

CODE OF ORDINANCES

OF THE

CITY OF

BEAMAN, IOWA

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**CODE OF ORDINANCES
OF THE
CITY OF BEAMAN, IOWA**

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SUPPLEMENT RECORD

[illegible]

CODE OF ORDINANCES CITY OF BEAMAN, IOWA

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CHAPTER 1

CODE OF ORDINANCES

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

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

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 "Ordinances" means the ordinances of the City of Beaman, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

14. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
15. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
16. "Shall" imposes a duty.
17. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
18. "State" means the State of Iowa.
19. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.
20. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

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

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

(Code of Iowa, Sec. 364.1)

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

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section, or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least \$105.00 but not to exceed \$855.00. 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 3.

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 Beaman, 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 four years.

(Code of Iowa, Sec. 376.2)

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

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

[†] **EDITOR'S NOTE:** Ordinance No. 44 adopting a charter for the City was passed and approved by the Council on June 1, 1975. Ordinance No. 22, changing the term of the Mayor from two years to four years, and Ordinance No. 23, changing the term of Council members from two years to four years, were adopted January 13, 1993.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, Treasurer, and such other officers and employees as may be necessary and advisable except as allowed in Subsection 5.

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

(Code of Iowa, Sec. 64.3)

(Section 5.02 – Ord. 173 – Mar. 25 Supp.)

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

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

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

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

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

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

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

1. Definitions. The following terms are defined for use in this section.
 - A. “Closed session” means a meeting to which all members of the public do not have access as allowed by Section 21.5 of the *Code of Iowa*.
 - B. “Hybrid meeting” means a meeting involving both remote participation and in-person participation by members.
(Code of Iowa, Sec. 21.8(4)(a))
 - C. “Open session” means a meeting to which all members of the public have access.
(Code of Iowa, Sec. 21.2(3))
 - D. “Remote participation” means real-time participation by a remotely located individual in a meeting which is being held in a different physical location using integrated audio, video, and other digital tools.
(Code of Iowa, Sec. 21.8(4)(b))
 - E. “Reasonable notice” means advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body

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

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

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

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

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

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

2. Notice of Meetings. Reasonable notice of the time, date, and place of each meeting and its tentative agenda shall be given.

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

(Section 5.06 – Ord. 174 – Mar. 25 Supp.)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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CHAPTER 6

CITY ELECTIONS

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

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund not to exceed \$25.00, for the payment of small claims for minor purchases, collect-on-delivery transportation charges, and small fees customarily paid at the time of rendering a service, for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

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

(545 IAC 2.5[2])

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

(545 IAC 2.5[3])

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

(545 IAC 2.5[4])

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

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

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

(545 IAC 2.5[5])

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

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

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

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

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

4. Annual Statement.

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

- A. On or before 4:00 p.m. on March 5 of each year, the City shall file, with the Department of Management, a report containing all necessary information

for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

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

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

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

(1) Notice of the public hearing shall be published not less than 10 nor more than 20 days prior to the hearing, in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

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

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on a date no later than the date of publication of the notice.

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

a. Notice of the public hearing was provided to each property owner and each taxpayer within the political subdivision in statements required under Section 24.2A(2)(b) of the *Code of Iowa*.

- b. The political subdivision can demonstrate to the County Auditor that the political subdivision provided sufficient time for the newspaper to publish the notice.

(Subsection 4 – Ord. 169 – Mar. 25 Supp.)

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

5. Notice of Hearing. Following, and not until the requirements, of Subsection 4 of this section, are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor.

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

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

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

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

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

(Section 7.05 – Ord. 164 – Oct. 23 Supp.)

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

(Code of Iowa, Sec. 384.18)

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

(545 IAC 2.2)

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

(545 IAC 2.3)

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

(545 IAC 2.4)

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

(545 IAC 2.4)

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash transactions, budgetary accounts and for recording unappropriated surpluses.
3. Checks. Checks shall be prenumbered and signed by the City Clerk/Treasurer, Mayor, or Mayor Pro Tem following Council approval, except as provided by Subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include (but is not limited to) payment of utility bills, contractual obligations, payroll, and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

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

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program, and activity for the preceding month.
2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable

lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

(Code of Iowa, Sec. 384.22)

(Section 7.08 – Ord. 164 – Oct. 23 Supp.)

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Library Board of Trustees
3. Council Committees

15.04 COMPENSATION. The salary of the Mayor is \$1,650.00 per year, paid semiannually.
(*Code of Iowa, Sec. 372.13[8]*)

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

(*Code of Iowa, Sec. 372.4*)

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CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

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

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

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 and 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 26)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Regular Meetings. The regular meetings of the Council shall be on the second Wednesday of each month at 6:30 p.m. in the Council Chambers at City Hall. If such day falls on a legal holiday, the meeting shall be held on the preceding or succeeding Wednesday, at the Council’s discretion.

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

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

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

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

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

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

5. Compelling Attendance. Any three members of the Council can compel the attendance of the absent members at any regular, adjourned, or duly called meeting, by serving a written notice upon the absent members to attend at once.

6. Minimum Attendance Requirement. Any City Council member may call for the removal of any Council member who fails to attend two or more meetings, unexcused, in a 12-month period. Upon passage of said motion for public hearing, the Clerk shall send notice to the subject Council member by certified mail informing said Council member of the date, time, and place of a public hearing on the matter of said Council member’s removal from office. A simple majority is required to remove any Council member under this section.

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

17.06 COMPENSATION. The salary of each Council member is thirty dollars (\$35.00) for each meeting of the Council attended, payable biannually. Effective July 1, 2022, the salary of each Council member is forty-five dollars (\$45.00) for each meeting of the Council attended, payable biannually.[†]

[†] **EDITOR’S NOTE:** Ordinance No. 159 adopting a change in Council compensation was adopted March 9, 2022, and should be effective January 1, 2024, according to the *Code of Iowa*.

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CHAPTER 18

CITY CLERK

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

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

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

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

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

18.03 PUBLICATION OF MINUTES. Within 15 days following a regular or special meeting, 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 and 2])

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

(Code of Iowa, Sec. 362.3)

1. Time. If notice of an election, hearing, or other official action is required by this Code of Ordinances or law, the notice must be published at least once, not less than four or more than 20 days before the date of the election, hearing, or other action, unless otherwise provided by law.

2. Manner of Publication. The five public places where public notices, ordinances, notices of elections, and other matter permitted to be posted are to be displayed are:

Farmers Savings Bank
Beaman City Hall/Library
Beaman Post Office
City Facebook Page

(Subsection 2 – Ord. 160 – Oct. 23 Supp.)

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

18.10 LICENSES AND PERMITS. The Clerk shall issue or revoke licenses and permits when authorized by this Code of Ordinances, and keep a record of licenses and permits issued

which shall show date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

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

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the 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 that may be required for the use of the City.

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

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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|--|-----------------------------------|
| 22.01 Purpose | 22.08 Nonresident Use |
| 22.02 Public Library | 22.09 Expenditures |
| 22.03 Library Trustees | 22.10 Annual Report |
| 22.04 Qualifications of Trustees | 22.11 Injury to Books or Property |
| 22.05 Organization of the Board | 22.12 Theft |
| 22.06 Powers and Duties | 22.13 Notice Posted |
| 22.07 Contracting with Other Libraries | |

22.01 PURPOSE. The purpose of this chapter is to provide for the appointment of a City Library Board of Trustees, and to specify that Board's powers and duties.

22.02 PUBLIC LIBRARY. The public library for the City is known as the Beaman Community Memorial Library. It is referred to in this chapter as the Library.

22.03 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five members. All members are to be appointed by the Mayor with the approval of the Council.

22.04 QUALIFICATIONS OF TRUSTEES. Three of the members of the Board shall be bona fide citizens and residents of the City, and two of the members shall be bona fide citizens of rural Beaman. They all shall be over the age of 18 years.

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

1. Term of Office. All appointments to the Board shall be for four-years staggered terms, with a limit of no more than three full four-year terms for any one person, except to fill vacancies. Each term shall commence on July 1.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City or rural Beaman; or if such member is absent from six consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or rural Beaman. Vacancies in the Board shall be filled by appointment of the Mayor with the approval of the Council, and the new Trustee shall fill out the unexpired term for which the appointment was made.
3. Compensation. Trustees shall receive no compensation for their services.

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary.
2. Physical Plant. To have charge, control, and supervision of the Library, its appurtenances, fixtures, and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 and 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 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, Sec. 28E.30)

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Compensation
35.06 Election of Officers
35.07 Duties of Fire Chief
35.08 Obedience to Fire Chief

35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Emergency Rescue Service

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

(Code of Iowa, Sec. 364.16)

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

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

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

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

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

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

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

35.06 ELECTION OF OFFICERS. The department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of the Fire Chief shall be subject to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief. The Council may remove the Fire Chief by written order setting out the reasons for removal which shall be filed with the City Clerk.

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin, and circumstances of fires.

2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits, and development of fire emergency plans.

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of \$200,000.00 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of \$50.00 or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within 10 days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 and 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

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

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

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

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

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

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

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

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

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

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

35.13 MUTUAL AID. Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

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

35.14 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of Chapter 100 of the *Code of Iowa* may issue citations in accordance to Chapter 805 of the *Code of Iowa*, for violations of State and/or local fire safety regulations.

