inflicting serious injury upon, or causing illness or disease among, human beings or domestic animals and having a known tendency, (either in its natural state, in the wild, or as a tame, feral or domesticated animal) as a species to do so, and is declared to be a dangerous animal by the Board of Supervisors;

B. Those animals deemed to be dangerous animals per se include the following, subject to amendment by the Board of Supervisors:

(1) Canidae; e.g. wolves, wolf-dog hybrids, coyotes, coyote-dog hybrids, foxes, jackals, within the order Carnivora but excluding *Canis familiaris*, the domestic dog.

(2) Felidae; e.g. lions, tigers, jaguars, leopards, cougars, lynx, ocelots, bobcats, within the order Carnivora but excluding *Felis domesticus*, the domestic cat.

(3) Mustelidae; e.g. badgers, wolverines, weasels, skunks, mink, otters within the order Carnivora, but not including domestic ferrets.

(4) Procyonidae; e.g. raccoons, pandas, kinkajous within the order Carnivora.

(5) Ursidae; e.g. black bears, brown bears, grizzly bears, polar bears, of the order Carnivora.

(6) Chiroptera; e.g. bats.

(7) Cebidae; e.g. monkeys.

(8) Cercopithecidae; e.g. baboons.

(9) Callithricidae; e.g. marmosets, tamarins.

(10) Pongidae; e.g. gibbons, orangutans, chimpanzees, gorillas.

(11) Lemuridae; e.g. lemurs.

(12) Didelphidae; e.g. opossums.

(13) Castoridae; e.g. beavers.

(14) Viverridae; e.g. civets and mongooses.

(15) Hyaenidae; e.g. hyaenas.

(16) Formicidae; e.g. fire ants within the order Hymenoptera.

(17) Apidae; specifically Africanized strains of *Apis mellifera* the honeybee.

(18) Crocodylidae; e.g. crocodiles, alligators, caimans, gavials, of the order Squamata.

(19) Heloderamatidae; e.g. gila monsters, beaded lizards, of the order Squamata.

- (20) Crotalidae; e.g. rattlesnakes, copperhead snakes, cottonmouth moccasin snakes, Wagler's vipers, palm vipers, eyelash vipers, of the order Squamata.
- (21) Viperidae; e.g. rhinoceros vipers, bushmasters, puff adders, gaboon vipers, of the order Squamata.
- (22) Elapidae; e.g. cobras, taipans, coral snakes, sea snakes, of the order Squamata.
- (23) Opisthoglyphous colubridae; e.g. twigsnakes, boomslangs, mangrove snakes, mussuranas, Malagasy hognose snakes of the order Squamata.
- (24) Eunectes murinus; e.g. anacondas of the order Squamata.
- (25) Boa constrictor; e.g. boa constrictors of the order Squamata.
- (26) Morelia amethystina; amethystine pythons of the order Squamata.
- (27) Python sebae; African rock pythons of the order Squamata.
- (28) Python molurus; Burmese pythons, Indian pythons, Ceylonese pythons of the order Squamata.
- (29) Python reticulatus; reticulated pythons of the order squamata.
- (30) Venomous spiders of the families terididae, and loxoscelidae respectively, and scorpions of the order Scorpions.

C. Animals used in agriculture as defined by the United States Department of Agriculture are not considered dangerous animals.

- 10. "Dog" means all members of the Canine species, male or female, altered or unaltered.
- 11. "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.
- 12. "Impound" means the act of placing an animal in an enclosure, to confine an animal within a enclosure or to seize and retain possession of an animal.
- 13. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species; farm deer, as defined in Section 481A.1 of the *Code of Iowa*.
(*Code of Iowa, Sec. 717.1*)
- 14. "Owner" means any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his or her care, or who acts as its custodian, or who knowingly permits an animal to remain on or about any premises owned or occupied by him or her for more than seven consecutive days other than veterinary hospital, licensed kennel, or animal shelter.
- 15. "Person" means an individual, partnership, corporation, or association and includes any officer, employee, or agency thereof.
- 16. "Zoning Ordinance" means the Zoning Ordinance of Pottawattamie County, Iowa.

55.06 ANIMALS AT LARGE.

1. It is unlawful for the owner or custodian of any animal, including livestock, to fail to keep the same from running at large in the County.
2. For the purpose of this chapter, an animal shall not be deemed at large if the animal is on the premises or property of the animal owner or custodian or the property of another, so long as the property owner has given his or her permission and the animal cannot enter onto the public streets, sidewalks, alleys, other public areas or property not owned by the animal's owner or custodian.
3. Notwithstanding the above, "at large" means off the premises of the owner or custodian, whether by accident, design, or otherwise, unless:
 - A. The animal is on a leash, cord, chain, or similar restraint not more than 15 feet in length and is under the control of a person competent to restrain and control the animal; or
 - B. The animal is within a motor vehicle of its owner or custodian such that it cannot escape or have contact with a person outside the vehicle and such that said confinement does not endanger the animal's health or well-being; or
 - C. The animal is housed within a veterinary hospital, licensed kennel, pet shop, or animal shelter.
4. Any animal found to be at large within the County shall be deemed a public nuisance. Animals found at large may be apprehended and impounded, costs of which shall be paid by the animal's owner or custodian.
5. Notwithstanding any provision to the contrary, animals injured or killed on or along public streets or public right-of-ways shall be deemed at large. The Animal Control Officer may remove all such animals and at his or her discretion take such animal needing medical attention to a veterinarian or animal shelter. The owner or custodian of such animal shall be responsible and liable for the expenses of medical treatment and care as well as impoundment fees and any other penalties imposed by this chapter.

55.07 OWNER DUTIES.

1. **Humane Treatment.** An owner or custodian shall provide sufficient food, water, shelter, and humane treatment for any animal in its care. It is unlawful under this chapter for an owner or any other person to beat, starve or otherwise abuse any animal.
2. **Sanitary Conditions.** An owner or custodian shall keep all structures, pens, or yards wherein dogs or cats are confined, clean, devoid of vermin and free of odors arising from urine or feces.
3. **Public Sanitation.** No owner or custodian of a dog or other animal shall permit their animal to discharge feces upon any public or private property, other than the property of the owner or custodian of the animal. The owner or custodian shall not however be considered in violation of this subsection provided he or she takes steps to immediately remove and clean up the feces discharged by the animal from the property. All feces removed as aforesaid shall be placed in an airtight container, and shall be stored in a sanitary manner in an appropriate refuse container until it is removed pursuant to refuse collection procedures, or otherwise disposed of in a

sanitary manner. An owner or custodian may, as an alternative collect the feces and turn it under the surface of the owner's or custodian's soil in any manner that prevents odor or collection of vermin.

4. Tethering. An owner or custodian may not stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over, or across any public sidewalk, street, or alley or private property of anyone other than the owner's or custodian's.

5. Abandonment. No owner or custodian may abandon any animal where it may become a public charge, nuisance or may suffer injury, hunger or exposure.

6. Rabies Vaccination. An owner or custodian of a dog required to be licensed under this chapter shall vaccinate said dog for rabies and maintain a current vaccination tag on the dog's collar at all times. The rabies vaccination shall be administered in accordance with Chapter 351 of the *Code of Iowa*. A current certificate of vaccination for rabies signed by a licensed veterinarian administering the vaccine shall be required for all animals for which the vaccination is required.

7. Minimum Age. No dog may be licensed under this chapter unless at least one of the registered owners or custodians of said dog is at least 18 years of age. All registered owners or custodians (or owners or custodians of an unlicensed dog) 18 years of age or older shall be personally, jointly and severally liable for compliance with the provisions of this chapter.

8. Transfer of Ownership. A new owner or custodian shall within 10 days from the date of a change in ownership of dog make an application and pay the fee for a new license as provided in this chapter.

9. Number Restricted. It is unlawful for any person to own, keep or harbor at any time more than two dogs under this chapter without the appropriate license.

10. Responsibility to Report Bite/Attack. This chapter incorporates all regulations and duties imposed by Chapter 351 of the *Code of Iowa*. Included in the *Code of Iowa* is the duty of the owner or custodian of any animal that has bitten or attacked a person or any person having any knowledge of such bite or attack to report this act to a local health or law enforcement official. The owner or custodian must confine such animal in a manner directed by the Board of Health or the Animal Control Officer.

55.08 BARKING DOGS OR OTHER ANIMALS - PUBLIC NUISANCE.

1. It is unlawful to keep or harbor any dog or other animal which, by frequent, regular, habitual, or continued barking, whining, yelping, howling or other loud noises, shall cause serious annoyance to the surrounding neighborhood. Such annoyance shall be considered a public nuisance.

2. The Animal Control Officer or the County Sheriff shall have the authority to use all reasonable means to abate such nuisance, including (but not limited to) requiring that the owner or custodian make bona fide efforts to quiet the dog or impoundment of the animal, costs of which shall be paid by the animal's owner or custodian.

3. Any person who shall fail or refuse to abate such nuisance shall be deemed to have committed a separate violation of this chapter for each 24-hour period thereafter

during which said nuisance continues and be subject to like penalties provided under this chapter.

55.09 POLICE DOGS.

1. It is unlawful under this chapter for any person to taunt, tease, strike, injure or kill any dog used by a law enforcement officer, law enforcement department or law enforcement agency at any time.
2. No person shall meddle with any such dog or any handler thereof in the performance of the functions of the law enforcement officer, law enforcement department or agency.
3. It is not a violation of this chapter for a law enforcement officer or veterinarian to euthanize a police dog in an emergency situation when done to end undue suffering and pain for the police dog.

55.10 DANGEROUS/VICIOUS ANIMALS PROHIBITED.

1. It is unlawful for any person to keep, harbor, purchase, or sell a dangerous or vicious animal. An animal may be deemed dangerous/vicious by the Animal Control Officer based on the criteria specified below. For the purpose of this section, the term dangerous/vicious animal shall include but not be limited to any animal that either:
 - A. Attacks and/or bites any person or other animal without provocation; and/or
 - B. Kills or seriously injures any person; and/or
 - C. Kills or seriously injures livestock or a domestic animal; and/or
 - D. Approaches any person or other animal in an apparent attack posture or in a vicious or terrorizing manner whether or not the attack is consummated; and/or
 - E. Is cited for running at large three or more times in one year.
2. The Animal Control Officer shall immediately seize such dangerous/vicious animal which shall be held for five days. If, by the end of the impoundment period the person keeping, harboring, or sheltering said vicious animal, has not petitioned the court seeking return of the animal, the Animal Control Officer shall have cause for the euthanasia of the animal.
3. Dogs used in security or police work shall not be classified as dangerous/vicious if a bite or bites occur while the dog is actually performing in such a capacity.
4. If a dog or other animal, without provocation, attacks or injures any person who is peaceably conducting himself in a place where he may lawfully be, the owner or custodian of such dog or other animal is liable in damages to such person for the full amount of the injury sustained. If a dog or other animal, without provocation, attacks or injures another animal, the owner or custodian of such dog or animal is liable for damages caused to the injured animal by the attack.

55.11 DANGEROUS ANIMALS ALLOWED. The prohibition contained in 55.10 of this chapter shall not apply to the keeping of dangerous animals in the County under any of the following circumstances:

1. Dangerous animals kept at state licensed veterinary hospitals, humane societies, licensed rehabilitator or animal control pounds for treatment or impoundment purposes.
2. Dangerous animals kept by federal, state, county and municipal authorities and their designees or veterinarians pursuant to the enforcement of this or any animal control ordinance.
3. Dangerous animals kept by governmental agencies, educational institutions, medical institutions or research laboratories for instructional or research purposes.
4. Dangerous animals kept in publicly owned zoos.
5. Dangerous animals kept for fur pelting businesses, subject to compliance with the Zoning Ordinance.
6. Dangerous animals kept by individuals meeting USDA permit requirements.
7. Dangerous animals commercially exhibited for 10 days or less.
8. Animals being commercially transported through the County.

55.12 IMPOUNDMENT.

1. It is the duty of the persons authorized by the Zoning Ordinance to operate or contract with an animal shelter, to supervise and control such a facility, to cause the shelter to be kept in a sanitary condition and free from offensive odors, to provide for adequate food, water, and shelter, to provide for the collection of animals, to handle the destruction or disposition of animals not reclaimed, and to assist in the enforcement and operation of this Chapter.
2. Animals found at large and abandoned animals may be taken and impounded at the animal shelter and confined in a humane manner.
3. Upon impounding an animal, the owner or custodian, if known, shall be given notice of impoundment within two days and the owner or custodian shall then have three days to reclaim the animal not counting the day of impoundment.
4. A person claiming an impounded animal shall pay impoundment fees and boarding fees as established by the animal shelter.
5. A person claiming an impounded animal shall provide proof of current rabies vaccination and county license if applicable.
6. A person claiming an impounded animal shall also pay veterinary charges, if any, and such other costs actually incurred by the animal shelter in the care of the claimed animal.
7. No animal need be kept for the period of notification or impoundment if a licensed veterinarian or an Animal Control Officer certifies that the animal is so diseased or injured that it is unduly suffering or cannot survive. In such cases the animal may be humanely euthanized. The owner or custodian shall pay any fees associated with the euthanasia.
8. Animals not reclaimed within the time limitations provided by the chapter shall become the property of the County or animal shelter and shall be placed for adoption in a suitable home or humanely euthanized. No unclaimed animal shall be released for adoption to a suitable home without being sterilized, or without a written agreement from the adopter, guaranteeing that such animal will be sterilized.

9. The refusal to reclaim any impounded animal shall not relieve the owner or custodian of the duty to pay the impoundment fees, boarding fees, veterinarian expenses, euthanasia fees or any other costs incurred in the care of the animal. Any owner or custodian who refuses to pay such expenses shall be in violation of this chapter and subject to citation of a county infraction for the same.

10. Neither the County nor the animal shelter, nor their agents and officers enforcing the provisions of this chapter shall be liable for any accident or subsequent disease that may occur in connection with the impoundment of any animal pursuant to this chapter.

55.13 REFUSAL OF ADMITTANCE. In the event the Animal Control Officer or the County Sheriff, in proceeding to enter onto a property to carry out the provisions of this chapter, shall be refused entry, a complaint may be made under oath to any magistrate of the County. Said magistrate shall thereupon issue a warrant directed to the County Sheriff commanding him, between the hours of sunrise and sunset, accompanied by the Animal Control Officer to enter onto such property and to make such inspection as may be required to carry out the provisions of this chapter, which order shall be executed by said County Sheriff under the direction of the Animal Control Officer.

55.14 MISCELLANEOUS PROHIBITED ACTS.

1. Abuse. It is unlawful under this chapter for any person to beat, starve or otherwise abuse any animal.

2. Animals for Entertainment. It is unlawful under this chapter for any person to use animals for entertainment purposes, including (but not limited to): selling or giving away any animal as an incentive, prize or novelty; owning, breeding or training any animal (or other similar activity) for purposes of fighting between such animal with another animal or human being; intentionally killing or injuring any animal for sport, wagering or entertainment.

3. Poisoning Animals. It is unlawful under this chapter for any person to knowingly poison or cause to be poisoned any domestic animal. Any drug used for euthanasia shall be used by or under the direction of a licensed veterinarian.

4. Killing Animals. It is unlawful under this chapter for any person to knowingly kill any domestic animal except: (i) in an emergency situation to end the immediate suffering of the animal; (ii) when the animal is not under the supervision of its owner or custodian and is in the process of injuring, wounding, or killing another animal or a human being; or iii) under the direction of a licensed veterinarian.

55.15 LICENSE REQUIRED. It is unlawful for any person to keep or harbor any dog over the age of six months, which has not been issued a dog license. The County Auditor shall issue no dog license unless the person has supplied: (i) a valid rabies vaccination certificate; and (ii) a certificate of spaying or neutering for the dog for which the license is being applied. Current rabies and county dog license tags must be visible at all times. The filing fee as specified by Chapter 1.50 of the County Ordinances shall accompany said application.

55.16 ENFORCEMENT.

1. It shall be the duty of the Animal Control Officer and/or County Sheriff to enforce the provisions of this chapter.

2. Those representatives authorized to enforce this chapter may issue a citation of county infraction with or without prior notice to any person who is alleged to have committed a county infraction.

55.17 VIOLATIONS AND PENALTIES. The penalty for violating the provisions of this chapter shall be as set forth in Chapter 1.75 of the County Ordinances.

55.18 DOMESTIC CATS.

1. Definition. "Cat" means a soft furry animal (Webster Dictionary).
2. Limitation. There will be a limit of no more than two registered cats per household.
3. Registration. All cats must have identification collar with owner's name and maintain current verification tag of rabies vaccination.
4. Disturbing the Peace. It is unlawful for the owner to allow the cat to pass upon the premises of another, thereby causing damage or interfering with the premises or property including garbage set on the curbs on collection days. It is unlawful for an owner of a cat to permit such cat to be at large when it is known to have bitten a person.
5. Confinement. The Mayor, when he or she deems it necessary, may with the approval of the Council, issue his or her proclamation requiring all persons owning cats to confine the same from running at large.
6. Impoundment. Any legally licensed feline found running at large or in violation of this section will be taken to Pottawattamie County Animal Shelter. Owners will be responsible for all fees incurred to comply with the section. Any impounded cat, impounded for anything other than biting and under observation for rabies, will be destroyed after three working days.
7. Violation; Penalty. Any persons violating any of the provisions of this section shall, upon conviction, be subject to the penalties as set forth in Section 55.17 of this chapter.

55.19 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.

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

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CHAPTER 56

DOG AND CAT LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fees
56.03 Delinquency
56.04 License Tags

56.05 License Records
56.06 Immunization
56.07 Kennel Dogs or Cats

56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a dog or cat over the age of six months shall procure a dog or cat license from the Clerk on or before January 1 of each year.
2. Such license may be procured after January 1 and at any time for a dog or cat which has come into the possession or ownership of the applicant or which has reached the age of six months after said date.
3. The owner of a dog or cat for which a license is required shall apply to the Clerk on forms provided by the City.
4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog or cat shall be revaccinated.
5. All licenses shall expire on January 1 of the year following the date of issuance.

56.02 LICENSE FEES. The annual license fee shall be as established by resolution of the Council.

56.03 DELINQUENCY. All license fees shall become delinquent on July 1 of the year in which they are due and a delinquent penalty of \$1.00 shall be added to each unpaid license on and after said date.

56.04 LICENSE TAGS. Upon receipt of the application and fee, the Clerk shall deliver or mail to the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Clerk, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the dog or cat for which issued. A license issued for one dog or cat shall not be transferable to another dog or cat. Upon the expiration of the license the owner shall remove said tag from the dog or cat.

56.05 LICENSE RECORDS. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.
2. The description of the dog or cat as specified in the application, together with the name of the owner of the dog or cat.

3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog or cat shall be revaccinated.
4. The amount of all fees paid.
5. Such other data as may be required by law.

56.06 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the dog or cat for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within six months from the effective date of the license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog or cat.

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

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

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| 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 “Macedonia Traffic Code.”

60.02 DEFINITIONS. Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, have the following meanings:

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including a highway when 50 percent or more of the frontage thereon for a distance of 300 feet or more is occupied by buildings in use for business.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of 200 feet in either direction from a school house.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.
9. “Suburban district” means all other parts of the City not included in the business, school or residence districts.
10. “Traffic control device” means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

11. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

2. 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.

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

4. Control By Peace Officers and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes

61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks

62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Obstructing View at Intersections

62.01 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. Display of Registration and License to Drive: 321.17, 321.32, 321.37, 321.38, 321.57, 321.67, 321.78, 321.79, 321.91, 321.98, 321.99, 321.104, 321.115, 321.174, 321.174A, 321.180, 321.180B, 321.193, 321.194, 321.208A, 321.216, 321.216B, 321.216C and 321.218 through 321.224.
2. All Terrain Vehicles, Golf Carts, and Bicycles to Obey Traffic Regulations, Speed Detection Jamming Devices, Road Workers: 321.232 through 321.234A, 235A and 321.247.
3. Traffic Signs, Signals, and Markings: 321.259 and 321.260.
4. Accidents and Accident Reporting: 321.262 through 321.266.
5. Operation of Motorcycles and Motorized Bicycles: 321.275.
6. Drag Racing; Speed; Open Containers; Control of Vehicle: 321.276, 321.277, 321.277A, 321.278, 321.281, 321.284, 321.284A, 321.288, 321.295, 321.333, 321.382 and 321.383.
7. Driving on Right, Meeting, Overtaking, Following, or Towing: 321.297 through 321.299 and 321.302 through 321.310.
8. Turning and Starting, Signals on Turning and Stopping: 321.312 through 321.318.
9. Right-of-Way: 321.319 through 321.324A.
10. Pedestrian Rights and Duties and Safety Zones: 321.329, 321.330, 321.332, 321.333, and 321.340.
11. Railroad Crossings: 321.341 through 321.344 and 321.344B.
12. Stopping, Standing, Parking: 321.354 and 321.359.
13. Unattended Vehicle, Obstructing Driver's View, Crossing Median, Following Fire Apparatus, or Crossing Fire Hose, and Putting Glass, Etc., on Streets: 321.362 through 321.365 and 321.367 through 321.371.
14. School Buses: 321.372.
15. Lighting Equipment Required and Time of Use: 321.384 through 321.390, 321.392 through 321.395, 321.398, 321.402 through 321.405, 321.408, 321.409, 321.415, 321.417 through 321.423. In accordance with authorization granted by

Section 321.395, *Code of Iowa*, motor vehicles parked upon any street where permitted by this chapter need not display required lights where there is sufficient light emitted from City street lights to reveal any person or object within a distance of 500 feet upon such street.

16. Brakes, Horns, Sirens, Mufflers, Wipers, Mirrors, Tires, Flares, Windows, Safety Belts, and Special Markings for Transporting Explosives: 321.430 through 321.434; 321.436 through 321.442; 321.444 through 321.446, 321.449, 321.449A, and 321.450.

17. Size, Weight, and Load: 321.454 through 321.458, 321.460 through 321.463, 321.465 and 321.466.

18. Unsafe Vehicles: 321.381 and 321.381A.

62.02 PLAY STREETS DESIGNATED. The Council has 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.

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – 20 miles per hour.
2. Residence or School District – 25 miles per hour.
3. Suburban District – 45 miles per hour.

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

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

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

(Code of Iowa, Sec. 321.290)

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district, in the residence districts at intersections and alleys, and at the following designated intersections.

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

1. At the intersection of Main and Potter.

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 Stop Required
65.02 Yield Required
65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed
65.05 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. Northbound Traffic:
 - A. Northbound traffic on Clayton Street shall stop at Main Street.
 - B. Northbound traffic on County Road “U” shall stop at Main Street.
 - C. Northbound traffic on Dye Street shall stop at Main Street.
 - D. Northbound traffic on Woodmancy Street shall stop at Hamilton and Main Street.
 - E. Northbound traffic on Dye Street shall stop at Beezly Street.
2. Eastbound Traffic:
 - A. Eastbound traffic on Brodbeck Street shall stop at Cipher Street.
 - B. Eastbound traffic on Beezly Street shall stop at Woodmancy Street.
 - C. Eastbound traffic on Hamilton Street shall stop at Woodmancy Street.
 - D. Eastbound traffic on Evans Street shall stop at Cipher Street.
3. Southbound Traffic:
 - A. Southbound traffic on Cipher Street shall stop at Main Street.
 - B. Southbound traffic on Clayton Street shall stop at Evans Street.
 - C. Southbound traffic on Clayton Street shall stop at Main Street.
 - D. Southbound traffic on Dye Street shall stop at Main Street.
 - E. Southbound traffic on Potter Street shall stop at Main Street.
 - F. Southbound traffic on Potter Street shall stop at Evans Street.
 - G. Southbound traffic on Dye Street shall stop at Beezly Street.
4. Westbound Traffic:
 - A. Westbound traffic on Brodbeck Street shall stop at Cipher Street.
 - B. Westbound traffic on Beezly Street shall stop at County Line “U” Street.
 - C. Westbound traffic on Beezly Street shall stop at Woodmancy Street.

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

(Code of Iowa, Sec. 321.345)

1. Eastbound traffic on Evans Street shall yield to traffic on Cipher Street.

65.03 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)

65.04 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.

65.05 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

- NONE -

66.04 TRUCK ROUTE. 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. CIPHER Street from north City limits to Main Street.
- B. WOODMANCY Street from Main Street to Hamilton Street.
- C. HAMILTON Street from Woodmancy Street to east City limits.

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)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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)

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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 Truck Parking Limited
69.10 Snow Removal
69.11 Snow Emergency; Street Cleaning

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. Main Street on the north side from Clayton Street to Potter Street.
2. Main Street on the south side from Potter Street to Clayton Street.
3. Potter Street on the east side from Main Street to alley.

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 24 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.

3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under this Code of Ordinances.

69.06 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 which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 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 theater, 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 shall not apply to a vehicle parked in any alley which is 18 feet wide or less; provided said vehicle is parked to deliver goods or services.

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

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

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

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

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

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

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

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

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

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

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

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

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A[1] of the *Code of Iowa* when utilizing a wheelchair parking cone.

B. A person shall not interfere with a wheelchair parking cone 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. Clayton Street, east and west sides, from Main Street to Beezley Street.

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

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

1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any streets within the Business District. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. to 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than 30 minutes.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than 30 minutes.

69.10 SNOW REMOVAL. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during snow removal operations unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall.

(Code of Iowa, 321.236[1])

69.11 SNOW EMERGENCY; STREET CLEANING. It is unlawful for any vehicle to be parked on or along any public street, avenue, alley, or other public place in the City in such a manner as to interfere with street cleaning or the plowing or removal of snow and/or ice from the same.

1. Snow Emergency. In the event weather conditions require plowing and removal of snow or ice and other debris from public streets or alleys, the Mayor is hereby empowered to declare a snow emergency. Upon the Mayor's declaration of a snow emergency, the local media shall be promptly advised of the Mayor's declaration. A declared snow emergency shall be in force and effect for 48 hours except on any public street, avenue, alley, or other public place which has become cleared of snow or ice and other debris from curb to curb for the entire length of the block.
2. Parking Regulations. Upon the declaration of such emergency situation, no curb parking shall be permitted on the designated streets, avenues, alleys or other public places for the duration of the emergency or order. The provisions of this subsection shall supersede all other parking regulations in force and effect on any such arterial or residential street during such emergency situation and shall not require posting of the emergency situation.
3. Parking on City-Owned or Operated Parking Lots. It is unlawful for any vehicle to be parked on or in any City-owned or operated parking lot during the period of such declared emergency until such parking lots have been cleared of all snow, ice, or other debris.
4. Enforcement. The Mayor shall be responsible for the enforcement of said special parking restrictions when they are in effect. When a motor vehicle is parked in violation of the special parking restrictions, a peace officer shall attempt to locate the owner of the vehicle to have it removed. If the owner cannot be located after reasonable attempts, the vehicle shall be towed away at the direction of a peace officer, and the cost of the towing shall be charged at the owner of the vehicle.
5. Special Penalty. Any person who violates or fails to comply with the provisions of this section shall be guilty of a simple misdemeanor and shall be fined in accordance with the amount set forth in Section 70.02 of this Code of Ordinances.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Vehicle Unattended

70.04 Presumption in Reference to Illegal Parking

70.05 Impounding Vehicles

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

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

70.04 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.

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

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

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

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

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

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

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

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

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

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

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CHAPTER 71

GOLF CARTS

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| 71.01 Purpose | 71.06 Unlawful Operation |
| 71.02 Operation of Golf Carts Permitted | 71.07 Speed |
| 71.03 Prohibited Streets | 71.08 Insurance |
| 71.04 Equipment | 71.09 Permits |
| 71.05 Hours | 71.10 Penalty |

71.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on streets in the City as authorized by Section 321.247 of the *Code of Iowa*. This chapter applies whenever a golf cart is operated on any street or alley.