(Code of Iowa, Sec. 100.41)

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

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

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

36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction, or loss.
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 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 shall immediately notify the Department of Natural Resources.
2. Any other person who discovers a hazardous condition shall notify the County Sheriff, which shall then notify the Department of Natural Resources.

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment

40.03 Disorderly Conduct
40.04 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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|--|---|
| 41.01 Distributing Dangerous Substances | 41.08 Abandoned or Unattended Refrigerators |
| 41.02 False Reports to or Communications with Public Safety Entities | 41.09 Antenna and Radio Wires |
| 41.03 Providing False Identification Information | 41.10 Barbed Wire and Electric Fences |
| 41.04 Refusing to Assist Officer | 41.11 Discharging Weapons |
| 41.05 Harassment of Public Officers and Employees | 41.12 Throwing and Shooting |
| 41.06 Interference with Official Acts | 41.13 Urinating and Defecating |
| 41.07 Removal of an Officer's Communication or Control Device | 41.14 Fireworks |
| | 41.15 Drug Paraphernalia |
| | 41.16 Failure to Assist |

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

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

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

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

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 708.12)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.11 DISCHARGING WEAPONS.

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

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

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

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

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

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
 - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
 - (1) First-class consumer fireworks:
 - a. Aerial shell kits and reloadable tubes;
 - b. Chasers;
 - c. Helicopters and aerial spinners;
 - d. Firecrackers;
 - e. Mine and shell devices;
 - f. Missile-type rockets;
 - g. Roman candles;
 - h. Sky rockets and bottle rockets;
 - i. Multiple tube devices under this paragraph which are manufactured in accordance with APA Standard 87-1, Section 3.5.
 - (2) Second-class consumer fireworks:
 - a. Cone fountains;
 - b. Cylindrical fountains;
 - c. Flitter sparklers;
 - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;
 - e. Ground spinners;
 - f. Illuminating torches;
 - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
 - h. Wheels;

- i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.
 - B. “Display fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Display fireworks” does not include novelties or consumer fireworks enumerated in Chapter 3 of the APA Standard 87-1.
 - C. “Novelties” includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.
2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid.. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:
 - A. Personal Injury: \$250,000.00 per person
 - B. Property Damage:..... \$50,000.00
 - C. Total Exposure: \$1,000,000.00
3. Consumer Fireworks.
 - A. It is unlawful for any person to use or explode consumer fireworks on days other than June 1 through July 8 and December 10 through January 3 of each year, all dates inclusive.
 - B. It is unlawful for any person to use or explode consumer fireworks at times other than between the hours of 9:00 a.m. and 10:00 p.m., except that on the following dates consumer fireworks shall not be used at times other than between the hours specified:
 - (1) Between the hours of 9:00 a.m. and 11:00 p.m. on July 4 and the Saturdays and Sundays immediately preceding and following July 4.
 - (2) Between the hours of 9:00 a.m. on December 31 and 12:30 a.m. on the immediately following day.
 - (3) Between the hours of 9:00 a.m. and 11:00 p.m. on the Saturdays and Sundays immediately preceding and following December 31.
 - C. It is unlawful for any person to use consumer fireworks on real property other than that person’s real property or on the real property of a person who has consented to the use of consumer fireworks on that property.
4. Novelties. This section does not apply to novelties.

41.15 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.

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

(Code of Iowa, Sec. 727.12)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

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

42.05 Fraud
42.06 Theft
42.07 Other Public Property Offenses

42.01 TRESPASSING.

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

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 22 – Library
 - A. Section 22.11 – Injury to Books or Property
 - B. Section 22.12 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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

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

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

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

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

(Section 45.01 – Ord. 163 – Oct. 23 Supp.)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

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

(Ord. 163 – Oct. 23 Supp.)

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

(Code of Iowa, Sec. 123.46)

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

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

(Code of Iowa, Sec. 123.47)

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CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

46.01 CURFEW. A curfew applicable to minors is established and shall be enforced as follows:

1. Definition. The term “minor” means, in this section, any unemancipated person below the age of 16 years.
2. Time Limits. It is unlawful for any minor to be or remain upon any of the alleys, streets, or public places or places of business and amusement in the City between the hours of 10:30 p.m. and 6:00 a.m. of the following day.
3. Exceptions. The restriction provided by Subsection 2 above shall not apply to any minor who is accompanied by a guardian, parent, or other person charged with the care and custody of such minor, or other responsible person over 21 years of age, nor shall the restriction apply to any minor who is traveling between his home or place of residence and the place where any approved place of employment, church, or municipal or school function is being held.
4. Responsibility of Adults. It is unlawful for any parent, guardian, or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business or amusement, or other public places within the curfew hours set in Subsection 2 above, except as otherwise provided in Subsection 3 above.
5. Responsibility of Business Establishments. It is unlawful for any person, firm, or corporation operating a place of business or amusement to allow or permit any minor to be in or upon any place of business or amusement operated by them within the curfew hours set by Subsection 2 above except as otherwise provided in Subsection 3 above.
6. Enforcement. Any peace officer of the City while on duty is hereby empowered to arrest any minor who violates any of the provisions of Subsections 2 or 3 above. Upon arrest, the minor shall be returned to the custody of the parent, guardian, or other person charged with the care and custody of the minor.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person’s employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

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

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

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

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

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

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

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

1. Junk and Junk Vehicles (**See Chapter 51**)
2. Storage and Disposal of Solid Waste (**See Chapter 105**)
3. Dangerous Buildings (**See Chapter 145**)
4. Construction and Repair of Buildings (**See Chapter 155**)

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

(Code of Iowa, Sec. 657.3)

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

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: [†]
 - A. Description of Nuisance. A description of what constitutes the nuisance.
 - B. Location of Nuisance. The location of the nuisance.
 - C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

[†] **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.

- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. Abatement in Emergency. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may be required under this chapter without prior notice. The City shall assess the costs as provided in Subsection 6 of this section after notice to the property owner under the applicable provisions of Subsections 1 and 2, and the hearing as provided in Subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. Abatement by City. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the Clerk, who shall pay such expenses on behalf of the City.
(Code of Iowa, Sec. 364.12[3h])
6. Collection of Costs. The Clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.
(Code of Iowa, Sec. 364.12[3h])
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds \$500.00, the City may permit the assessment to be paid in up to 10 annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.
(Code of Iowa, Sec. 364.13)
8. Failure to Abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate is in violation of this Code of Ordinances.

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

50.08 ADULT ESTABLISHMENTS.

1. As used in this section, “adult establishment” means any business that provides nude or topless dancing or operates any other adult-oriented business.

2. A public safety nuisance exists when it is established by clear and convincing evidence that an owner, manager, employee, contemporaneous patron, or guest of an adult establishment commits any of the following acts either on the premises or in any parking lots or areas, including but not limited to public rights-of-way, adjacent to the premises:

A. Unlawfully discharges a firearm or uses an offensive weapon, as defined in Section 724.1 of the *Code of Iowa*, regardless of whether it inflicts injury or death.

B. Assaults another person with a dangerous weapon as defined in Section 702.7 of the *Code of Iowa* resulting in injury or death.

C. Engages in a riot as defined in Section 723.1 of the *Code of Iowa* on three or more dates within a 12-month period to which the police respond and disperse a crowd. The participants need not be the same persons for each incident.

3. When the City Attorney believes a serious threat to the public safety exists, the City Attorney or any other attorney on behalf of the City Attorney, may file a suit in equity in the district court without bond seeking abatement of the public safety nuisance arising from an adult establishment.

(Code of Iowa, Sec. 657.12)

(Section 50.08 – Ord. 172 – Mar. 25 Supp.)

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

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| 55.01 Definitions | 55.12 Owner's Duty |
| 55.02 Animal Neglect | 55.13 Confinement |
| 55.03 Livestock Neglect | 55.14 At Large: Impoundment |
| 55.04 Abandonment of Cats and Dogs | 55.15 Disposition of Animals |
| 55.05 Livestock | 55.16 Impounding Costs |
| 55.06 At Large Prohibited | 55.17 Kennels and Breeding Dogs |
| 55.07 Trapping or Poisoning | 55.18 TNR (Trap-Neuter-Return) Program |
| 55.08 Damage or Interference | 55.19 Pet Awards Prohibited |
| 55.09 Annoyance or Disturbance | 55.20 Tampering With A Rabies Vaccination Tag |
| 55.10 Vicious or Dangerous Animals | 55.21 Tampering With An Electronic Handling Device |
| 55.11 Rabies Vaccination | |

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

1. "Advertise" means to present a commercial message in any medium, including (but not limited to) print, radio, television, sign, display, label, tag, or articulation.
(Code of Iowa, Sec. 717E.1)
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.
(Code of Iowa, Sec. 162.2)
4. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash, or "at heel" beside a competent person and obedient to that person's command. .
5. "Business" means any enterprise relating to any of the following:
(Code of Iowa, Sec. 717E.1)
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
6. "Commercial establishment" means an animal shelter, boarding kennel, commercial breeder, commercial kennel, dealer, pet shop, pound, public auction, or research facility.
(Code of Iowa, Sec. 717.B1)
7. "Fair" means any of the following:
(Code of Iowa, Sec. 717E.1)

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

55.02 ANIMAL NEGLECT.

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

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

- A. Access to food in an amount and quality reasonably sufficient to satisfy the animal's basic nutrition level to the extent that the animal's health or life is endangered.
- B. Access to a supply of potable water in an amount reasonably sufficient to satisfy the animal's basic hydration level to the extent that the animal's health or life is endangered. Access to snow or ice does not satisfy this requirement.
- C. Sanitary conditions free from excessive animal waste or the overcrowding of animals to the extent that the animal's health or life is endangered.
- D. Ventilated shelter reasonably sufficient to provide adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health to the extent that the animal's health or life is endangered. The shelter must protect the animal from wind, rain, snow, or sun and have adequate bedding to provide reasonable protection against cold and dampness. A shelter may include a residence, garage, barn, shed, or doghouse.
- E. Grooming, to the extent it is reasonably necessary to prevent adverse health effects or suffering.
- F. Veterinary care deemed necessary by a reasonably prudent person to relieve an animal's distress from any of the following:
 - (1) A condition caused by failing to provide for the animal's welfare as described in this section.
 - (2) An injury or illness suffered by the animal causing the animal to suffer prolonged pain and suffering.