71.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons possessing a valid driver's license, and at least 16 years of age. No golf cart shall be used to carry more persons at one time than the number for which it is designed and equipped. All riders in the golf cart must remain seated at all times. Golf cart operators shall observe all State and local traffic control regulation and devices.

71.03 PROHIBITED STREETS. Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such a primary road extension.

71.04 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a slow moving vehicle sign and a bicycle safety flag at all times during operation, shall be equipped with adequate brakes and a rear view mirror on the driver's side.

71.05 HOURS. Golf carts may be operated on City streets only between sunrise and sunset. Golf carts are prohibited on streets during inclement weather when visibility is reduced or impaired by weather, smoke, fog, or other conditions or at any other time there is insufficient light to clearly see a person or vehicle on a roadway at a distance of 500 feet.

71.06 UNLAWFUL OPERATION. No golf carts shall be operated or parked upon City sidewalks. No golf cart shall be operated upon that portion of the street located between the curb line and the sidewalk or property line, referred to as the right-of-way. No golf cart shall be operated upon private property without the express consent of the owner thereof. No person shall operate while under the influence of intoxicating liquor, narcotics, or habit-forming drugs. No person shall operate a golf cart in a careless, reckless, or negligent manner endangering the person or property of another or causing injury or damage to same.

71.07 SPEED. No golf cart shall be operated on any City street at a speed in excess of 25 miles per hour.

71.08 INSURANCE. The owner of every golf cart being operated upon City streets and alleys shall have in effect liability insurance covering the golf cart in the same limits as required of automobiles by the financial responsibility provisions of Chapter 321A of the *Code of Iowa*.

71.09 PERMITS. No person shall operate a golf cart on any public street or alley, for any purpose, unless the operator possesses a City of Macedonia permit to operate a golf cart on City streets, issued by the City Clerk.

1. Golf cart owners may apply for a permit from the City Clerk on forms provided by the City.
2. The Clerk shall issue a permit once the owner/operator has provided the evidence that the operator is 16 years of age, and possesses a valid Iowa driver's license, and proof that the owner/operator has liability insurance covering operation of golf carts on City streets in the amount required by the *Code of Iowa*.
3. All permits shall be issued for a specific golf cart and shall be kept with the golf cart. The permit will be valid during the calendar year within which it is issued and shall be renewed annually. Permits may be issued at any time during the year but will be valid only through December 31.
4. The permit may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder.

71.10 PENALTY. In addition to the suspension or revocation of the permit, a person who violates this chapter is guilty of a simple misdemeanor punishable as a scheduled violation or as otherwise provided under the *Code of Iowa*.

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CHAPTER 90

WATER SERVICE SYSTEM

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| 90.01 Definitions | 90.10 Installation of Water Service Pipe |
| 90.02 Superintendent's Duties | 90.11 Property Owner's Responsibility |
| 90.03 Mandatory Connections | 90.12 Failure to Maintain |
| 90.04 Abandoned Connections | 90.13 Curb Valve |
| 90.05 Permit | 90.14 Interior Valve |
| 90.06 Compliance with Plumbing Code | 90.15 Inspection and Approval |
| 90.07 Plumber Required | 90.16 Completion by the City |
| 90.08 Excavations | 90.17 Shutting Off Water Supply |
| 90.09 Tapping Mains | 90.18 Operation of Curb Valve and Hydrants |

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the 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 "Waterworks" 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 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*.

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

90.08 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with the *State Plumbing Code* and/or the provisions of Chapter 135 of this Code of Ordinances.

90.09 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 3/4-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.

90.10 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.

90.11 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the water service pipe from the main to the building served, including the curb valve, shall be borne by the property owner. The property 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. The Superintendent shall notify any property owner whose curb valve is not in operating condition. When any portion of the water service pipe or the curb valve becomes defective and is in need of repair the property owner shall be notified and given a specific time period in which to repair the same. If the property owner fails to perform such repairs within the specified time period, the Superintendent shall shut off the water supply and have the repairs made. Water service shall not be restored until all costs of such repairs have been paid to the City.

90.12 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance, the City may do so and assess the costs thereof to the property.

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

90.13 CURB 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.

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

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

90.16 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for 24 hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.17 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be

turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

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CHAPTER 91

WATER METERS

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| 91.01 Purpose | 91.06 Meter Costs |
| 91.02 Water Use Metered | 91.07 Meter Repairs |
| 91.03 Fire Sprinkler Systems – Exception | 91.08 Right of Entry |
| 91.04 Location of Meters | 91.09 Meter Installation Fee |
| 91.05 Meter Setting | 91.10 Meter Testing |

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

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

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

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

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

91.06 METER 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 \$35.00 for each new installation of a water meter to a three-fourths inch line. Such meter is to remain the property of the City. The fee for larger meters is \$75.00.

91.10 METER TESTING. The Superintendent or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such

meter overruns to the extent of five percent or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than five percent of the total water bill and not for a longer period than three months. If the meter is found to be accurate or slow or less than five percent fast, the user shall pay a testing charge of \$25.00.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued

92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Customer Deposits

92.01 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. Where, in the judgment of the Council, special conditions exist to the extent that the application of the water charges provided in Section 92.02 would be inequitable or unfair to either the City or the customer, a special rate shall be considered by the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

| Gallons Used Per Month | Rate |
|------------------------------------|--|
| 1,000 gallons or less | \$27.00 (minimum bill) |
| Amounts in excess of 1,000 gallons | \$5.00 per 1,000 gallons or per each portion of a 1,000-gallon increment |

92.03 RATES OUTSIDE THE CITY. Water service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve at the same rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4[2] & 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Meters Read. Water meters shall be read each month.
2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the fifth day of each month.
3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the twenty-fifth day of the same month.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of \$10.00 shall be added to each delinquent bill.
5. Returned Check Fee. A returned check handling fee of \$30.00 shall be added to each bill which becomes delinquent as a result of said returned check.
6. Discontinuance Notices. When notices are to be given or posted on the property for water, sewer and solid waste service to be discontinued for nonpayment of City utility bill, a service fee of \$25.00 shall be charged to cover the cost of said notice.

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

(Code of Iowa, Sec. 384.84)

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

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost

of 90 days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

3. Written Notice. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within 30 business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within 10 business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within 30 business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the City within 10 business days of the completion of the change of ownership.

4. Mobile Homes, Modular Homes, and Manufactured Homes. A lien for nonpayment of utility services described in subsections 1 and 2 of this section shall not be placed upon a premises that is a mobile home, modular home, or manufactured home if the mobile home, modular home, or manufactured home is owned by a tenant of and located in a mobile home park or manufactured home community and the mobile home park or manufactured home community owner or manager is the account holder, unless the lease agreement specifies that the tenant is responsible for payment of a portion of the rates or charges billed to the account holder.

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

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer a \$50.00 deposit intended to guarantee the payment of bills for service. After two years a refund of the deposit will be paid to the customer if all payments have been made on time.

(Code of Iowa, Sec. 384.84)

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required

95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

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

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

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

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of 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 which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.

17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.

18. “Sewer” means a pipe or conduit for carrying sewage.

19. “Sewer service charges” means any and all charges, rates, fees, or rentals levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 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 which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

23. “Suspended solids” means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. “Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently.

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within 30 days after date of official notice from the City to do so provided that said public sewer is located within 200 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 final connection to the public sewer.

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

(IAC, 567-69.1[3])

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

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

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

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

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

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

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Plumber Required
96.03 Excavations
96.04 Connection Requirements
96.05 Interceptors Required

96.06 Sewer Tap
96.07 Inspection Required
96.08 Property Owner's Responsibility
96.09 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 building permit from the City. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within 30 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 permit may be revoked at any time for a violation of these chapters.

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

96.03 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.

96.04 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, which might thereby be weakened.
11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the Superintendent. Solvent-welded joints are not permitted.
12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six 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.

96.05 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.

96.06 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.

96.07 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.

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

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

cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

97.05 Restricted Discharges – Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

B. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than 150 degrees F.
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32 degrees and 150 degrees F.
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. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

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

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

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

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of an on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

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CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Special Rates
99.03 Payment of Bills

99.04 Lien for Nonpayment
99.05 Deposit
99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of \$25.50.

(Code of Iowa, Sec. 384.84)

99.02 SPECIAL RATES. Where, in the judgment of 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 considered by the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

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

99.04 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the property or premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.05 DEPOSIT. There shall be required from every customer not the owner of the premises served a deposit in an amount equivalent to three months' service fee intended to guarantee the payment of bills for service. After two years the deposit shall be refunded to the customer if all bills have been paid on time.

(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 105

SOLID WASTE CONTROL

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| 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 Prohibited Practices |
| 105.05 Open Burning Restricted | 105.11 Sanitary Disposal Project Designated |
| 105.06 Separation of Yard Waste Required | |

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

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

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

(IAC, 567-100.2)

9. “Residential premises” means a single-family dwelling and any multiple-family dwelling up to and including three (3) separate dwelling units.

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

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

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

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

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

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

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

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

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

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

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

(Code of Iowa, Ch. 657)

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

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

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

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

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

(IAC, 567-23.2[3b])

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

(IAC, 567-23.2[3c])

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

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

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

(IAC, 567-23.2[3g])

7. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

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

(IAC, 567-23.2[3i])

9. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

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

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

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

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

(IAC, 567-100.2)

(IAC, 567-102.13[2] and 400-27.14[2])

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

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. M.T.S., Inc. provides containers to residential customers. Such containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than 20 gallons or more than 35 gallons in nominal capacity, and shall be leakproof and waterproof. The total

weight of any container and contents shall not exceed 75 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 which 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.

Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than 12 hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

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

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

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Iowa Waste Systems are hereby designated as the official “Public Sanitary Disposal Project” for the disposal of solid waste produced or originating within the City.

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CHAPTER 106

COLLECTION OF SOLID WASTE

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

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way. The collector shall file

and maintain with the City evidence of satisfactory public liability insurance covering all operations of the collector pertaining to the collector's business and all equipment and vehicles to be operated in the conduct thereof.

106.08 COLLECTION FEES. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fee for Collection. The fee for solid waste collection, curbside recycling service, and disposal service, used or available, is \$14.00 per month for each residential premises and for each dwelling unit of a multiple-family dwelling.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for 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
110.02 Rights and Privileges
110.03 Pipes and Mains
110.04 Construction and Maintenance

110.05 Excavations
110.06 Indemnification
110.07 Applicable Regulations
110.08 Quality and Quantity

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell natural gas to the City and its inhabitants. For the term of the franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified by this chapter.[†]

110.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* or as subsequently amended or changed.

110.03 PIPES AND MAINS. The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing or extending gas pipes, mains, conduits and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall consider selecting said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s cost of relocation, the City shall consider selecting the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

[†] **EDITOR’S NOTE:** Ordinance No. 110.01A, adopting a gas franchise for the City, was passed and adopted on September 4, 2003.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

110.06 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

110.07 APPLICABLE REGULATIONS. The Company shall extend its mains and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

110.08 QUALITY AND QUANTITY. During the term of this franchise the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Rights and Privileges
111.03 Poles and Wires
111.04 Construction and Maintenance

111.05 Excavations
111.06 Indemnification
111.07 Applicable Regulations
111.08 Quantity and Quality

111.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the “Company,” and its successors and assigns, the right and franchise to acquire, construct, erect, maintain, and operate in the City a system for the transmission and distribution of electric energy along, under, over, and upon the streets, avenues, alleys, and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. For the term of the franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. The franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified by this chapter.[†]

111.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* or as subsequently amended or changed.

111.03 POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning of trees shall be done to current nationally accepted safety and utility industry standards.

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements which alternative route would not cause the relocation of the Company installations, the City shall consider selecting said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee’s or facility user’s equipment and facilities, and said other franchisee’s or user’s cost of relocation is less than the Company’s, the City shall consider selecting the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are

[†] **EDITOR’S NOTE:** Ordinance No. 111.01A, adopting an electric franchise for the City, was passed and adopted on September 4, 2003.

available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

111.06 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, caused or occasioned in whole or in part, by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

111.07 APPLICABLE REGULATIONS. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

111.08 QUANTITY AND QUALITY. During the term of this franchise the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

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CHAPTER 112

TELEPHONE FRANCHISE

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| 112.01 Grant of Franchise | 112.10 Damage to Public Property |
| 112.02 Police Power of City | 112.11 Moving Buildings |
| 112.03 Relocation of Grantee's Property | 112.12 Fire and Police Communication System |
| 112.04 Standard of Service | 112.13 Notification to Grantee of Excavations |
| 112.05 Emergency Use of Grantee's Facilities | 112.14 Successors and Assigns |
| 112.06 No Recourse Against City | 112.15 Termination |
| 112.07 Insurance | 112.16 Amendments |
| 112.08 Rates | 112.17 Acceptance by Grantee |
| 112.09 Restoration After Excavations | 112.18 Maps Furnished |

112.01 GRANT OF FRANCHISE. Breda Telephone Corporation, an Iowa corporation, its successors and assigns (hereinafter called the "Grantee") are hereby granted the nonexclusive right, permission and authority to use and occupy the streets, avenues, alleys and other public places of the City for a period of 15 years from and after the acceptance of the franchise as herein provided,[†] for the purpose of acquiring, constructing, maintaining, and operating, as the same are now or may hereafter be extended or located, the necessary facilities for a general telephone system within the City, including for the receiving and transmitting of messages by telephone, using wires, cables, carrier, microwave and/or electronic and/or other methods, for public and private use and to sell and furnish telephone services to the City and its inhabitants, for all such purposes, and to construct and maintain along, across and under streets, highways, avenues, alleys, bridges and public places the necessary fixtures, apparatus and equipment for such purposes. Provided, the Grantee shall so locate said poles, posts or other apparatus, equipment and fixtures and otherwise construct and maintain all necessary fixtures, apparatus and equipment in such places and in such manner as not to interfere with the free use and travel on the streets, avenues, sidewalks, alleys or other public grounds and shall put and keep in good order all those parts of said public places interfered with or used in the erection of said poles or posts or other necessary fixtures, apparatus and equipment and shall hereafter so maintain the same in like good order.