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

- A. A person operating a commercial establishment under a valid authorization issued or renewed under Section 162.2A of the *Code of Iowa*, or a person acting under the direction or supervision of that person, if all of the following apply:
 - (1) The animal, as described in Subsection 1, was maintained as part of the commercial establishment's operation.
 - (2) In providing conditions for the welfare of the animal, as described in Subsection 1, the person complied with the standard of care requirements provided in Section 162.10A[1] of the *Code of Iowa*, including any applicable rules adopted by the Department of Agriculture and Land Stewardship applying to: (i) a State licensee or registrant operating pursuant to Section 162.10A[2a] or [2b] of the *Code of Iowa*; or (ii) a permittee operating pursuant to Section 162.10A[2c] of the *Code of Iowa*.

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

55.05 LIVESTOCK. It is unlawful for a person to keep livestock within the City except by written consent of the Council.

55.06 AT LARGE PROHIBITED.

1. It is unlawful for any owner to allow any animal, except domesticated cats, to run at large within the corporate limits of the City.
2. It is unlawful for any owner of any domesticated cat to allow the same to run at large unless said cat has been vaccinated with anti-rabies vaccine within the past two years, has been altered, and has a collar affixed to it displaying a tag showing proof of such vaccination.

55.07 TRAPPING OR POISONING. No person shall set any trap of any kind designed to snare or catch animals and no person shall permit any poisonous substance to be placed in any location where it could come in contact with any animal.

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

55.09 ANNOYANCE OR DISTURBANCE. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles, or other vehicles.

55.10 VICIOUS OR DANGEROUS ANIMALS. It is unlawful for any person to keep any vicious or dangerous animal within the City. An animal is deemed to be vicious when it shall have attacked or bitten any person without provocation, or when its propensity to attack or bite persons shall exist and is known or ought reasonably to be known to the owner.

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

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

(Code of Iowa, Sec. 351.37, 351.41)

55.16 IMPOUNDING COSTS. Impounding costs are a \$25.00 City impoundment fee plus impoundment costs of the impoundment facility.

(Code of Iowa, Sec. 351.370)

55.17 KENNELS AND BREEDING DOGS. Dog kennels and other breeding or raising of dogs is prohibited, except that not more than three dogs over the age of six months may be kept per residence.

55.18 TNR (TRAP-NEUTER-RETURN) PROGRAM. (Repealed by Ordinance No. 168 – Jun. 24 Supp.)

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 TAMPERING WITH A RABIES VACCINATION TAG. It is unlawful to tamper with a rabies vaccination tag.

(Code of Iowa, Sec. 351.45)

1. A person commits the offense of tampering with a rabies vaccination tag if all of the following apply:
 - A. The person knowingly removes, damages, or destroys a rabies vaccination tag as described in Section 351.35 of the *Code of Iowa*.
 - B. The rabies vaccination tag is attached to a collar worn by a dog, including as provided in Sections 351.25 and 351.26 of the *Code of Iowa*.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

55.21 TAMPERING WITH AN ELECTRONIC HANDLING DEVICE. It is unlawful to tamper with an electronic handling device.

(Code of Iowa, Sec. 351.46)

1. A person commits the offense of tampering with an electronic handling device if all of the following apply:
 - A. The person knowingly removes, disables, or destroys an electronic device designed and used to maintain custody or control of the dog or modify the dog's behavior.
 - B. The electronic device is attached to or worn by the dog or attached to an item worn by the dog, including (but not limited to) a collar, harness, or vest.
2. This section shall not apply to an act taken by any of the following:
 - A. The owner of the dog, an agent of the owner, or a person authorized to take action by the owner.
 - B. A peace officer.
 - C. A veterinarian.
 - D. An animal shelter or pound.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 Power to Direct Traffic

60.05 Reports of Traffic Accidents
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Beaman Traffic Code" (and are referred to herein as the "Traffic Code").

60.02 DEFINITIONS. Where words and phrases used in the Traffic Code are defined by State law, such definitions apply to their use in said Traffic Code and are hereby 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:

1. "Business District" means the territory contiguous to and including the following designated streets:
 - A. Main Street, from south corporate limits to north corporate limits.
 - B. Second Street, from McMartin Street to west corporate limits.
 - C. Market Street, from east corporate limits to west corporate limits.
2. "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.
3. "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.
4. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
5. "Pedestrian" means a person afoot or a person using a pedestrian conveyance.
(Code of Iowa, Sec. 321.1(51))
6. "Pedestrian conveyance" means any human-powered device by which a pedestrian may move other than by walking or by which a pedestrian may move another person, including but not limited to a wheelchair, stroller, skateboard, scooter, or other similar device. Pedestrian conveyance also includes an electric personal assistive mobility device and any other device used to move a person sitting or standing on the device regardless of whether the device is powered by an electric motor, so long as the electric motor produces less than 750 watts. Pedestrian conveyance does not include a bicycle.
(Code of Iowa, Sec. 321.1(51A))
7. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban, or school district, where 40 percent or more of the frontage on such a highway for a distance of 300 feet or more is occupied by dwellings or by dwellings and buildings in use for business.
(Code of Iowa, Sec. 321.1(63))

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

(Code of Iowa, Sec. 321.1(70))

9. “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.

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

11. “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.

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

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

13. “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.

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

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

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

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

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

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

(Code of Iowa, Sec. 321.1(90))

(Section 60.02 – Ord. 170 – Mar. 25 Supp.)

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation of Traffic Control Devices
61.02 Compliance
61.03 Crosswalks

61.04 Traffic Lanes
61.05 Standards

61.01 INSTALLATION OF TRAFFIC CONTROL DEVICES. The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic, and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 and 321.255)

61.02 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)

61.03 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] and 321.255)

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

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

61.05 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)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Jake Brakes Prohibited

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

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

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

51. Section 321.284A – Open container in motor vehicles, passengers.
52. Section 321.288 – Control of vehicle; reduced speed.
53. Section 321.295 – Limitation on bridge or elevated structures.
54. Section 321.297 – Driving on right-hand side of roadways; exceptions.
55. Section 321.298 – Meeting and turning to right.
56. Section 321.299 – Overtaking a vehicle.
57. Section 321.302 – Overtaking and passing.
58. Section 321.303 – Limitations on overtaking on the left.
59. Section 321.304 – Prohibited passing.
60. Section 321.306 – Roadways laned for traffic.
61. Section 321.307 – Following too closely.
62. Section 321.309 – Towing.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.

- 85. Section 321.342 – Stop at certain railroad crossings; posting warning.
- 86. Section 321.343 – Certain vehicles must stop.
- 87. Section 321.344 – Heavy equipment at crossing.
- 88. Section 321.344B – Immediate safety threat; penalty.
- 89. Section 321.354 – Stopping on traveled way.
- 90. Section 321.359 – Moving other vehicle.
- 91. Section 321.362 – Unattended motor vehicle.
- 92. Section 321.363 – Obstruction to driver's view.
- 93. Section 321.364 – Preventing contamination of food by hazardous material.
- 94. Section 321.365 – Coasting prohibited.
- 95. Section 321.366 – Acts prohibited on fully-controlled access facilities.
- 96. Section 321.367 – Following fire apparatus.
- 97. Section 321.368 – Crossing fire hose.
- 98. Section 321.369 – Putting debris on highway.
- 99. Section 321.370 – Removing injurious material.
- 100. Section 321.371 – Clearing up wrecks.
- 101. Section 321.372 – Discharging pupils, stopping requirements; penalties.
- 102. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
- 103. Section 321.381A – Operation of low-speed vehicles.
- 104. Section 321.382 – Upgrade pulls; minimum speed.
- 105. Section 321.383 – Exceptions; slow vehicles identified.
- 106. Section 321.384 – When lighted lamps required.
- 107. Section 321.385 – Head lamps on motor vehicles.
- 108. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
- 109. Section 321.387 – Rear lamps.
- 110. Section 321.388 – Illuminating plates.
- 111. Section 321.389 – Reflector requirement.
- 112. Section 321.390 – Reflector requirements.
- 113. Section 321.392 – Clearance and identification lights.
- 114. Section 321.393 – Color and mounting.
- 115. Section 321.394 – Lamp or flag on projecting load.
- 116. Section 321.395 – Lamps on parked vehicles.
- 117. Section 321.398 – Lamps on other vehicles and equipment.
- 118. Section 321.402 – Spot lamps.
- 119. Section 321.403 – Auxiliary driving lamps.

- 120. Section 321.404 – Signal lamps and signal devices.
- 121. Section 321.404A – Light-restricting devices prohibited.
- 122. Section 321.405 – Self-illumination.
- 123. Section 321.408 – Back-up lamps.
- 124. Section 321.409 – Mandatory lighting equipment.
- 125. Section 321.415 – Required usage of lighting devices.
- 126. Section 321.417 – Single-beam road-lighting equipment.
- 127. Section 321.418 – Alternate road-lighting equipment.
- 128. Section 321.419 – Number of driving lamps required or permitted.
- 129. Section 321.420 – Number of lamps lighted.
- 130. Section 321.421 – Special restrictions on lamps.
- 131. Section 321.422 – Red light in front, rear lights.
- 132. Section 321.423 – Flashing lights.
- 133. Section 321.430 – Brake, hitch, and control requirements.
- 134. Section 321.431 – Performance ability.
- 135. Section 321.432 – Horns and warning devices.
- 136. Section 321.433 – Sirens, whistles, and bells prohibited.
- 137. Section 321.434 – Bicycle sirens or whistles.
- 138. Section 321.436 – Mufflers, prevention of noise.
- 139. Section 321.437 – Mirrors.
- 140. Section 321.438 – Windshields and windows.
- 141. Section 321.439 – Windshield wipers.
- 142. Section 321.440 – Restrictions as to tire equipment.
- 143. Section 321.441 – Metal tires prohibited.
- 144. Section 321.442 – Projections on wheels.
- 145. Section 321.444 – Safety glass.
- 146. Section 321.445 – Safety belts and safety harnesses; use required.
- 147. Section 321.446 – Child restraint devices.
- 148. Section 321.449 – Motor carrier safety rules.
- 149. Section 321.449A – Rail crew transport drivers.
- 150. Section 321.449B – Texting or using a mobile telephone while operating a commercial motor vehicle.
- 151. Section 321.450 – Hazardous materials transportation regulations.
- 152. Section 321.454 – Width of vehicles.
- 153. Section 321.455 – Projecting loads on passenger vehicles.

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

62.02 PLAY STREETS DESIGNATED. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

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

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

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

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

62.07 JAKE BRAKES PROHIBITED. No driver of any vehicle within the City limits with jake brakes shall use such jake brakes unless it is needed in case of an emergency or public safety. The City shall place signs on West Market Street and North Main Street reading, “ENGINE BRAKE ORDINANCE ENFORCED” and at City limits north and south on HWY T-29 reading, “ENGINE BRAKE ENFORCED AHEAD.”

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries, and Parking Lots

63.04 Special Speed Zones

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

- NONE -

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

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.

(Code of Iowa, Sec. 321.311)

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within the Business District and at any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Pedestrians' Right-of-Way

65.01 STOP OR YIELD. Every driver of a vehicle shall stop or yield as directed by traffic control devices posted in accordance with Chapter 61 of this Traffic Code.

65.02 SCHOOL STOPS. At any school crossing zone, every driver of a vehicle approaching said zone shall bring the vehicle to a full stop at a point 10 feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

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 PEDESTRIANS' RIGHT-OF-WAY. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to so yield to a pedestrian or a person riding a bicycle crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

(Section 65.05 – Ord. 170 – Mar. 25 Supp.)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges
66.05 Truck 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 erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.471 and 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 and 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 streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.473 and 475)

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

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTE. When truck routes have been designated in accordance with Chapter 61, any motor vehicle exceeding established weight limits shall comply with the following:

1. Use of Established Routes. Every such motor vehicle 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 those streets within the City designated as truck routes and none other.

(Code of Iowa, Sec. 321.473)

2. Deliveries Off Truck Route. Any such motor vehicle, 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 to the

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

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

67.01 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. When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

(Code of Iowa, Sec. 321.236[4])

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CHAPTER 69

PARKING REGULATIONS

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|--|--|
| 69.01 Park Adjacent to Curb | 69.07 Persons with Disabilities Parking |
| 69.02 Parking on One-Way Streets | 69.08 No Parking Zones |
| 69.03 Angle Parking | 69.09 Truck Parking Limited |
| 69.04 Manner of Angle Parking | 69.10 Snow Removal |
| 69.05 Parking for Certain Purposes Illegal | 69.11 Recreational Vehicle Parking Limited |
| 69.06 Parking Prohibited | |

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 both sides, from Market Street to Third Street.
2. McMartin Street on both sides, between Third Street and Fourth Street.

69.04 MANNER OF ANGLE PARKING. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle or the load thereon, when said vehicle is parked within a diagonal parking district, shall extend into the roadway more than a distance of 16 feet when measured at right angles to the adjacent curb or edge of roadway.

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 72 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 that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within 10 feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within 10 feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within 50 feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])
10. Fire Station. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358[11])
13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358[13])

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. Parking or Terrace. Upon the parking or terrace, designated as that area between the curb line and the sidewalk line, where curbing has been installed.

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 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])

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

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

1. **Weight Limitation.** It shall be unlawful to park any truck with a gross weight over 10,000 pounds on any public street or alley in the City except as follows:

A. **Temporary Parking.** Temporarily parking on a street or alley for the purpose of loading or unloading goods or materials, provided that the temporary parking for such purpose does not exceed one hour.

B. **Designated Parking Areas.** Parking in areas designated by the Council for the purpose of overnight truck parking.

2. **Noise.** No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. and 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 after the accumulation of two or more inches of snow, until such street, alley or City-owned off-street parking area has been completely plowed and cleared of accumulated snow.

(Code of Iowa, 321.236[1])

69.11 RECREATIONAL VEHICLE PARKING LIMITED. For purposes of this section, the term "recreational vehicle" shall mean a vehicle towed or self-propelled on its own chassis, or attached to the chassis of another vehicle, and designed or used for temporary dwelling, recreational, or sporting purposes. Such vehicles include, but are not limited to, travel trailers, motor homes, fifth wheel trailers, pick-up campers, camping trailers, converted trucks and buses, self-contained campers, boats, personal watercraft, snowmobiles, trailers, fishing houses, and other recreational-based vehicles designed for carrying or housing persons.

1. **Public Property.** No recreational vehicle shall be occupied on public streets, alleys, highways, or other public property within the corporate limits of the City, except by special permission of the City Council. The recreational vehicle shall not be parked on the street for more than 24 hours.

2. **Private Property.** Occupying a recreational vehicle is permissible on a temporary basis for a period not to exceed four days in any one-month period, except

by special permission of the City Council. Recreational vehicles may be parked or stored (long-term use more than 30 consecutive days) within the front, side, and rear yards abiding by setback requirements, or within an enclosed garage. Any consideration outside of these guidelines require special permission of the City Council.

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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 and 321.485)

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

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

70.03 PARKING VIOLATIONS: 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 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of ATVs and UTVs

75.06 Negligence

75.07 Accident Reports

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

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

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

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

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

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

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

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

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

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

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

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

(Subsection 3 – Ord. 162 – Oct. 23 Supp.)

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or

less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. The ATV or UTV is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

D. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

E. The crossing is made from a street, roadway, or highway on which the ATV or UTV is authorized to operate to a street, roadway, or highway on which such vehicle is authorized to operate.

(Section 75.05 – Ord. 162 – Oct. 23 Supp.)

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

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

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

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

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CHAPTER 76

GOLF CARTS

76.01 Purpose
76.02 Operation of Golf Carts Permitted
76.03 Prohibited Streets

76.04 Equipment
76.05 Hours

76.01 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.

76.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons possessing a valid driver's license, except as prohibited in Section 76.03 of this chapter.

76.03 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.

76.04 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 and shall be equipped with adequate brakes.

76.05 HOURS. Golf carts may be operated on City streets only between sunrise and sunset.

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CHAPTER 90

WATER SERVICE SYSTEM

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| 90.01 Definitions | 90.11 Installation of Water Service Pipe |
| 90.02 Superintendent's Duties | 90.12 Responsibility for Water Service Pipe |
| 90.03 Mandatory Connections | 90.13 Failure to Maintain |
| 90.04 Abandoned Connections | 90.14 Curb Valve |
| 90.05 Permit | 90.15 Interior Valve |
| 90.06 Connection Charge | 90.16 Inspection and Approval |
| 90.07 Compliance with Plumbing Code | 90.17 Completion by the City |
| 90.08 Plumber Required | 90.18 Shutting Off Water Supply |
| 90.09 Excavations | 90.19 Operation of Curb Valve |
| 90.10 Tapping Mains | |

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

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

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

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

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

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

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

90.06 CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay \$50.00 to reimburse the City for costs borne by the City in making water service available to the property served.

(Code of Iowa, Sec. 384.84)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90.19 OPERATION OF CURB VALVE. It is unlawful for any person except the Superintendent to turn water on at the curb valve.

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CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems; Exception
91.04 Location of Meters
91.05 Meter Setting

91.06 Meter Repairs
91.07 Right of Entry
91.08 Separate Meter for Outside Watering
91.09 Rates for Outside Service
91.10 Breaking Seal or Tampering with Meter

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 and installed by the property owner, in accordance with requirements established by the City.