112.02 POLICE POWER OF CITY. The rights herein granted are subject to the exercise of police power as the same now is or may hereafter be possessed by or conferred upon the City, including but not limited to the placement of poles, wires, and underground conduits, and appurtenances such as guys, anchors, and manholes to avoid traffic hazard, disturbance of other utilities or obstruction of traveled ways and access thereto, and the clearance of wires from the ground. The Grantee agrees to comply with all present and future regulations of the City provided in any existing or subsequently enacted ordinance concerning any of the above matters or any other subjects of the City's police power. The franchise shall not restrict in any manner the right of the Council or other governing body of the City in the exercise of its police power which may now or hereafter be authorized or permitted by the laws of the State of Iowa.

112.03 RELOCATION OF GRANTEE'S PROPERTY. Whenever the City shall require the relocation or reinstallation of any property of the Grantee in or on any of the streets or other public grounds of the City, it shall be the obligation of the Grantee on notice of such requirement to remove and relocate or reinstall such property as may be reasonably necessary

[†] **EDITOR'S NOTE:** Ordinance No. 38 adopted a telephone franchise for the City.

to meet the requirements of the City, which relocation, removal or reinstallation by Grantee shall be at the sole cost of the Grantee.

112.04 STANDARD OF SERVICE. Grantee shall render efficient service, make repairs promptly and interrupt service only for a good cause and for the shortest time possible. Interruptions for system maintenance insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system. Any failures or malfunctions of the system shall be corrected by the Grantee within a reasonable period of time after such failure or malfunction except or unless such failure or malfunction is over a substantial portion of the Grantee's system and has been caused by storm, fire, lightning, explosion, or other similar catastrophe.

112.05 EMERGENCY USE OF GRANTEE'S FACILITIES. In the event of an emergency or disaster, Grantee shall, on request of City, make available its facilities to City for emergency use during the period of such emergency or disaster and shall provide such personnel as necessary to operate properly under the circumstances.

112.06 NO RECOURSE AGAINST CITY. Grantee shall have no recourse whatsoever against the City for any loss, cost or expenses or damage arising out of any of the provisions or requirements of the franchise or because of the enforcement thereof by City. Grantee expressly acknowledges that on accepting this franchise it did so relying on its own investigation and understanding of the power and authority of the City to grant the franchise.

112.07 INSURANCE. Grantee shall furnish to City and file with the City, and at all times during the existence of any franchise granted hereunder, maintain in full force and effect, at its own cost and expense, a comprehensive liability insurance policy, in protection of the City, its officers, boards, commissions, agents and employees, in a company licensed to do business in the State of Iowa, in a form satisfactory to the City, protecting the City and all described persons against liability for loss or damage for personal injury, death and property damage, occasioned by the operation of the Grantee under such franchise, with minimum liability limits of \$100,000.00 for personal injury or death of any one person, and \$300,000.00 for personal injury or death of two or more persons in any one occurrence, and \$100,000.00 for damage to property resulting from any occurrence. The policies mentioned in this section shall name the City, its officers, boards, commissions, agents and employees as additional insured, and shall contain a provision that a written notice of cancellation or reduction in coverage shall be delivered to the City 10 days in advance of the effective date thereof. It is expressly understood and agreed by and between Grantee and the City that the Grantee shall save the City, its officers, boards, commissions, agents and employees harmless and indemnify them from and against any and all claims, demands, actions, suits and proceedings and from any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees, arising out of or resulting from the construction, operation, and maintenance by the Grantee of its telephone system in the City or any other matters in connection therewith whether the loss, cost, expense or damage is caused by or arises out of the negligence of Grantee or of its officers, agents, employees or otherwise. The City shall notify the Grantee's representative in the City within 10 days after the presentation of any claim or demand, either by suit or otherwise, made against the City on account of any such matter as aforesaid.

112.08 RATES. The rates and regulations of Grantee for its services to any subscriber shall be fair and reasonable and no higher than necessary to meet all costs of service, assuming efficient and economical management, including a fair return on the fair value of the

properties devoted to such service, and such rates and charges shall not be unreasonably discriminatory.

112.09 RESTORATION AFTER EXCAVATIONS. Subject to the provisions of any existing or subsequently enacted ordinance of the City, the Grantee may take up the pavement or make excavations in the streets, alleys, avenues or other public places in said City after obtaining the consent of the City, which consent shall not be unreasonably withheld, and provided that the Grantee restores the same to as good condition as they were prior to the excavation. Whenever possible, borings under the street shall be used instead of excavations.

112.10 DAMAGE TO PUBLIC PROPERTY. Whenever Grantee or any person on its behalf shall cause any injuries or damage to any public property or street, by or because of installation, maintenance or operation of the telephone facilities, such injury or damage shall be immediately remedied at Grantee's cost in such fashion as directed by the City unless ordinances of the City shall make other provision therefor.

112.11 MOVING BUILDINGS. The Grantee shall, upon request of any person holding a building or moving permit issued by the City, temporarily raise or lower its wires or other property or relocate the same temporarily so as to permit the moving or erection of buildings. The expenses of any such temporary removal, raising or lowering of wires or other property shall be paid by the person requesting the same and Grantee shall have the authority to require such payment in advance. The Grantee shall be given, in such cases, not less than 48 hours' advance notice to arrange for the actions required.

112.12 FIRE AND POLICE COMMUNICATION SYSTEM. The Grantee shall allow the City to attach to its system the City fire and/or police communication system, including any necessary apparatus incident thereto, provided that such attachment shall be made under the direction and supervision of the Grantee and made and maintained so as to not interfere with the Grantee's use of its equipment.

112.13 NOTIFICATION TO GRANTEE OF EXCAVATIONS. Whenever necessary for the City to ditch, trench, or excavate along or across any streets, alleys or highways in the City, within 10 feet of any conduit or cable buried by the Grantee, in the streets, alleys, or other public places of the City, the City shall, not less than 48 hours before commencing such work, notify the Grantee. Other persons doing excavation or trenching shall notify the telephone corporation of any said proposed excavation not less than 24 hours prior to commencement of work. The failure of any person to notify the Grantee thereof shall not subject the City to any liability to the Grantee for any injury or damages that the Grantee may suffer therefrom.

112.14 SUCCESSORS AND ASSIGNS. All of the provisions of this chapter shall apply to the successors or assigns of the Grantee, with the same force and effect as they do to the Grantee itself.

112.15 TERMINATION. Each right and privilege hereunder shall, without the passage of any resolution or ordinance by Grantee, be null and void on the failure of the Grantee to comply with any or all of the terms and conditions specified herein. Grantee will be given 90 days following receipt of written notice of noncompliance in which to make corrections or to take other required actions and if corrections or other required actions are not taken within said period, the Grantee shall have forfeited all rights hereunder. Grantee shall post a

performance bond of \$50,000.00 to assure that the streets, alleys and public places from which any equipment is removed shall be placed in good condition.

112.16 AMENDMENTS. The City reserves the right to recommend to the voters amendments to this chapter in any manner necessary for the safety of the public, and in case it is necessary to do so, to protect the public interests.

112.17 ACCEPTANCE BY GRANTEE. Grantee agrees by the acceptance of this franchise that it will not at any time set up against the City in any claim or proceeding any condition or term of the franchise as unreasonable, arbitrary, or void, but shall be required to accept the validity of the terms and conditions of the franchise in their entirety.

112.18 MAPS FURNISHED. Grantee shall furnish the City, without charge, reproducible prints showing the location of all poles within the City's corporate limits, joint poles, underground cables, ducts and other telephone facilities. Said telephone company shall submit a new, up-to-date map each year on or near the anniversary date of the franchise, and may, at its option, submit amendments at more frequent intervals to the end that its facilities can be more fully protected from injury due to public improvements, and the City more readily enforce its control over the use of its streets, alleys and other public places. The City agrees to require its officers, engineers, contractors, supervisors and employees to exercise diligence in avoiding damage to such telephone facilities and to consult with Grantee's representatives where reasonable doubts exist as to the location and chance of damage to Grantee's facilities. Grantee agrees that its officers, supervisors, employees and agents will take similar precautions with the City facilities.

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CHAPTER 120

BEER, LIQUOR AND WINE CONTROL

120.01 General Prohibition
120.02 Persons Under Legal Age
120.03 Public Consumption or Intoxication

120.04 Open Containers in Motor Vehicles
120.05 License or Permit Required
120.06 Social Host

120.01 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 terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.
(*Code of Iowa, Sec. 123.2*)

120.02 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 liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person’s employment by a liquor control licensee, or wine or beer permittee under State laws.
(*Code of Iowa, Sec. 123.47[2]*)

2. A person under legal age shall not misrepresent the person’s age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine, or beer from any licensee or permittee.
(*Code of Iowa, Sec. 123.49[3]*)

120.03 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
 - A. “Arrest” means the same as defined in Section 804.5 of the *Code of Iowa* and includes taking into custody pursuant to Section 232.19 of the *Code of Iowa*.
 - B. “Chemical test” means a test of a person’s blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
 - C. “Peace officer” means the same as defined in Section 801.4 of the *Code of Iowa*.
 - D. “School” means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any

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

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

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

(Code of Iowa, Sec. 123.46)

120.04 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(6) of this Code of Ordinances.]*

120.05 LICENSE OR PERMIT REQUIRED. It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.2 and 123.171)

120.06 SOCIAL HOST. A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of eighteen, to consume or possess on such property any alcoholic liquor, wine, or beer. 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 liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

(Code of Iowa, Sec. 123.47[1A])

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 or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product”

includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. **Retail Cigarette Permits.** It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. **Retail Tobacco Permits.** It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

| FOR PERMITS GRANTED DURING: | FEE: |
|------------------------------------|-------------|
| July, August or September | \$ 75.00 |
| October, November or December | \$ 56.25 |
| January, February or March | \$ 37.50 |
| April, May or June | \$ 18.75 |

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within 30 days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 18 years of age. The provision of this section includes prohibiting a minor 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
122.02 Definitions
122.03 License Required
122.04 Application for License

122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 License Exemptions

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, age, 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 product to be sold and length of time sought to be covered by the license. The applicant’s automobile registration number and driver’s license number if any shall be also be provided.

122.05 LICENSE FEES. A license fee of not less than \$1.00 or more than \$10.00 per day, said amount to be fixed by the Mayor or Clerk, shall be paid prior to the issuance of any license.

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 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 Riverside 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.

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CHAPTER 123

JUNKYARDS

123.01 Definitions
123.02 Permit Required
123.03 Permit Application
123.04 Permit Fee; Expiration
123.05 Issuance of Permit
123.06 Permit Revocation
123.07 Maintenance of Junkyards

123.08 Storage of Junk
123.09 Wrecked, Junked, Dismantled or Abandoned
Automobiles
123.10 Dismantling or Burning Junked Automobiles
or Articles
123.11 Nuisances
123.12 Violation; Penalty

123.01 DEFINITIONS. Certain words used in this chapter have the following definitions:

1. “Junk” is defined as any material or article having lost its value for the original purpose for which it was created or manufactured and which has a value only for the salvage of its material or parts.
2. “Junked automobile” means any automobile not capable of being driven from the place of its location under its own power without the addition of parts or repairs thereon; and in addition, any automobile not equipped with four inflated tires is considered a junked automobile.
3. For the purposes of this chapter, “junkyards” includes salvage yards, auto wrecking and salvage, used parts sales and junk, iron or rag storage or baling.

123.02 PERMIT REQUIRED. It is unlawful for any person to operate or maintain a junkyard or engage in the business of dealing in junk within the City limits without having obtained a permit from the City to engage in the business of dealing in junk or to operate or to maintain a junkyard.

123.03 PERMIT APPLICATION. Application for a permit to conduct a business, described in Section 123.02, shall be in writing, setting out the true names of the owners of the business, the exact description of the premises upon which the applicant intends to conduct the business, the nature and kinds of material and junk which will be bought, sold and/or stored; and the application shall be accompanied by the required fee. A statement that the applicant will abide by and conduct the business according to the ordinances of the City shall also be attached.

123.04 PERMIT FEE; EXPIRATION. The annual permit fee is \$10.00. All permits shall expire on December 31 following the date of issuance, unless revoked in the manner set forth in Section 123.06. All fees collected under the terms of this chapter shall be allocated into the General Fund of the City. Permits issued for a part of a year shall be computed on a quarterly basis.

123.05 ISSUANCE OF PERMIT. The application for permit shall be promptly considered by the Council, which shall determine within 20 days after filing thereof with the Clerk whether the application is approved. If approved, a permit shall forthwith be issued by the Clerk.

123.06 PERMIT REVOCATION. The permit of any person who has been convicted of three or more violations within one year from the date of issuance of the permit, or any of the

regulations as set out in this chapter, shall be subject to revocation. The permit may be revoked as set out in this section only by a two-thirds vote of the Council at any regular or special meeting thereof, provided the holder of the permit has been notified, by written notice, of the time and place of the hearing concerning the revocation by the Council, at least five days prior to the date of the hearing.

123.07 MAINTENANCE OF JUNKYARDS. No portion of the front yard of any establishment dealing in junk or salvaged parts by any person is to be used for the conduct of business in any manner whatsoever, except for the parking of customer or employee vehicles. Any premises on which such activities are carried on shall be wholly enclosed within a building or by a wooden or masonry fence or wall not less than eight feet in height, and in which any opening or cracks are less than 15 percent of the total area, unless some other form of concealment is approved by a three-fourths majority vote of the Council. Any such concealment shall be kept and maintained with due regard for the appearance, health and safety of the public.

123.08 STORAGE OF JUNK. It is unlawful for any person so engaged in the business of maintaining or operating a junkyard in the City to allow, establish or maintain an accumulation of old iron, tin, fencing, wire, scrap metal, rubber tires, rags, papers, or other junk without complying with Section 123.07.