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

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

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

91.06 METER 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.

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

91.08 SEPARATE METER FOR OUTSIDE WATERING. A customer may add a second water meter for the purpose of measuring water to be used from outside faucets and for outside watering. The meter must be installed where it measures only the water on outside faucets on the premises being served and the location of such meter must be approved and inspected by the Superintendent. The meter must be purchased at City Hall and the cost of the meter and its installation shall be at the expense of the customer. *(Ord. 175 – Jun. 25 Supp.)*

91.09 RATES FOR OUTSIDE SERVICE. Water service through outside water meters shall be billed at rates as established in Chapter 92 of this Code of Ordinances; however, no minimum charge shall be assessed during months where there is no usage. No sewer charge will be assessed to water usage through the outside meter. *(Ord. 175 – Jun. 25 Supp.)*

91.10 BREAKING SEAL OR TAMPERING WITH METER. Tampering with water meters is strictly prohibited by the City of Beaman. The following actions are considered violations: interfering with meters, breaking seals on meters or associated equipment, unauthorized consumption or theft of unmetered water. If such activities are suspected or discovered, the utility will investigate and take appropriate action. Violations may result in immediate disconnection of water service and/or prosecution under the law of the State of Iowa.

(Section 91.10 – Ord. 175 – Jun. 25 Supp.)

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CHAPTER 92

WATER RATES

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

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

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises, or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

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

1. First 1,000 gallons or lesser amount used per month at \$31.03 (minimum bill).
2. All over 1,000 gallons used per month @ \$13.50 per 1,000 gallons.
3. Future Rates. Beginning January 1, 2026, and each year after water rates shall be increased by 2.0% over the rates established in 92.02 Subsection 1 and 2.
 1. *(Section 92.02 – Ord. 166 – Feb. 24 Supp.)*

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

(Code of Iowa, Sec. 364.4 and 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the tenth day of each month.
2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the twentieth day of the month in which the bill was issued.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of \$10.00 shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued or disconnected if payment of the combined service account, including

late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance or disconnection. If the bill is not paid by the last day of the month, a 24-hour notice will be posted on the customer's door. After 24 hours, the service will be discontinued or disconnected and will not be turned on until the bill is paid in full plus the restoration fee.

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. A hearing may be requested by contacting the City Clerk's office.

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

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

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

92.08 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 new resident (renter or owner) a deposit of \$60.00 intended to guarantee the payment of bills for service. If the owner is not delinquent for 12 consecutive months, the water utility deposit will be refunded. The renter will receive their deposit when their service is discontinued upon moving out. Once shut off for delinquency, the \$60.00 deposit will be applied to the unpaid balance due, the customer will be considered a new customer, and another \$60.00 deposit will be required to restore service.

(Code of Iowa, Sec. 384.84)

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CHAPTER 93

WATER CONSERVATION MEASURES

93.01 Water Shortages
93.02 Water Conservation Measures
93.03 Appeal and Adjustment

93.04 Premium Rate
93.05 Reduction in Flow of Water to Any Customer
93.06 Exceptions to Water Conservation

93.01 WATER SHORTAGES. During and following drought conditions which may occur from time to time, the supply of water available to the City may become significantly and seriously depleted so that there will not then be a sufficient supply of water to meet the customary and usual demand indefinitely. Under those conditions, the Council may find and declare, by resolution, a public emergency water shortage, during which time it may require any or all of the water conservation methods set forth in Section 93.02 of this chapter for the purpose of producing an orderly and equitable curtailment of water consumption until, by resolution, the Council finds and declares the water shortage emergency to be ended. The Council may specifically authorize by resolution any of the water conservation measures set forth in Section 93.02 and in addition, or in the alternative, it may authorize the Mayor to designate by proclamation which water conservation measures or additional water conservation measures shall apply.

93.02 WATER CONSERVATION MEASURES. The Council, by resolution, or the Mayor, by proclamation, if authorized, may select from among the following water conservation measures:

1. There may be voluntary water usage restrictions on the following activities:
 - A. Watering of established residential lawns, gardens, plants, trees or shrubs, including (but not limited to) a total ban on such watering, alternative day watering, or watering limited to, but not more than, a certain amount of watering within a certain specified period of time, or within a particular time frame. In this connection, if circumstances so permit, restrictions may also be varied as between lawns, gardens, plants, trees, and shrubs and restrictions may be varied as between established lawns and plantings, as compared to new seeding or sod, or new plantings. The newly planted lawns, gardens, seedings, sod, and plantings may be exempt for a period of five weeks.
 - B. Residential swimming pool filling.
 - C. Residential vehicle washing.
 - D. All inside residential water usage which is not absolutely necessary.
 - E. All commercial water usage which is not absolutely necessary.
 - F. Requested timing adjustments (hours of the day and/or alternative days) for all of the items listed above.
 - G. Water served at restaurants.
 - H. Washing the streets, parking lots, driveways, and sidewalks.
 - I. Ornamental fountains.
 - J. Hydrant flushing.

- K. Washing the outside of buildings.
 - L. Nonessential construction water usage.
 - M. Public entity (City, County, or school) nonessential water usage.
2. There may be involuntary required water usage restrictions or complete prohibitions against the following activities:
- A. Established residential lawns, gardens, plants, shrubs, and trees.
 - B. Newly planted (less than five weeks) residential lawns, gardens, plants, shrubs, and trees.
 - C. Residential swimming pool filling, private swimming pools, children's wading pools, or any other indoor or outdoor pool of any kind or description.
 - D. Residential vehicle washing.
 - E. Commercial vehicle washing establishments.
 - F. Public entity (City, County, or school) nonessential water usage.
 - G. Time restrictions (hours of the day and/or days of the week) for any and all of the items listed above.
 - H. Water served at restaurants.
 - I. Washing streets, parking lots, driveways, or sidewalks.
 - J. Ornamental fountains.
 - K. Hydrant flushing.
 - L. Washing the outside of buildings.
 - M. Construction water usage.
 - N. Tank load water sales by City.
 - O. Temporary water rate surcharge to curb use.
3. Each customer may be required to achieve a particular percentage reduction in water usage as compared to a prior period usage and be subject to the payment of a premium rate over and above the normal rate in the event such percentage reduction is not achieved. The amount of percentage reduction and the base period for comparison purposes shall be established by resolution or proclamation as previously set forth. The premium rate shall be as set forth in Section 93.03 of this chapter.
4. The Council, but not the Mayor, may set a base allocation for every customer of the City and if the consumption of a particular customer exceeds the base allocation, that customer shall pay, in addition to the regular rate for water consumption, the premium rate set forth in Section 93.03 for unrestrained consumption.

93.03 APPEAL AND ADJUSTMENT.

1. **Base Allocation.** In the event that the Council establishes a base allocation by resolution, any customer of the City may file an appeal with the Council to adjust the

base allocation amount. The Council may grant an adjustment to the appellant based on the following criteria:

- A. For single-family residential use, the base allocation may be increased to 200 cubic feet per person per billing period for all individuals residing at the appellant's residence for a period of more than 30 days.
 - B. For commercial, industrial, institutional, or other residential use, the base allocation may be increased based upon facts appropriate to the individual customer as, for example, the average of the water bill during the previous winter (November through April), production, service, or occupancy data provided by the customer.
2. Premium Rate Charges. Any customer may file for adjustment of the premium rate charges for unrestrained water consumption with the Council. The Council may grant an adjustment of the premium rate charges in accordance with the following criteria:
- A. The cause of the high consumption must be mechanical in nature (such as broken or leaky pipes or fixtures) rather than human carelessness or apparent disregard of this chapter.
 - B. The customer shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a licensed plumber's invoice or statement or a materials receipt.
 - C. The adjustment may be granted only for the billing period prior to the correction of the failure.
 - D. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted premium rate shall be a surcharge of 10 percent of the normal rate in addition to the normal rate charged to the customer.

93.04 PREMIUM RATE. At such times as there may be restrictions on consumption which if violated give rise to a premium rate, the premium rate shall be a 10 percent surcharge of the normal customer consumption rate in addition to the normal rate charged to the customer.

93.05 REDUCTION IN FLOW OF WATER TO ANY CUSTOMER. The Council is authorized, after giving notice and opportunity for hearing, to reduce the flow of water to any customer determined to be using water in any manner not in accordance with this chapter or a resolution or proclamation issued pursuant to Section 93.02.

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

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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 Abandoned Sewer Lines
95.07 Service Outside the City
95.08 Right of Entry
95.09 Use of Easements
95.10 Special Penalties

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

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

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

(567 IAC 69.1[3])

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

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

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

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

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

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

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

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

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

96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations

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

96.02 CONNECTION CHARGE. There shall be a connection charge in the amount of \$50.00 paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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

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

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

1. **Old Building Sewers.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. **Separate Building Sewers.** A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. **Installation.** The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code* and applicable rules and regulations of the City. All such connections shall be made gastight and

watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

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

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

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

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

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

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

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

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

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

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

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

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement

floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

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

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

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

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

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

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

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Stormwater
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

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

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides (CN) in excess of two milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow.
 - A. Any waters or wastes: (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°F (65°C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32°F and 150°F (0°C to 65°C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution, whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

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

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

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Controls Imposed. Require control over the quantities and rates of discharge; 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.)