123.09 WRECKED, JUNKED, DISMANTLED OR ABANDONED AUTOMOBILES. It is unlawful for any person engaged in maintaining a junkyard in the City to place, park, store, maintain or leave any wrecked, junked, dismantled or abandoned automobiles on any street of the City, or upon any parking strip along the streets or upon any private or railroad property or pieces of land which are outside the enclosure described and set out in Section 123.07.

123.10 DISMANTLING OR BURNING JUNKED AUTOMOBILES OR ARTICLES. It is unlawful for any person engaged in the junk business in the City to engage in the dismantling, wrecking or breaking up of any automobile, piece of machinery or articles without complying with Section 123.07. It is unlawful for any person, whether engaged in the junk business in the City, or otherwise, to burn any automobile, piece of machinery or junk within the corporate limits of the City, unless special permission is granted by the Council.

123.11 NUISANCES. The continued maintenance of any junk or junk materials or cars which constitute the basis of a conviction shall constitute a nuisance, and may be abated as provided for by Chapter 50 of this Code of Ordinances.

123.12 VIOLATION; PENALTY. A violation of any of the provisions of this chapter, including the continued operation or maintenance of a junkyard after revocation of permit, upon conviction, shall be punished accordingly. Each separate day of continued violation shall constitute a separate offense.

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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 sign, any lamp, obstruction, guard or other article or things, or extinguish any lamp or light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of \$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/property owner.
7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 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 therefor to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.
12. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. The abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

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

135.11 FAILURE TO MAINTAIN. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be

[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

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

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| 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 and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

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 three feet wide and four inches thick, and each section shall be no more than four feet in length.
 - B. All sidewalks throughout the Business District shall be constructed from lot line to the curb line unless the location of the sidewalk is varied by an appropriate resolution of the Council upon application by the landowner.
 - C. Driveway areas shall be not less than six inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from inside the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight 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 FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within 30 days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

[illegible]

CHAPTER 138

STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

| EDITOR'S NOTE | | | |
|---|---------|---------------|---------|
| The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect. | | | |
| ORDINANCE NO. | ADOPTED | ORDINANCE NO. | ADOPTED |
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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited

140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.
(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term “controlled access facility” means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.
(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.
(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:
(Code of Iowa, Sec. 306A.3)

1. Project No. F-767(4). On the Primary Road System extension improvement, Project No. F-767(4), Primary Road No. Pottawattamie County G-66 within the City, described as follows:

From Potter Street (Station 741+87.8), thence east to the east corporation line (Station 748+67.9); also on the north side from Station 748+67.9 to Station 754+21

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. F-767(4) on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.
2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.

3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.
4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

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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 Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (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 MACEDONIA, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; 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

[†] **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.

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])

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 ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned 911 number from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than three inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of 30 days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING MAP. The City shall be responsible for preparing and maintaining a building numbering map.

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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 in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line three feet from the property line.
2. Spacing. Trees shall not be planted on any parking which 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. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
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, d & 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 which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 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 & h])

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CHAPTER 155

PROPERTY MAINTENANCE CODE

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| 155.01 Title and Purpose | 155.07 Notice |
| 155.02 Interpretation | 155.08 Appeal |
| 155.03 Abrogation and Greater Restrictions | 155.09 Abatement Remedies and Penalties |
| 155.04 Definitions | 155.10 Court Order |
| 155.05 Maintenance Standards | 155.11 Emergency Abatement Procedure |
| 155.06 Enforcement | 155.12 Appeals to City Council |

155.01 TITLE AND PURPOSE. This chapter may be referred to as the Macedonia Maintenance Code. The purpose of this chapter is to protect the public health, safety, and welfare, esthetics, and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for proper repair, demolition, or vacation of premises which do not comply with this Code.

155.02 INTERPRETATION. The provisions of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal of any other power granted by the *Code of Iowa*. Nothing in this chapter shall be construed to abrogate the federal or State Constitutions, or to grant powers to the City which are otherwise reserved by and for federal and State government.

155.03 ABROGATION AND GREATER RESTRICTIONS. It is not the intent of this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply the higher standard shall prevail.

155.04 DEFINITIONS. Words used in this Chapter shall have the following meanings:

1. “Abandoned building” means any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any completed building or portion thereof which has stood unoccupied for longer than six months, and which is unsecured or has other violations of provisions of the Code of Ordinances.
2. “Deterioration” means a state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.
3. “Enforcement officer” means the Mayor.
4. “Exposed to public view” means any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.

5. "Exterior" means yards and other open outdoor spaces on premises, and the external surfaces of any structure.
6. "Extermination" means the control and elimination of insects, rodents, and vermin.
7. "Infestation" means the presence of insects, rodents, vermin, or other pests on the premise to the extent that they constitute a health hazard, are deemed by the enforcement officer to be in threat of spreading to adjoining premises, or are exposed to public view.
8. "Junk" means any discarded or salvaged material or fixture; obsolete or inoperable machinery or vehicle, or parts thereof; or scrap metal.
9. "Owner" means any person who, alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.
10. "Premises" means a lot, plot, or parcel of land together with the structures thereon.
11. "Public authority" means any officer of any department or branch of the City, County, or State charged with regulating health, fire, zoning, or building regulations, or other activities concerning property in the City.
12. "Refuse" means any material that has lost its value for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard; plastic; metals; glass; yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food; crockery, bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.
13. "Responsible party" means any person having possession, charge care, or control of real personal property, whether with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

155.05 MAINTENANCE STANDARDS.

1. General. The exterior of every premises and structure shall be maintained in good repair, to the end that the premises and each structure thereon will be preserved; adjoining properties protected from blighting influences; and safety and fire hazards eliminated.
2. Maintenance of Premises. Each and every premises shall be kept free of all nuisances, health, safety and fire hazards, unsanitary conditions, and infestation. It shall be the duty of the responsible party to keep the premises free of all said conditions and to promptly remove and abate same, which include (but are not limited to) the following declared nuisances:

- A. Any structure which is in such a dilapidated condition that is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; or any building that is defined as abandoned or a public nuisance by Chapter 657A of the *Code of Iowa*.
 - B. Failure to establish a permanent cover of perennial grasses or ornamental ground cover on any property as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gullying, or by wind or water.
 - C. Any nuisance as defined herein or described as such by Chapter 657 of the *Code of Iowa*.
 - D. Conditions which are conducive to the harborage or breeding of vermin.
 - E. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
3. **Building Maintenance.** Every building shall be maintained to be weather- and water-tight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes, or doors or windows that are not properly maintained and/or that are not in functional condition and/or that do not fit reasonably well with their frames, or missing or broken glass or doors; or loose, cracked, or damaged shingles or siding; or other defects in the exterior finish which admit rain, cold air dampness, rodents, insects, or vermin. Basements, cellars, and crawl spaces shall be free of standing water and hazards. All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.
4. **Residing and Reconstruction.** Materials and practices used in the reconstruction and residing of any building shall be of standard quality and appearance commensurate with the character of other properties in the vicinity of the premises. Their appearance, as judged under prevailing appraisal practices and standards, shall not depreciate the value of adjoining premises or the neighborhood.

155.06 ENFORCEMENT. The creation or maintenance of a violation of this chapter is prohibited and shall constitute a violation of this Code of Ordinances. Each day that a violation is permitted to continue constitutes a separate offense.

1. All inspections, enforcement actions, and hearings on violations, unless expressly stated to the contrary, shall be under the direction and supervision of the enforcement officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The enforcement officer is hereby authorized to abate such violations in accordance with the procedures of this Code and to serve notice to abate same, whether upon the owner or other responsible party for a premises upon which a

violation is being maintained, or upon the person or persons causing or maintaining the violation.

2. The objective of this Code being the abatement of violations, persons violating this Code shall be allowed a reasonable amount of time to voluntarily remedy the violation before action to assess costs or penalties for a violation is undertaken. Consideration will be given to evidence of a good faith effort to correct the violation; whether an imminent health or safety hazard exists; whether the person has previously been notified of or charged with violations of a similar nature; and other factors.

3. Violations which are not voluntarily remedied may be abated by an administrative abatement process; the municipal infraction process; by court proceedings; or by City abatement and assessment of costs therefor against the responsible party, at the discretion of the City.

4. The enforcement officer may, but shall not be required to, give notice to abate prior to issuance of a civil citation for a repeat offense involving the same property and occurring within a year of a prior violation and notice to abate.

155.07 NOTICE. When service of a notice to abate is required, the following methods of service shall be deemed adequate:

1. By personal service upon the owner or other responsible party of the property upon which a violation is being maintained or exists, or upon the person or persons causing or maintaining the violation.

2. If, after reasonable effort, personal service cannot be made, any two of the following methods of service shall be considered adequate: (i) sending the notice by certified mail, return receipt requested to the last known address; (ii) publishing the notice once a week for two consecutive weeks in a newspaper of general circulation in the City; or (iii) by posting the notice in a conspicuous place on the property or building upon which a violation is being maintained or exists.

155.08 APPEAL. Any person affected by any notice to abate a violation of this chapter may request a hearing on the matter before the City Council, provided that a written appeal shall be filed with the enforcement officer within 10 days after the notice to abate was served. The appeal shall be filed on a form provided by the City for that purpose, and shall state the particular section of the ordinance or interpretation thereof being appealed, and a brief statement of the grounds upon which such appeal is taken. Failure to file a timely appeal as prescribed herein shall constitute a waiver of the right to a hearing, and the notice shall become final. The City Council's determination and order shall be appealable to the County District Court by writ of certiorari. Such appeal shall be filed within 30 days from the date of the City Council's decision. The City Council's order shall not be carried out until the time for filing the writ of certiorari has expired.

155.09 ABATEMENT REMEDIES AND PENALTIES. In the event that the violation is not abated as ordered and within the time specified, the City may abate such violation by any of the following means:

1. By undertaking such abatement and assessing the costs therefor against the property.

2. By issuance of a civil citation charging the owner or responsible party with a municipal violation.

Abatement may include (but is not limited to) repair, removal, cleaning, extermination, cutting, mowing, grading, sewer repairs, draining, securing, barricading or fencing, demolition of dangerous or abandoned structures or portions thereof, and elimination of nuisances. Abatement costs may include the cost of removing or eliminating the violation; the costs of investigation, such as title searches, inspection, and testing; the cost of notification; filing costs; and other related administrative costs. Before the assessment of any charges for work done or caused to be done by the City, the owner of the property proposed to be assessed shall be provided notice and opportunity for hearing before the City Council. The notice shall set forth the amount proposed to be assessed, and include a statement of the time, place, and date of hearing.

155.10 COURT ORDER. The court may order any one or more of the following:

1. Place a judgment against the person and/or property of defendant for the costs of abatement.
2. Levy a civil penalty (fine) against the defendant of up to \$750.00 for the first offense and up to \$1,000.00 for repeat offenses.
3. Order abatement of the violation in any manner.
4. Assess costs of abatement against the premises.

155.11 EMERGENCY ABATEMENT PROCEDURE. If an enforcement officer determines that a violation exists and constitutes an imminent, clear, and compelling danger to health, safety, or welfare of persons or property, the enforcement officer is authorized to abate the violation or have it abated without prior notice and opportunity for hearing. The costs of such action may be assessed against the premises. However, prior to such assessment, the City shall give a property owner notice and the opportunity for a hearing before the City Council in accordance with Section 155.07 above.

155.12 APPEALS TO CITY COUNCIL.

1. Authority. The City Council is hereby empowered to hold hearings on appeals from the regulations of this chapter.
2. Procedure. Upon receipt of an appeal timely filed, the enforcement officer shall set a time and place for the City Council to hear such appeal and shall publish notice thereof.

A. The hearing shall be open to the public and shall be recorded either electronically or manually. All parties shall be afforded an opportunity to respond and present evidence and argument. If the appellant fails to appear at such hearing, the City Council may proceed with the hearing and make a decision in the absence of the appellant.

B. The City Council's finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, even if such evidence would be inadmissible in a court of law. The City Council's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

3. Decision of the City Council. No hearing shall be valid unless a majority of the City Council is present, and no appeal shall be granted unless reached by a majority of all members of the City Council. The City Council shall render a decision based upon the record, at the conclusion of the hearing or within a reasonable time

thereafter. The City Council may affirm, modify or reverse any action, interpretation, notice or order which has been issued in connection with the enforcement of this Code. Following the decision of the City Council, all parties shall be notified of the decision personally or by general mail service delivered to the address provided by the party. Any party to the hearing, including the City, may seek judicial review by filing a petition in the County District Court within 30 days after the issuance of the decision by the City Council.

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CHAPTER 156

SWIMMING POOL PERMIT

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|---------------------------|---|
| 156.01 Purpose | 156.07 Issuance of Permit |
| 156.02 Definitions | 156.08 Suspension or Revocation |
| 156.03 Permit Required | 156.09 Permit Fee |
| 156.04 Permit Application | 156.10 Appeal or Denial, Suspension or Revocation of Permit |
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156.01 PURPOSE. The purpose of this chapter is to protect public health, property, welfare, and safety by establishing a permitting process for the construction and location of swimming pools on property within the City limits.

156.02 DEFINITIONS.

1. “Barrier” means a fence, a wall, a building wall, the wall of an above-ground swimming pool, or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool. This barrier shall be not less than 54 inches in height and at least 4 feet from each side of the pool. Such fence or wall shall be non-climbable and shall be constructed sufficiently strong and of such structural design as to make the pool inaccessible to small children. There shall not be a distance greater than 10 feet between fence posts. The provisions of this section are applicable to all types of swimming pools, whether permanent or temporary in nature, if said pool is more than 24 inches in depth and the water is left in said pool more than 24 hours. All gates or doors constructed with the barrier shall be equipped with a self-closing and self-latching device with locking provisions for keeping the gate or door securely closed at all times when not in actual use.
2. “Hot tub” see “private swimming pool.”
3. “In-ground pool” see “private swimming pool.”
4. “Power safety cover” means a pool cover which is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.
5. “Private swimming pool” means any structure that contains water over 24 inches (610 mm) in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with an occupancy in a Residential - Division 3 district and which is available only to the family and guests of the householder. This includes in-ground, above-ground, and on-ground swimming pool, hot tubs, and spas.
6. “Private swimming pool, indoor” means any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

156.03 PERMIT REQUIRED. No person shall erect, construct, enlarge, alter, repair, move, improve, convert, or demolish any swimming pool in the City, or cause the same to be done, without first obtaining a separate swimming pool permit for each swimming pool from the City Clerk.