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

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

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

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

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

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

(567 IAC 69.1[3])

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

(567 IAC 69.1[3 and 4])

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

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

(567 IAC 69.1[3])

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

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

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

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

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CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Private Water Systems
99.03 Payment of Bills

99.04 Lien for Nonpayment
99.05 Customer Deposits
99.06 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

1. First 1,000 gallons or lesser amount per month at \$14.03 (minimum bill).
2. All over 1,000 gallons used per month at \$11.00 per 1,000 gallons.
3. Future Rates. Beginning January 1, 2026, and each year after water rates shall be increased by 2.0% over the rates established in 99.01 Subsection 1 and 2.

(Section 99.01 – Ord. 167 – Feb. 24 Supp.)

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

(Code of Iowa, Sec. 384.84)

99.03 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 or disconnected in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.04 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 CUSTOMER DEPOSITS. There shall be required from every new resident (renter or owner) a deposit of \$60.00 intended to guarantee the payment of bills for service. If the owner is not delinquent for 12 consecutive months, the sewer utility deposit will be refunded. The renter will receive their deposit when their service is discontinued upon moving out. Once shut off for delinquency, the \$60.00 deposit will be applied to the unpaid balance due, the customer will be considered a new customer, and another \$60.00 deposit will be required to restore service.

(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.

(567 IAC 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.

(567 IAC 20.2)

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.

(567 IAC 100.2)

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

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

(567 IAC 20.2)

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.

(567 IAC 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.

(567 IAC 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. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.

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

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.

F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.

G. Post-use polymers or recoverable feedstocks that are any of the following:

- (1) Processed at a pyrolysis or gasification facility.
- (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

15. "Toxic and hazardous waste" means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste that requires special handling and that must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(567 IAC 100.2)

16. "Yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

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

(Code of Iowa, Ch. 657)

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

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

(567 IAC 23.2 and 100.2)

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

(567 IAC 23.2[3]"a")

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

(567 IAC 23.2[3]"b")

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

(567 IAC 23.2[3]"c")

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing, and construction operations shall be limited to areas located at least one-fourth mile from

any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(567 IAC 23.2[3]"d")

5. 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.

(567 IAC 23.2[3]"e")

6. Residential Waste. The open burning of residential waste on the property where such waste is generated, at dwellings of four-family units or less. However, nothing green (yard or garden waste) and no garbage shall be burned.

(567 IAC 23.2[3]"f")

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

(567 IAC 23.2[3]"g")

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

(567 IAC 23.2[3]"h")

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

(567 IAC 23.2[3]"i")

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

(567 IAC 23.2[3]"j")

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

(567 IAC 23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises or burned in accordance with Section 105.05(4) of this Code of Ordinances.

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

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

105.08 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources.

*(567 IAC 100.2)
(567 IAC 102.13[2] and 400 IAC 27.14[2])*

105.09 WASTE STORAGE CONTAINERS.

1. Container Specifications. Waste storage containers shall comply with the following specifications:
 - A. Residential. Residential solid waste containers shall be provided by the collector.
 - B. Commercial. Every person owning, managing, operating, leasing, or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public health personnel, and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.
4. Nonconforming Containers. Solid waste placed in containers that are not in compliance with the provisions of this section will not be collected.

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

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

105.11 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Grundy County 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 Right of Entry
106.05 Recycling Program

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be by private collectors.

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

(567 IAC 104.9)

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

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

106.05 RECYCLING PROGRAM. In accordance with an agreement and contract entered between the City and Moler Sanitation, Mole Sanitation shall collect recyclable materials within the City from citizen who request pickup. Those citizens who request pick up shall be levied a fee that will be added to their personal garbage bill from Moler Sanitation.

(Section 106.05 – Ord. 161 – Oct. 23 Supp.)

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CHAPTER 110

NATURAL GAS FRANCHISE

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|---|--------------------------|
| 110.01 Franchise Granted | 110.06 Franchise Fees |
| 110.02 Mains and Pipes; Indemnification | 110.07 Management Fees |
| 110.03 Excavations | 110.08 Nonexclusive |
| 110.04 Construction and Maintenance | 110.09 Term of Franchise |
| 110.05 Service Requirements | 110.10 Entire Agreement |

110.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors and assigns, the right, franchise, and privilege for the term of 25 years from and after the passage, adoption, approval, and acceptance of the ordinance codified by this chapter,[†] to lay down, maintain, and operate the necessary pipes, mains and other conductors and appliances in, along, and under the streets, avenues, alleys, and public places in the City as now or hereafter constituted for the purpose of distributing, supplying, and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*. The term “gas,” as used in this franchise, shall be construed to mean natural gas only.

110.02 MAINS AND PIPES; INDEMNIFICATION. The mains and pipes of the Company must be so placed as not to interfere unnecessarily with water pipes, drains, sewers, and fire plugs which have been or may hereafter be placed in any street, alley, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe, and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation, and maintenance of said natural gas distribution system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, avenue, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical, and, if defects are caused, shall repair the same.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over, or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or

[†] **EDITOR’S NOTE:** Ordinance No. 138-12 adopting a gas franchise for the City was passed and adopted by the Council on March 14, 2012.

equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

110.05 SERVICE REQUIREMENTS. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God, or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

110.06 FRANCHISE FEES.

1. In its monthly billing the Company shall include a franchise fee of zero percent on the gross receipts from the sale of natural gas to the Company's natural gas customers located within the corporate limits of the City.
2. The franchise fee shall be applied to all customers' bills in accordance with Chapters 364.2 and 423B.5 of the *Code of Iowa*. The amount of the franchise fee shall be shown separately on the utility bill to each customer.
3. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's *Revenue Purpose Statement* and written proof of legal adoption and publication of the *Revenue Purpose Statement*, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed nondisclosure agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list. The Company shall not commence assessing the franchise fee until it has received written approval of its amended tax rider tariff from the Iowa Utilities Board.
4. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.
5. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than 90 days from receipt of the information required of the City to implement the franchise fee.
6. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals; the City's

list of City utility accounts exempt from the franchise fee in the annexed area; and, the City's verified utility customer service address list for the annexed area.

7. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

8. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

9. The City shall give the Company a minimum six-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to Subsection 1 hereof. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying, or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than 90 days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

10. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

11. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

12. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the Ordinance term.

A. The obligation to collect and remit the fee imposed by this chapter is modified if:

(1) Any other person is authorized to sell natural gas to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

(2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling natural gas to consumers within the additional territory, in which case the franchise fee imposed on the revenue from

sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of natural gas within the City; or

(3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified below with no liability therefor, if:

(1) The imposition, collection, or remittance of a franchise fee is judicially determined to be unlawful by a court of competent jurisdiction within the State of Iowa. Such determination shall be effective only after all available appeals have either been exhausted or have expired; or

(2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

(3) The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

13. Said franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, avenues, alleys, and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said pipes, mains, and other conductor and appliances in, along, and under the streets, avenues, alleys, and public places in the said City for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof shall be exempt from any special tax, assessment, license, or rental charge during the entire term of this chapter.

110.07 MANAGEMENT FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting, or inspections of Company work sites and projects or related matters.

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

110.09 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of 25 years after its acceptance by the Company, as herein provided.

110.10 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this chapter shall supersede, abrogate, and repeal the prior gas system ordinance between the Company and the City as of the date this franchise ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

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CHAPTER 111

ELECTRIC FRANCHISE

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|---|---------------------------|
| 111.01 Franchise Granted | 111.07 Nonexclusive |
| 111.02 Poles and Wires; Indemnification | 111.08 Continuous Service |
| 111.03 Excavations | 111.09 Franchise Fee |
| 111.04 Construction and Maintenance | 111.10 Term of Franchise |
| 111.05 Meters | 111.11 Entire Agreement |
| 111.06 System Requirements | |

111.01 FRANCHISE GRANTED There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain, and operate in the City works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat, and power and the right to erect and maintain the necessary poles, lines, wires, conduits, and other appliances for the distribution of electric current along, under, and upon the streets, avenues, alleys, and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat, and power for the period of 25 years;[†] also the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

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

111.03 EXCAVATIONS. In making any excavations in any street, alley, avenue, or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers, or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement, or sidewalk of such excavations with same materials, restoring the condition as nearly as practical.