156.04 PERMIT APPLICATION. To obtain any required permit, the applicant shall first file an application therefor on forms provided by the City Clerk. Every applicant for a permit shall state in writing on the application form the character of the work proposed to be done, if there are any connections to City utilities or sewers, if there are any electrical connections associated with the swimming pool, a site plan showing the location of the swimming pool in relation to the property boundaries and improvements on the property, the location of the barrier, proof of liability insurance covering the swimming pool, and such other information pertinent thereto as may be required by the City Clerk. Each application shall contain all information necessary to the lawful enforcement of the provisions of this Code of Ordinances.

156.05 PERMIT REVIEW. The City Clerk shall review all applications for permits under this chapter. The City Clerk may refer the application to any other person, department, or committee for recommendations on approval of the application.

156.06 TEMPORARY PERMIT. If the application as submitted appears to conform to the requirements of this Code of Ordinances, the City Clerk shall issue a temporary permit for the applicant to erect, construct, enlarge, alter, repair, move, improve, convert, or demolish the swimming pool pursuant to the terms of the application. The temporary permit shall be good for a period of 30 days after the date of issuance.

156.07 ISSUANCE OF PERMIT. When the City Clerk is satisfied that the terms of the application have been complied with and the swimming pool conforms to this Code of Ordinances, and that the fees as specified have been paid in full, the City Clerk shall issue a permit therefor to the applicant. The permit issued under this section shall run for a period of five (5) years.

156.08 SUSPENSION OR REVOCATION. The City Clerk may, in writing, suspend or revoke any permit issued under this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or if the swimming pool is in violation of any of the provisions of this Code of Ordinances.

156.09 PERMIT FEE. A fee of \$20.00 shall be paid upon the issuance of a permit under Section 156.04 of this chapter.

156.10 APPEAL OF DENIAL, SUSPENSION OR REVOCATION OF PERMIT. Any person denied a swimming pool permit or any person issued a permit which has been suspended or revoked may have a hearing with the Council as to the actions of the City Clerk in denying, suspending, or revoking the permit. A request for a hearing must be made in writing and delivered to the City Clerk within 14 days of the denial, suspension, or revocation of the permit or it will be conclusively presumed that the actions of the City Clerk in denying, suspending, or revoking the permit are correct. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive.

156.11 VIOLATIONS. Failure to obtain a permit or otherwise comply with the provisions of this chapter shall be considered a municipal infraction under Chapter 4 of this Code of Ordinances, and punishable as therein provided.

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CHAPTER 165

ZONING REGULATIONS

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| 165.02 Purpose | 165.09 Class A Business Districts |
| 165.03 Definitions | 165.10 Class A Warehouse Districts |
| 165.04 Use Requirements and Restrictions | 165.11 Class A Industrial Districts |
| 165.05 Residential Dwelling Standards | 165.12 Parking and Unloading |
| 165.06 Establishment of Districts | 165.13 Prohibited Uses |
| 165.07 Zoning Map | 165.14 Board of Adjustment |

165.01 TITLE. The ordinance codified in this chapter shall be known and may be cited as the “Zoning Ordinance of the City of Macedonia, Iowa.”

165.02 PURPOSE. The purpose of this chapter is to provide adequate air and light, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, morals, safety and general welfare of the City’s inhabitants.

165.03 DEFINITIONS. For the purpose of this chapter, the following words are defined:

1. “Dwelling” means a building used as the living quarters for one or more families, not including auto courts, rooming homes or tourist homes.
2. “Lot” includes plat or parcel.
3. “Structure” means a combination of materials other than a building to form a construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, fences, signs and chicken coops.
4. “Used or occupied” as applied to any land or building includes the words “intended, arranged or designed to be used or occupied.”

165.04 USE REQUIREMENTS AND RESTRICTIONS. Except as provided in this chapter:

1. No building or land shall be used or occupied and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations specified in this chapter for the district in which it is located.
2. No building shall hereafter be erected or altered:
 - A. To have a greater height;
 - B. To accommodate or house a greater number of families;
 - C. To occupy a greater percentage of lot area; or
 - D. To have narrower or smaller rear yards, inner or outer courts.

than specified in this chapter for the district in which such building is located. Any alteration must be approved by Zoning Board and City Council.

3. No part of a yard or other open space required about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

165.05 RESIDENTIAL DWELLING STANDARDS. All residential dwelling units shall meet the following minimum standards:

1. The dwelling unit must have a minimum width of 22 feet for at least 65 percent of the length of the dwelling unit, said dimension to be exclusive of attached garages, porches or other accessory structures.
2. All dwelling units including attached garages shall be placed on a permanent frost-free foundation. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures.
3. All dwelling units shall provide for a minimum of 900 square feet of floor space.
4. All dwelling units shall have a minimum roof pitch of 3:12. This requirement shall not apply to manufactured housing if the housing otherwise complies with 42 U.S.C. Sec. 5403.
5. All dwelling units shall have an exterior wall covering that is either:
 - A. Wood or masonry finish or its appearance, and/or
 - B. Vertical or horizontal grooved siding or lap siding or its appearance.

The use of flat or corrugated sheet metal for the exterior walls or roof covering is prohibited.

6. All family dwellings shall have individual street access.
7. Mobile homes shall be located within an approved mobile home park, with individual utility hookups, set on a concrete pad and tied down, and a paved drive with street access.

165.06 ESTABLISHMENT OF DISTRICTS. The City is divided into the following types of districts:

1. Class A Residential Districts. Residential districts;
2. Class A Business Districts. Main Street retail business districts;
3. Class A Industrial and Warehouse Districts. Any type of manufacturing or other similar plant areas in the City.

165.07 ZONING MAP. Such districts are bounded and defined as shown on a map entitled, "Zoning Map of the City of Macedonia, Iowa," which is made a part of and incorporated into this chapter with all explanatory matter therein.

165.08 CLASS A RESIDENTIAL DISTRICTS.

1. Permitted Uses. The following uses of land are permitted in all Class A Residential Districts:

- A. Family dwelling units.
- B. Churches and places of worship and parochial schools.
- C. Public schools, public libraries, parks, playgrounds.
- D. Greenhouses and customary agricultural operations.
- E. Small home operations, provided that there shall be no signs or other evidence of such use other than a small announcement or professional sign not over three feet by three feet in size.
- F. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity conducted as a business.

2. Building Height. No dwelling or other structure shall be erected to a height in excess of 35 feet.

3. Lot Size and Population Density. Lot area shall not be less than 9,000 square feet, and lot width not less than 75 feet. There shall be no more than one dwelling placed on each lot of the above-mentioned size.

4. Lot Coverage. All dwellings or other structures, including accessory buildings, shall not cover more than 40 percent of the area of the lot. If more than one lot is used, the percentage shall be computed on the combined size of the lots.

5. Yards. Each lot shall have front, side and rear yards not less than the following depth and width:

- A. Front yard depth, 30 feet; where lots have a double frontage, the required front yard shall be provided on both streets.
- B. Each side yard width, 10 feet.
- C. Rear yard depth, 20 percent of the lot depth.

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165.09 CLASS A BUSINESS DISTRICTS.

1. Permitted Uses. The following regulations and uses permitted shall apply in all general business districts, otherwise known as Class A Business Districts:

A. All the uses permitted in any residential district subject to all the provisions specified for such residential districts.

B. Stores and shops for the conducting of any lawful retail business.

C. Personal service shops.

D. Banks, theaters, offices or restaurants.

E. Garages and filling stations upon the approval of the Board of Adjustment and subject to the following provisions:

(1) Pumps, lubricating or other devices are located at least 20 feet away from any street line or highway right-of-way.

(2) All fuel, oil or similar substances are stored at least 20 feet distant from any street or lot line.

F. The following wholesale businesses will be allowed: storage in bulk of, or warehouses for, such material as:

(1) Building material.

(2) Contractor's equipment.

(3) Farm equipment and implements.

(4) Clothing.

(5) Drugs.

(6) Food.

(7) Hardware.

G. The wholesale or bulk storage of petroleum and other explosive or combustible mixtures is permitted subject to conformance to all rules, regulations by the Fire Chief and fire or safety ordinances pertinent to the storage of such products, and further rulings by the State Fire Marshal.

H. Other uses permitted:

Advertising signs and billboards
Amusement places
Apartment houses
Auction rooms
Bakeries
Blacksmith and locksmith shops
Electric repair shops
Freight stations
Hotels
Laundries
Painting and decorating shops
Photographic galleries
Plumbing shops
Police and fire department stations

Post offices
Printing shops
Railroad passenger station
Recreation buildings and structures
Roofing or plastering shops or both
Sales and/or show rooms
Shoe repair shops
Telegraph service stations
Undertaking establishments
Other uses which, in the opinion of the Board of Adjustment, are of the same general character as those listed above as permitted uses and which will not be detrimental to the district in which they are located.

No building shall be constructed of a material other than of fireproof construction. The materials used shall be approved by the Council.

2. Building Height. No building shall be erected to a height in excess of 40 feet within Class A Business Districts.

165.10 CLASS A WAREHOUSE DISTRICTS.

1. Permitted Uses. The following regulations and uses permitted shall apply in all Class A Warehouse Districts:

A. Wholesale Storage for Class A Business of materials such as:

- (1) Building material.
- (2) Contractor's equipment.
- (3) Farm equipment and implements.
- (4) Hardware.

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165.11 CLASS A INDUSTRIAL DISTRICTS.

1. Permitted Uses. The following regulations and uses permitted shall apply in all Class A Industrial Districts:
 - A. All uses not otherwise prohibited by law except any residential use, or uses otherwise prohibited by ordinance.
 - B. Junkyards, automobile wrecking yards, scrap yards, rag storage, salvage yards, sorting or baling must be entirely enclosed within a fence, or by other means of concealment as approved by the Board of Adjustment, as outlined and set forth in Chapter 123 of this Code of Ordinances.
2. Building Height Limit. No building in this district shall exceed four stories or 60 feet in height.

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165.12 PARKING AND UNLOADING. Any building hereafter erected or converted to any commercial or industrial use shall provide one space, with minimum dimensions of 12 feet by 50 feet for the loading or unloading of trucks either within the building or upon the lot of every building containing 10,000 square feet or less. One additional loading space shall be provided for each additional 10,000 square feet of gross floor area or fraction thereof.

165.13 PROHIBITED USES.

1. Uses Prohibited. All uses of land, buildings and structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, vibration or similar substances or conditions are prohibited. In general, those uses which have been declared a nuisance in any court of record, or which may be unreasonably obnoxious, unhealthful, or offensive by reason of the emission of odor, dust, smoke, or noise, are prohibited.
2. Review by Board of Adjustment. The above prohibitions are subject to review by the Board of Adjustment, and such uses may be permitted if approved by the Board and subject to the securing of a permit therefor and to such conditions, restrictions, and safeguards as may be deemed necessary for the purpose of protecting the health, safety, morals or general welfare of the community.

165.14 BOARD OF ADJUSTMENT.

1. Membership. A Board of Adjustment, hereafter referred to by the word "Board," is established. Such Board shall consist of five members appointed by the Council. The members of the Board are appointed to serve staggered terms of five years, and vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The Council shall have power to remove any member of the Board for cause upon written charges and after public hearing.
2. Chairperson. The Council shall name one of the members of the Board of Adjustment as Chairperson, and in case of a vacancy shall name another Chairperson. The Chairperson, or in the absence of the Chairperson, the acting Chairperson, may administer oaths and compel the attendance of witnesses.
3. Meetings. All meetings of the Board shall be held at the call of the Chairperson and at such time and place within the City as the Board may determine. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote indicating such fact, and shall keep complete records of its hearings and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement and decision of the Board shall immediately be filed in the office of the Board and shall be a public record. The Board shall adopt its own rules of procedure not conflicting with this chapter or with the *Code of Iowa*.
4. Jurisdiction and Authority. The Board shall hear and decide appeals from and review any order, requirement, decision or determination of the administrative officer charged with the enforcement of this chapter. It shall also hear and decide on matters referred to it or upon which it is required to pass under this chapter. The Board may reverse or affirm wholly or partly, or may modify or amend the order, requirement, decision or determination appealed from as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. It is not the intention to grant to the Board the power or authority to

alter or change the zoning ordinance or the district maps. Such power or authority rests solely with the Council, in the manner provided in this chapter and in accordance with the laws of the State.

5. Appeals. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeals shall be taken within a reasonable time as provided by the rules of the Board by filing with the administrative officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds therefor. The administrative officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board shall fix a reasonable time for the hearing of the appeal and shall render a decision thereon without unreasonable delay. Any person may appear and testify at the hearing either in person or by a duly authorized person or attorney. Before making a recommendation on an appeal, the Board shall conduct a public hearing. A reasonable time and place for the hearing shall be selected by the Board, and due notice by letter shall be given to all owners of the property located within five hundred (500) feet in all directions from the property for which the variation is being sought. The letters shall state the location of the property and a brief description of the nature of the appeal, and shall state the time and place of the public hearing.

6. Variations. Where an application for a variation of any part of this chapter is made to the Board, in which it is alleged that practical difficulties or particular hardships not intended or not common to other property owners will be imposed by the strict application of the terms of this chapter, the Board may make a variation in the application of the regulations established by this chapter as are in harmony with the general purposes and intent of this chapter. No variation in the application of the provisions of this chapter shall be made unless and until the Board shall be satisfied that granting the variation will not:

- A. Merely serve as a convenience to the applicant and is not necessary to alleviate demonstrable hardship or difficulty so great as to warrant the variation.
- B. Impair the general purpose and intent of the regulations and provisions contained in this chapter.
- C. Impair an adequate supply of light and air to adjacent property.
- D. Increase the hazard from fire and other danger to the property.
- E. Diminish the value of land and buildings in the City.
- F. Increase the congestion and traffic hazards on public streets.
- G. Otherwise impair the public health, safety and general welfare of the inhabitants of the City.

The concurring vote of three members of the Board shall be necessary to reverse any requirement, decision, order or determination of the administrative officer or to decide in favor of the applicant in regard to any matter upon which the Board is authorized by this chapter to render a decision.

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CHAPTER 166

ZONING PERMITS

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166.01 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations for the issuance of zoning permits for the erecting and altering of buildings in the City, as well as the use and occupancy of such buildings.

(Code of Iowa, Sec. 364.1)

166.02 ZONING PERMIT COMMISSIONERS. The two Zoning Permit Commissioners are the Zoning Commissioners and are both responsible for the administration and enforcement with the assistance of the City Clerk for this chapter and the issuance of all zoning permits, and to maintain permanent and current records thereof as well as to forward to the Council all required documents for use by them. The Zoning Permit Commissioners, in their capacity as Zoning Commissioners, are each authorized to inspect buildings and use of lands to determine compliance with the Zoning Regulations contained in this Code of Ordinances. The Mayor shall appoint two Commissioners to serve as the Zoning Permit Commissioners at the Council's first meeting in January of each year or as soon thereafter as the Mayor may decide.

166.03 INSPECTIONS. The Zoning Commissioners shall make all of the required inspections, or the Zoning Commissioners shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Zoning Commissioners are authorized to engage such experts as deemed necessary to report upon unusual technical issues that arise.

166.04 RIGHT OF ENTRY. Where it is necessary to make an inspection to enforce the provisions of this Code of Ordinances, or where the Zoning Commissioners have reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this Code of Ordinances, which makes the structure or premises unsafe, dangerous or hazardous, the Zoning Commissioners are authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Code of Ordinances, provided that if such structure or premises is occupied, credentials must be presented to the occupant and entry requested. If such structure or premises is unoccupied, the Zoning Commissioners shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is

refused, the Zoning Commissioners shall have recourse to the remedies provided by law to secure entry.

166.05 LIABILITY. The Zoning Commissioners, charged with the enforcement of this Code, while acting for the City in good faith and without malice in the discharge of the duties required by this Code or other pertinent law or ordinance, shall not thereby be rendered liable personally and are hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of Commissioners duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Code shall be defended by one or more legal representatives of the City until the final termination of the proceedings. The Zoning Commissioners shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of the adopted Codes.

166.06 PERMIT REQUIRED. No erection, structural alteration, conversion, enlargement, or reconstruction of any building or use of any land within the City shall occur before an application has been submitted, reviewed and a finding made that the proposed uses will meet the requirements of the zoning ordinances of the City and a permit issued therefor. A permit is required for work such as new homes, additions, patios, decks, porches, garages, accessory buildings, or for work that would change the outside dimensions of an existing building. A permit is not required for interior remodeling, roofing, window replacement, or siding a building. Further, a permit is not required for the following:

1. Any one-story detached accessory structures to one- and/or two-family residences, used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.
2. Fences, provided that the construction of the same shall comply with the standards established in this Code of Ordinances.
3. Retaining walls that are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.
4. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1.
5. Sidewalks, driveways, patios, and decks not more than 30 inches above adjacent grade, and not over any basement or story below.
6. Temporary motion picture, television, rodeo, and theater stage sets and scenery (for no more than 15 consecutive calendar days).
7. Prefabricated swimming pools accessory to one and/or two single-family dwellings and which are less than 24 inches deep, or do not exceed 5,000 gallons and are installed entirely above ground and otherwise comply with this Code of Ordinances.
8. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.
9. Swings and other playground equipment.
10. Awnings supported by an exterior wall and which do not project more than 54 inches from the exterior wall and do not require additional support.

11. Roofing overlays (shingles and felt only), residing, door and window replacements (same size) on existing structures.

166.07 APPLICATION. To obtain a permit for the erection, structural alteration, conversion, enlargement, or reconstruction of any building or use of any land within the City zoning as required in this chapter, an application shall first be made in writing, filed with the Zoning Commissioners, which application shall contain the following information.

1. Name. The name and address of the applicant.
2. Location. The street address and full legal description of the property.
3. Proposed Work. The nature of the work proposed to be done.
4. Use. The use for which the structure is or will be used.
5. Plans. Application for permits shall be accompanied by such drawings of the proposed work, including such floor plans, sections, elevations and structural details, as the Zoning Commissioners may require. There shall also be filed a diagram or sketch in a form and size acceptable to the Zoning Commissioners with all dimensions figured, showing accurately the size and location of the lot to be built upon, and the location and size of the building or structure to be erected or altered.

166.08 FEE. A permit fee shall be paid to the City prior to issuance of the permit. Rates will be as follows: for projects up to \$5,000.00, a fee of \$5.00, and for every \$1,000.00 over, \$1.00 per \$1,000.00. In the event that work has commenced without first obtaining a permit, the permit fee shall be doubled. The payment of such double fee shall not relieve any persons from fully complying with the requirements of this chapter in the execution of the work.

166.09 AMENDMENTS. Nothing shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought but any such amendments shall be subject to the prior written approval of the Zoning Commissioners. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

166.10 COMPLETION OF EXISTING BUILDINGS. A permit shall be required to complete any construction started before the effective date of this chapter. Nothing contained in this chapter shall require any change in the plans, construction, or size of a building for which construction was started before the effective date of this chapter; provided, however, construction under such circumstances shall be completed within one year after the effective date of this chapter. Extensions to this time frame may be granted by an affirmative vote of three-fourths of all of the members of the Council.

166.11 APPLICATION APPROVED. It is the duty of the Zoning Commissioners to examine applications for permits within a reasonable time after filing. If, after examination, the Zoning Commissioners finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, the Zoning Commissioners shall inform the City Clerk or designated person to notify the zoning permit applicant of approval or denial of such permit and if approved by the Council, the Council shall instruct the City Clerk to issue the zoning permit to the applicant. Said permit shall be issued in duplicate, one copy for the applicant and one copy to be retained in the City records. A copy of the permit shall be provided to the Pottawattamie County Assessor's Office.

166.12 APPLICATION DENIED; APPEAL. If the Zoning Commissioners deny an application for permit, the reasons for such denial shall be stated and the applicant notified of such denial and the right to appeal to the Council. The Council upon appeal may affirm, modify, or reverse the determination of the Zoning Commissioners; provided, however, no application shall be approved and permit issued which would result in an abrogation of the intent and purpose of this chapter.

166.13 RESTRICTIONS. No permit for the erection or alteration of a building or similar structure shall be granted unless it definitely appears that such erection or alteration shall not cause or be the source of the following:

(Code of Iowa, Sec. 414.24)

1. Noise. Any undue noise.
2. Electrical Interference. Any undue radio or television interference.
3. Odors. Any offensive odors.
4. Refuse. Any offensive or unsightly refuse.
5. Smoke. Any offensive or undue smoke.
6. Fire Hazard. Any fire hazard.
7. Congestion. Any undue gathering, congregation, parking of cars or undue congestion of people or traffic.
8. Other. Any effect which will be obnoxious, offensive, dangerous or injurious to the health, welfare and safety of citizens.

166.14 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plan, or an approved amendment thereof, shall be strictly adhered to. It is unlawful to reduce or diminish the area of a lot or plot of which a plan has been filed and has been used as the basis for a permit, unless a revised plan showing the proposed change in conditions shall have been filed and approved; provided, this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

166.15 REVOCATION. The Zoning Commissioners may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based or if the work performed under the permit is different from the application or plans submitted.

166.16 PERMIT VOID. The permit becomes null and void if work or construction authorized is not commenced within 60 days, or if construction or work is suspended or abandoned for a period of 120 days at any time after work is commenced, or if the work is not completed within the time frame specified in the zoning permit. Extensions to these time frames may be granted by an affirmative vote of three-fourths of all of the members of the Council.

166.17 PLACEMENT OF PERMIT. The zoning permit or copy shall be kept on the site of the work until the completion of the project. The "Permit Issued" poster shall be visible from the street.

166.18 INFRASTRUCTURE. Prior to the issuance of a zoning permit, the applicant must establish to the satisfaction of the Zoning Commissioners that the site is adequately serviced by infrastructure to accommodate the proposed structure and use. The primary elements that will be reviewed in making this determination will be: street and sidewalk, sanitary and storm sewer, and water.

166.19 TEMPORARY STRUCTURES AND USES. The Zoning Commissioners are authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 consecutive calendar days. The Zoning Commissioners are authorized to grant extensions for demonstrated cause.

166.20 TERMINATION OF PERMIT APPROVAL. The Zoning Commissioners are authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

166.21 INVESTIGATIVE FEES. Any person who commences any work on a building or structure before obtaining the necessary zoning permit shall be subject to an investigative fee established in the Schedule of Fees adopted by resolution by the City Council. Said fee shall be in addition to the required permit fees. A person also may be subject to a municipal infraction punishable by a civil penalty as provided in this Code of Ordinances.

166.22 REFUNDS. The Zoning Commissioners may authorize refunding of any fee paid which was erroneously paid or collected. The Zoning Commissioners may authorize refunding of not more than 80 percent of the zoning permit fee paid when no work has been done under a permit issued. The Zoning Commissioners shall not authorize refunding of any fee paid except on written application filed by the person who paid for the permit, not later than 180 calendar days after the date of the fee payment.

166.23 NOTICE OF VIOLATION. The Zoning Commissioners are authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of the adopted Codes, or in violation of a permit or certificate issued. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

166.24 VIOLATION; PENALTIES. Any person who violates any provision of this chapter shall be deemed guilty of committing a municipal infraction punishable by a civil penalty as provided in this Code of Ordinances.

166.25 STOP WORK ORDER AUTHORITY. Whenever the Zoning Commissioners find any work being performed in a manner either contrary to the provisions of this Code, the Zoning Commissioners are authorized to issue a stop work order.

166.26 ISSUANCE OF A STOP WORK ORDER. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

166.27 UNLAWFUL CONTINUANCE. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a municipal infraction punishable by a civil penalty as provided in this Code of Ordinances.

[The next page is 645]

CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Title
170.02 Definitions
170.03 Required Approval
170.04 Procedure
170.05 Preliminary Plats

170.06 Final Plats
170.07 Design Standards
170.08 Improvements
170.09 Amendments

170.01 TITLE. These regulations shall be known as the “Land Subdivision Regulations” of Macedonia, Iowa.

170.02 DEFINITIONS. The following terms are defined for the purposes of this chapter:

1. “Building line” means a line on a plat between which line and street or private place no buildings or structures may be erected.
2. “Planning Commission” or “Commission” means the City Planning and Zoning Commission.
3. “Plat” means a map, drawing or chart on which the subdivider’s plan of the subdivision is presented and which the subdivider submits for approval and intends on final form to record.
4. “Subdivider” means a person who causes land to be divided into a subdivision for himself or herself or for others.
5. “Subdivision” means the division of a lot, tract or parcel of land into three or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or of building development. It also includes a resubdivision of land or lots.

170.03 REQUIRED APPROVAL.

1. No plat of any subdivision shall be entitled to record in the County Recorder’s office or have any validity until it shall have been approved in the manner prescribed in this chapter.
2. There shall be no building permit for the building or repair for any structure located on a lot in any subdivision, the plat of which has been prepared after the date of the adoption of the ordinance codified in this chapter, but which has not been approved in accordance with the provisions contained in this chapter.
3. The Council shall not permit any public improvement over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted after the date of the adoption of the ordinance codified in this chapter, unless such subdivision or street has been approved in accordance with the provisions contained in this chapter.

170.04 PROCEDURE.

1. Submission of Preliminary Plat. Whenever the owner of any tract or parcel of land within the corporate limits of the City wishes to make a subdivision of the same,

the subdivider shall cause to be prepared a preliminary plat of the subdivision and shall submit three copies of the preliminary plat and other information to the Commission for its preliminary study and approval. The preliminary plat shall contain such information and data as is outlined in Section 170.05.

2. Approval or Rejection. The Commission shall study such preliminary plat to see if it conforms with the minimum standards and requirements as outlined in this chapter and shall approve or reject such plat within 30 days after the date of submission thereof to the Commission. If the Commission does not act within 30 days, the preliminary plat which has been submitted shall be deemed to be approved; provided, however, the subdivider may agree to an extension of the time for a period not to exceed 60 days. The approval of the preliminary plat by the Commission shall be null and void unless the final plat is presented within 180 days after date of approval.

3. Hearing and Notice. Before approving a preliminary plat, the Commission may, in its discretion, hold a public hearing, notice of which shall be given by publication in a newspaper of general circulation within the City, and by posting notices at opposite corners of one of the boundaries of the plat, both seven days prior to such public hearing.

4. Submission of Final Plat. The subdivider shall also submit to the Commission, for its approval or rejection, eight copies of a final plat of the subdivision, which shall contain the data and information outlined in Section 170.06. If the Commission approves the plat, such approval and the date thereof shall be noted on the plat over the signature of the Chairperson of the Commission.

5. Approval of Final Plat. After approval of the final plat of the subdivision by the Commission, the recommendation of approval and the final plat shall be submitted to the Council by the Commission for final approval and for the acceptance of all streets, alleys, ways, easements, parks or other areas preserved for or dedicated to the public. If the Commission does not approve the final plat of the subdivision, the Council may approve the plat and accept the public areas and easements thereon only by four-fifths vote of the entire membership of the Council.