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over, or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance, or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or

[†] **EDITOR’S NOTE:** Ordinance No. 137-12 adopting an electric franchise for the City was passed and adopted on March 14, 2012.

equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

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

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

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

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

111.09 FRANCHISE FEE.

1. In its monthly billing the Company shall include a franchise fee of zero percent on the gross receipts from the sale of electricity to the Company's electric customers located within the corporate limits of the City.
2. The franchise fee shall be applied to all customers' bills in accordance with Chapters 364.2 and 423B.5 of the *Code of Iowa*. The amount of the franchise fee shall be shown separately on the utility bill to each customer.
3. The Company will commence collecting the franchise fees on or before the first Company billing cycle of the first calendar month following 90 days of receipt of information required of the City to implement the franchise fee. This information shall include but not be limited to a copy of the City's *Revenue Purpose Statement* and written proof of legal adoption and publication of the *Revenue Purpose Statement*, City's list of City utility accounts exempt per Iowa law from the franchise fee, signed nondisclosure agreement pertaining to the protection of the confidentiality of utility service address information provided by the Company to the City, and the City's verified utility customer service address list.
4. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that the Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.
5. Upon receipt of a final and unappealable order or approval authorizing annexation, or changes in the corporate limits of said City, the City Clerk shall provide written notification by certified mail to an officer of Company of such annexation or change in the limits of said City, and the Company shall apply the franchise fee to its customers who are affected by the annexation or change in the corporate limits of the City, commencing on an agreed upon date which is not less than 90 days from receipt

of the information required of the City to implement the franchise fee. The Company shall have no obligation to collect franchise fees from customers in any annexed area until and unless the following have all been provided to the Company by certified mail: such final and unappealable orders or approvals, the City's list of City utility accounts exempt from the franchise fee in the annexed area, and the City's verified utility customer service address list for the annexed area.

6. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being exempt from the imposition of franchise fees.

7. The Company shall remit franchise fee revenues, minus uncollectible amounts, to the City no more frequently than on or before the last business day of the month following each calendar year quarter. Company shall notify City at least 30 days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

8. The City shall give the Company a minimum six-month notice prior to the request to implement any adjustment in the percentage of franchise fee to be collected pursuant to this section. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. When any such ordinance increasing, decreasing, modifying or eliminating the franchise fee shall become effective, billings reflecting the change shall commence on an agreed upon date which is not less than 90 days following written notice to the Company by certified mail. The Company shall not be required to implement such new percentage unless and until it determines that it has received appropriate official documentation of final action by the City Council. In no event may the percentage of franchise fee exceed the statutory amount authorized by Iowa law.

9. The City shall be solely responsible for the proper use of any amounts collected as franchise fees, and shall only use such fees as collected for a purpose as allowed by applicable law.

10. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of customers or individual customers, the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

11. Collection of the franchise fee shall cease at the earlier of the modification or repeal of the franchise fee or the end of the franchise term.

A. The obligation to collect and remit the fee imposed by this chapter is modified if:

(1) Any other person is authorized to sell electricity to customers within the corporate limits of the City and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this chapter, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate; or

(2) The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

(3) The Iowa General Assembly enacts legislation, or any Iowa court issues a final judicial decision regarding franchise fees, or the Iowa Utilities Board issues a final nonappealable order (collectively, "Final Franchise Fee Action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of Final Franchise Fee Action, the City shall notify Company and the parties shall meet to determine whether this chapter can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After Final Franchise Fee Action, and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

B. The obligation to collect and remit the fee imposed by this chapter is repealed, effective as of the date specified in the franchise ordinance with no liability therefor, if:

(1) Any of the imposition, collection, or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court; or

(2) The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly; or

(3) The Iowa Utilities Board, or any successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

12. The franchise fee shall be in lieu of any other payments to the City for the Company's use of streets, alleys, and public places in the said City and other administrative or regulatory costs with regard to said franchise; and said poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, alleys, and public places in the said City to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power shall be exempt from any special tax, assessment, license or rental charge during the entire term of this chapter.

13. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right-of-way management fees upon the Company or fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

111.10 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights thereunder shall continue for the period of 25 years after its acceptance by the Company, as herein provided.

111.11 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified, or otherwise amended without the approval and acceptance of the Company. Upon written acceptance by the Company, the franchise ordinance codified in this chapter shall supersede, abrogate, and repeal the prior electric system ordinance between the Company and the City as of the date the franchise ordinance codified in this chapter is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, other than those approved and accepted by the Company with this chapter, that create additional burdens upon the Company or which delay utility operations.

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CHAPTER 112

CABLE TELEVISION FRANCHISE

112.01 Grant of Franchise

112.02 Agreement and Waiver

112.01 GRANT OF FRANCHISE. A nonexclusive right is hereby granted to Heart of Iowa Communications Cooperative (hereinafter referred to as the “Grantee”), its successors and assigns, to establish, construct, erect, operate, maintain, repair, replace, renew, reconstruct, and remove a cable television system across public property in the City limits for a term of 25 years,[†] in accordance with the laws and regulations of the City, including the nonexclusive right, privilege, and authority:

1. To sell and supply audio and video communications service to persons within the City.
2. To use public property within the City as herein provided or as otherwise provided by this Code of Ordinances.
3. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

112.02 ASSIGNMENT OR TRANSFER. The Grantee shall not assign or transfer any right granted under the franchise to any other person, company, or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the franchise to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee or other wholly owned subsidiary of Heart of Iowa Communications Cooperative is a general partner without prior consent of the City.

[†] **EDITOR’S NOTE:** Ordinance No. 115, adopting a cable television franchise for the City, was passed and adopted on April 12, 2006.

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CHAPTER 113

CABLE TELEVISION REGULATIONS

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| 113.07 Modification of FCC Rules | 113.20 Protection of Privacy |
| 113.08 Transfer | 113.21 Program Content Restrictions |
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| 113.11 Franchise Renewal | 113.24 Activities Prohibited |
| 113.12 System Construction, Maintenance and Procedures | 113.25 Violation; Penalty |
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113.01 PURPOSE. The purpose of this chapter is to provide regulatory provisions of cable television systems in the City.

113.02 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "CATV" means cable TV, a television distribution method in which signals from distant stations are received, amplified, and then transmitted by (coaxial or fiber) cable to users.
2. "Company" means any corporation, business association, partnership, or person who is authorized to do business in the State of Iowa and who may be granted franchise rights for the purpose of constructing, operating, and maintaining a cable television system in the City.
3. "Federal Communications Commission" or "FCC" means the federal agency by that name as constituted by the *Communications Act of 1934*, as amended.
4. "Gross subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the City for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and origination channels, if any. Gross subscriber revenues shall not include any revenues received:
 - A. As reimbursement of expenses in the operation of any access channels;
 - B. As advertising payments;
 - C. From the leasing of cable channels;
 - D. From programs for which a per-channel or per-program charge is made; and
 - E. From furnishing other communications and non-broadcast services either directly or as a carrier for another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs, or modifications of any installations.

5. “System” means the lines, fixtures, equipment, attachments, and appurtenances thereto which are used in the construction, operation, and maintenance of the community antenna television system authorized by this chapter.

113.03 GRANTING OF FRANCHISE. Prior to the granting of a franchise to construct, operate, and maintain a cable television system in the City, a full, open, and public meeting shall be held with notice as the Council may prescribe by resolution. Upon a finding by the Council that the Company possesses the necessary legal, technical, character, financial, and other qualifications and that the Company’s construction arrangements are adequate and feasible, the City may thereafter grant to the Company a nonexclusive franchise, right, and privilege to construct, erect, operate, modify, and maintain in, upon, among, across, above, and over and under the highways, streets, alleys, sidewalks, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto in the City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways, and public places and all manner of easements for the purposes set forth in this chapter.

113.04 COMPLIANCE REQUIRED GENERALLY. The Company shall, at all times during the life of the regulatory ordinance codified in this chapter, be subject to all lawful exercise of the police power by the City and to such reasonable regulations as the City shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the Company shall be in full compliance with such portions of the *National Electrical Safety Code* as may be applicable and as the same may be amended and revised from time to time, and in full compliance with all other applicable rules and regulations now in effect or hereafter adopted by the Federal Communications Commission, the City or any other agency of the State or the United States, which may hereafter acquire jurisdiction of the operations of the Company authorized in this chapter.

113.05 NATIONAL ELECTRIC SAFETY CODE. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements of the *National Electrical Safety Code*, and such applicable ordinances and regulations set forth by the City and/or any local, State, or federal agencies.

113.06 FCC REGULATIONS. The Company shall, at all times, comply with the rules and regulations governing CATV operations promulgated by the FCC, specifically those set out in Section 76.31 of the *FCC Rules and Regulations*. This shall include adherence by the Company to FCC rules regarding technical and engineering specifications involved in the construction of the CATV system and signal carriage therein.

113.07 MODIFICATION OF FCC RULES. Consistent with the requirements of Rule 76.31 (a)(6) of the FCC, any modification of Rule 76.31 resulting from amendment thereto by the FCC shall be incorporated in this chapter by specific amendment thereto by lawful action of the Council within one year from the effective date of the FCC’s amendment or at the time of renewal of the ordinance codified in this chapter, whichever occurs first.

113.08 TRANSFER. The Company shall not sell or transfer its system to another, or transfer any rights under this chapter to another without written notice and approval by the City; provided, that such approval shall not be unreasonably withheld if the vendee, assignee, or

lessee has filed with the appropriate official of the City an instrument duly executed, reciting the fact of such sale, assignment, or lease, accepting the terms of this chapter and agreeing to perform all conditions thereof.

113.09 COMPANY RULES AND REGULATIONS. The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this chapter and to assure uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms, and conditions shall not be in conflict with the provisions hereof or of federal and State law.

113.10 FRANCHISE TERM. The franchise granted under this chapter shall terminate 25 years from the date of grant, subject to renewal for period of reasonable duration on the same terms and conditions as contained in this chapter, or on such different or additional terms and conditions as may be lawfully specified by the Council and as are consistent with the requirements of Rule 76.31 of the FCC.