170.05 PRELIMINARY PLATS.

1. Contents and Requirements. In seeking to subdivide land, the owner shall submit three copies of a preliminary plat to the Commission before submission of a final plat. The preliminary plat shall be drawn to scale and shall show:

- A. The official description of the property to be platted.
- B. Contour intervals of not more than five feet.
- C. The location of such surface features as property lines, buildings, railroads, utilities, watercourses and similar items affecting the development; also location and size of such subsurface features as existing or nearest available sewers, water mains, culverts and drain pipes.
- D. A vicinity sketch or key map at a scale of not more than 500 feet to the inch shall be shown or accompany the proposed plat. This map shall show how streets and alleys in the proposed subdivision may connect with existing and proposed streets and alleys in neighboring areas, to produce the most advantageous development of the entire area.

- E. All existing adjacent subdivisions, streets and tract lines of acreage parcels, the names of owners thereof, and the nearest existing and planned thoroughfares.
 - F. The title under which the proposed subdivision is to be recorded, with the names and addresses of the owners and subdividers; also north point, scale, date, name of surveyor or engineer, and designer.
 - G. Sites for schools, parks, playgrounds and provision for major thoroughfares, secondary thoroughfares, and collector streets in their location, size or width in accordance with all ordinances pertaining thereto, in order that the time and manner of their dedication to the City may be considered or determined.
 - H. The zoning district or districts, in which the land to be subdivided falls according to the zoning ordinance.
 - I. For main and secondary thoroughfares, the minimum radius of curvature shall be 300 feet on the centerline, for collector streets, 100 feet, and for local residential streets, 50 feet. The maximum grade shall not exceed seven percent for main and secondary thoroughfares, or 12 percent for minor or local service streets. All changes in grades shall be connected by vertical curves of minimum length equal to fifteen times the algebraic difference in rate of grade for thoroughfares, and one-half this minimum length for minor or local streets. The grade alignment and resultant visibility especially at intersections shall be worked out in detail to meet the approval of the Commission and Council.
- 2. The scale of such preliminary plats shall not be greater than one inch to 100 feet. In the case of a subdivision where any of the above data may not be required by the Commission in acting upon the tentative plat, the Commission may waive the requirement to submit such data.
 - 3. Fees. Before a preliminary plat may be considered by the Commission, the subdivider or agent shall deposit with the City Treasurer a fee based upon the following schedule:
 - A. Where the preliminary plat covers a total land area of one acre or less - \$50.00.
 - B. Where the preliminary plat covers a total land area in excess of one acre - \$50.00 plus \$10.00 per one-half acre in excess of one acre.

170.06 FINAL PLATS.

- 1. Requirements. Eight (8) prints of the final plat shall be submitted to the Commission. This plat shall be made from an accurate survey drawn to 100 feet to the inch or larger scale by a licensed engineer or surveyor.
- 2. Contents. The final plat shall show:
 - A. The boundaries of the property, the lines of all proposed streets and alleys with their width, and any other areas intended to be dedicated to public use.
 - B. The lines of adjoining streets and alleys with their width and names.

- C. All lot lines, building lines and easements, with figures showing their dimensions.
 - D. All dimensions, both linear and angular, necessary for locating boundaries of the subdivided area, or of the lot lines, streets, alleys, easements and building line setbacks, and any other similar public or private uses. The linear dimensions shall be expressed in feet and decimals of a foot.
 - E. Radii, arc and chords, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners.
 - F. All surveyor's monuments, together with their descriptions.
 - G. Title and description of property subdivided, where located and extent, points of compass, scale of plan, and certification and name of engineer or surveyor staking the lots.
 - H. Profiles shall be made on tracing cloth of all streets and alleys 50 feet horizontal scale and five feet vertical scale recommended. Profiles shall show location, size and grade of all conduits, sewers, pipelines, etc., to be placed under the streets and alleys. Profiles of east and west streets shall be drawn so that the west end of the profile shall be at the left side of the drawing. Streets shall, insofar as possible, conform to the contours to avoid grades in excess of seven percent.
 - I. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
3. Information to Be Provided in Accompanying Material. The following material shall be submitted with the final plat:
- A. A correct legal description of the subdivision land.
 - B. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
 - C. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
 - D. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing

the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

E. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

F. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

4. Recording. Approval of the final plat by the Council shall be null and void if the plat is not recorded within 30 days after the date of approval, unless application for an extension of time is made in writing during the 30-day period to the Council and granted.

5. Variance. Where it can be shown there are extraordinary hardships in the way of complete compliance with these regulations, the Commission shall have the power to vary the regulations so that substantial justice may be done and public interest secured; provided, however, no such variation shall have the effect of reducing the traffic capacity of any thoroughfare or secondary thoroughfare below that recommended by the City Engineer.

170.07 DESIGN STANDARDS.

1. Generally. No subdivision plat shall be approved by either the Commission or by the Council unless it conforms to the minimum standards and required items as set forth in this chapter.

2. Acre Subdivision. Whenever the area is divided into lots containing one or more acres and there are indications that such lots will eventually be re-subdivided into small building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots.

3. Blocks. Residential blocks shall normally be of sufficient width for two tiers of lots. Block lengths shall be determined by circulation and other needs. A pedestrian way, not less than 10 feet in width, may be required approximately midway in a block that is more than 700 feet in length. Where residential blocks with lots deeper than 200 feet are proposed, a reservation for a future street through the middle of the block, longitudinally, may be required.

4. Building Lines. Building lines shall be shown on all lots intended for residential use of any character and on all commercial and industrial lots immediately adjoining any residential area.

5. Comprehensive Plan. The design shall conform to the master plan and to any other applicable plans of the Commission.

6. Easements Along Streams. Whenever any stream or important surface watercourse is located in an area that is being subdivided, the subdivider shall, at his or her own expense, make adequate provisions for straightening or widening the channel so that it will properly carry the surface water and shall also 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 streams and for recreation use. The width of such easement shall be not less than 20 feet and the total width of

the easement shall be adequate to provide for any necessary channel relocation and straightening.

7. Lots.

A. All side lines of lots shall be at right angles to straight street lines, or radial to curved street lines, unless a variation to this rule will give better street and lot plan. Lots with a double frontage shall be avoided.

B. The minimum dimensions for lots shall be 10,000 square feet with a width of 80 feet and a depth of 120 feet when served by public sewer and water.

C. The minimum dimensions for lots shall be 10,000 square feet with a width of 100 feet and depth of 150 feet when not served by public sewer and water.

D. The minimum front yard depth of dwelling shall be 35 feet; for other uses, 45 feet, all to be measured from the right-of-way line.

E. The minimum side yard width for single-family dwellings shall be 10 feet, for multiple dwellings, 45 feet, and for other purposes, 10 feet.

F. Corner lots shall be of such width as to permit the maintenance of all building lines and yards as required, and all areas facing streets shall have front yard depth as required herein.

G. Lots on major street intersections and at all other points likely to be dangerous shall have a radius of not less than 15 feet at the street corner.

8. Relation to Adjoining Street System. The arrangement of streets in new subdivisions shall make provision for the continuation of the principal existing streets in adjoining additions (or their proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established in this chapter. The street and alley arrangement shall also be such as to cause no hardship to owners of adjoining property when they plan their own land and seek to provide for convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted. Streets shall ordinarily intersect other streets at right angles.

9. Street and Alley Width.

A. The width for major streets shall conform to the widths designated on the major streets plan, when developed.

B. The minimum width for major streets shall be 66 feet except that in the cases where the topography or special conditions make a street of less width more suitable, the Commission may waive the above requirement.

C. The minimum width for collector streets shall be 60 feet, and for local residential streets, 50 feet if improved with curb and gutter or paving. If only a gravel street is required, the minimum width for local residential streets shall be 60 feet.

D. Dead-end streets over 300 feet in length shall have a minimum width of 50 feet, unless, because of unusual conditions, the Commission shall

approve a street of less width. All dead-end streets shall terminate in a circular right-of-way with a minimum diameter of 90 feet, unless the Commission approves an equally safe and convenient turnaround. No dead-end street shall be longer than 600 feet.

10. Street Names. Street names for streets which are extensions of existing streets shall be the same. Street names for these and for other streets shall be subject to the Commission approval.

170.08 IMPROVEMENTS.

1. Bond or Certified Check Required. Before the plat of any area shall be approved, the subdivider shall make and install the improvements described in this section or post a bond or certified check approved by the City Attorney and the City Treasurer, which bond or certified check will assure to the City that the improvements will be completed by the subdivider within a specified time. In lieu of posting of a bond or certified check, the subdivider may enter into a written agreement with the City which will assure to the City that the improvements will be completed within a time specified. The amount of the bond or certified check shall be such an amount as necessary to cover the estimated cost of the improvements for the area being developed which may be only a part of the area platted as may be approved by the City Engineer. If the improvements are not completed within the specified time, the Council may use the proceeds of the bond or certified check or any necessary portion thereof to complete the same.

2. Minimum Requirements. The minimum improvements installed in any subdivision before the plat can be finally approved shall be in accord with the following:

A. Streets shall be built according to the standards and specifications of the City Engineer which shall in no case be a surface from curb to curb consisting of less than Portland concrete paving with integral curb.

B. Alleys shall be built according to the standards and specifications of the City Engineer.

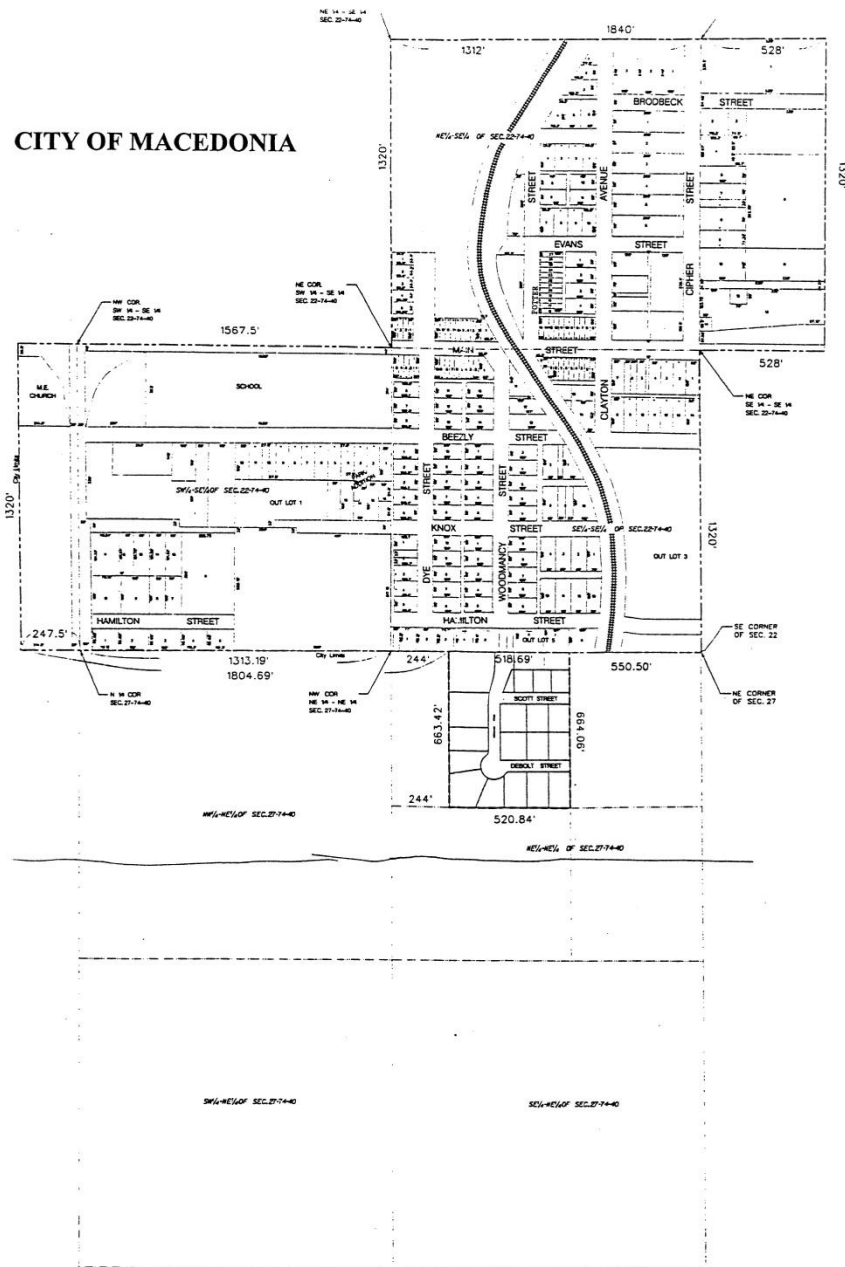
C. Sidewalks shall be constructed on both sides of all streets being dedicated for public use. Sidewalks in residential areas shall be a minimum of four feet in width and shall be in accordance with designs and specifications approved by the Council and at grades established by the City Engineer. Sidewalks in other areas shall be at a width approved by the Council, all sidewalks to be in accordance with Chapter 136 of this Code of Ordinances.

D. The subdivider, at his or her expense, shall install sanitary sewers, water mains, and storm sewers and their appurtenances in accordance with the plans and specifications supplied by the subdivider and approved by the Council. Water and sewer lines shall be made accessible to each lot by the subdivider when available; and when immediate connection to the present City sewer system is not available, the subdivider must make additional provision for disposal of sewage by septic tanks. Such installation must be approved by the City health officer and the City Engineer as such as will properly care for and protect the health, safety and welfare of the existing and probable future population within the subdivision and the surrounding area

and in accordance with recommendations and regulations of the Iowa State Health Department.

E. The subdivider shall, in addition to the performance bond required by this chapter, post a maintenance bond covering each of the improvements in an amount recommended by the City Engineer and approved by the Council for a period of two years or as provided by State statute.

170.09 AMENDMENTS. Any regulations or provisions of this chapter may be changed and amended from time to time by the Council; provided, however, such changes and amendments shall be not effective until after study and report by the Commission and until after public hearing has been held, public notice of which shall have been given in a newspaper of general circulation in the City at least 15 days prior to such hearing.



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