113.11 FRANCHISE RENEWAL. No renewal of the ordinance codified in this chapter shall be effective except pursuant to a public proceeding affording due process. The Company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interests would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

113.12 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. In furtherance of the Company's execution of contracts with public utility companies or any other owner or lessee of any poles located within or without the City to whatever extent such contract or contracts may be expedient and of advantage to the Company for use of poles and posts necessary for proper installation of the system, the Company may obtain right-of-way permits from appropriate State, County, and federal officials necessary to cross highways or roads under their respective jurisdictions, to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a City, County, State, or federal agency may require. The Company shall construct its cable system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company and restored to serviceable condition.
2. The Company's system, poles, wires, and appurtenances shall be located, erected, and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with any improvements the City may deem proper to make or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements, or public property.
3. In the event that the City annexes further territory as authorized by the law, the Company shall extend energized trunk cable to the remaining portions of the City so annexed within an acceptable time thereafter, unless additional time is granted by the Council upon request of the Company for good cause shown. Extension of service shall not be one of the requirements as set forth in this section.

4. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights of reasonable convenience of property owners who adjoin any of the said streets, alleys, or other public ways and places. In the event the electrical and phone lines are buried to the subscriber's residence, the Company shall be required to bury the cable also.

5. In case of any disturbance of pavement, sidewalk, driveway, grass, or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, grass, shrubs, trees, fences, or surface of any street or alley or other public or private property in as good condition as before said work was commenced.

6. In the event that at any time during the period of the franchise the City lawfully elects to alter or change the grade of any street, alley or other public way, the Company, upon reasonable notice by the City, shall remove, relay or relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

7. The Company shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixtures, water hydrants or mains, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such manner as not to interfere with the usual travel on said streets, alleys, and public ways.

8. The Company shall, on the request of any person holding a building moving permit issued by the City temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The Company shall be given no less than 48 hours advance notice to arrange for such temporary wire changes.

9. The Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables. All tree trimming is to be done under the direction of the City and at the expense of the Company.

10. The Company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the City and to any public or parochial elementary or secondary school. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

11. Within six months after the effective date of the ordinance codified by this chapter, the Company shall file with the Federal Communications Commission such request, petition or other application as is then proper to secure from said Federal Communications Commission any and all necessary permits, licenses, waivers or the like as may be necessary to be secured from said Federal Communications Commission and shall do all reasonable things necessary and proper to secure any such permit, license, waiver, approval or the like from it. The Company shall keep the City advised, from time to time, of the progress of such application.

113.13 PERFORMANCE GUARANTY. The Company shall secure and provide, at its expense, a performance bond to insure completion of initial installation of the system. This

bond shall run in favor of the City and shall be in the sum of \$100,000.00. In lieu of a performance bond, the Company may substitute an irrevocable letter of credit, drawn on a solvent Iowa bank, which shall permit the City to draft upon the same in the event of a default by the Company in the completion of the initial installation of a system.

113.14 LINE EXTENSIONS. It shall be the obligation of the Company to serve all residents of the City except to the extent that density of homes, adverse terrain, or other factors render providing service impracticable, technically infeasible or economically non-compensatory. For purposes of determining compliance with the provisions of this section, the Company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of 45 homes per each linear mile of new cable construction. In the event that the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

113.15 CITY RIGHTS.

1. City Rules. The right is reserved by the City to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this chapter, and shall not be in conflict with the applicable laws of the State or the United States.
2. Emergency or Disaster. In the case of any emergency or disaster, the Company shall, upon request of the City, make available its facilities to the City for emergency use during the emergency or disaster period. The Company will allow an emergency disaster warning system to be hooked up through the cable system.
3. No Property Right. Nothing in this chapter shall grant to the Company any right of property in the City-owned property, nor shall the City be compelled to maintain any of its property any longer than or in any fashion other than in the City's judgment, its own business or needs may require.
4. Construction Approval by City. Except for individual service drops, the Company shall not erect any pole, install any underground lines or conduits, run any line, make any attachment, nor shall any construction of any kind be commenced without the prior approval of the director of engineering or appropriate department of the City, which approval shall not be unreasonably withheld, and the City shall have and maintain the right to inspect the construction, operation and maintenance of the system by the Company to insure the proper performance of the terms of this chapter.
5. Correction of Defects. In the event the Company should violate any of the terms of this chapter, or any of the rules and regulations as may be from time to time lawfully adopted, the City shall immediately give to the Company 60-days' written notice to correct such violation.

113.16 PAYMENTS TO THE CITY.

1. The Company shall pay to the City a fee equal to three percent of the gross subscriber revenues received by the Company for monthly cable television services rendered to customers located within the City.
2. All payments from the Company to the City shall be paid annually and shall be due 45 days after the close of each calendar year.

3. Subscriber lists and necessary data shall be provided to the City upon request. A certified statement showing gross subscriber revenues shall be furnished annually to the City.

113.17 RATES AND CHARGES. In consideration for services rendered to subscribers, the Company shall have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the Company's need to attract new capital and provide a reasonable return on invested capital.

113.18 RECORD KEEPING. The Company shall keep full, true, accurate, and current books of account, which books and records and all other pertinent books, records, maps, plans, financial statements, and other like materials, shall be made available for inspection and copying by the City upon reasonable notice and during normal business hours. The Company shall supply to the City, upon completion of the initial installation of the system, a complete system map showing the location of all lines, poles and other Company apparatus with subscriber usage symbols. This map shall be updated at least annually.

113.19 SERVICE PROCEDURES. During the term of the franchise, and any renewal thereof, the Company shall maintain a nearby business office or agent for the purpose of receiving and resolving all questions regarding the quality of service, equipment malfunctions and similar matters. The provisions of this section shall be complied with if the Company may be reached by nearby toll-free telephone call and provides the Clerk's office with the name, address and telephone number of a person who will act as the Company's agent to receive complaints regarding quality of service, equipment malfunctions and similar matters. The nearby office shall be open to receive inquiries or complaints from subscribers during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within four business days of their receipt. The Company shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date thereof. This log shall be made available for periodic inspection by the City.

113.20 PROTECTION OF PRIVACY. The Company shall not permit the transmission of any signal, aural, visual or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining written permission of the subscriber. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the cable television service without payment to the Company for same. Such action shall be a simple misdemeanor.

113.21 PROGRAM CONTENT RESTRICTIONS. In addition to providing basic cable television service consisting of broadcast and automated signals, the Company may offer subscribers optional services on a per-program or per-channel basis. However, the Company shall not display X-rated motion pictures as part of its basic cable service during the daytime or "prime-time" viewing hours.

113.22 DISCRIMINATION PROHIBITED. The Company shall not refuse to hire or discriminate against any person regarding compensation, terms, conditions or privileges of employment because of sex, age, race, color, creed, or national origin. The Company shall take affirmative action to insure that employees are treated, during employment, without regard to their sex, age, race, color, creed, or national origin.

113.23 LIABILITY AND INDEMNIFICATION. The Company shall indemnify the City and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this chapter. The City shall notify the Company's representative within 15 days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Company. The Company agrees as follows:

1. The Company shall carry Worker's Compensation insurance with statutory limits and Employers' Liability insurance with limits of not less than \$100,000.00 which shall cover all operations to be performed by the Company as a result of this chapter.
2. The amounts of insurance to be carried for liability due to property damage shall be \$500,000.00 as to any one occurrence and against liability due to injury or death of persons, \$500,000.00 as to any one person and \$1,000,000.00 as to any one occurrence. The City shall reserve the right during the term of the franchise to increase or decrease the amount of insurance coverage required, provided that notice in writing is made to the Company of all increases or decreases in said insurance coverage requirements. The Company shall, within 60 days of receipt of that written notice, obtain such insurance coverage as is specified in said notice.
3. Company's Worker's Compensation, Comprehensive General Liability, and Comprehensive Automobile Liability insurance shall be written by an insurance company with a capital and/or surplus of not less than \$3,000,000.00 and Company agrees to furnish the City with certified copies or certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless 10 days prior written notice first be given to the City.

113.24 ACTIVITIES PROHIBITED.

1. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company, nor shall the system interfere with, obstruct or hinder, in any manner, the operation of the various utilities serving the residents of the City.
2. The Company shall not, as to rates, charges, service facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this chapter shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.
3. No person shall wrongfully or unlawfully intercept the signals of the Company.

113.25 VIOLATION; PENALTY. Should the Company, its successors or assigns violate any of the provisions of this chapter or any reasonable rules and regulations established by the City pursuant hereto and should such violation continue for more than 30 days after the City has given the Company written notice of such violation, failure, or default, or should the Company file for bankruptcy or be adjudicated as bankrupt or be placed in receivership, the same shall be cause for the forfeiture or revocation of the franchise and the termination of all rights hereunder; provided, however, any delay in correcting such violation which is caused by factors beyond the control of the Company shall not be included in computing the length of the continuance of such violation.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit, or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122, and 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer, or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon the terms, conditions, limitations, and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39, and 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a retail alcohol license, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City. *(Ord. 163 – Oct. 23 Supp.)*

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

(Ord. 165 – Oct. 23 Supp.)

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a retail alcohol license and the person's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

(Code of Iowa, Sec. 123.49[2b])

3. Sell alcoholic beverages to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel

or motel to bona fide registered guests, or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

(Code of Iowa, Sec. 142D.2[1])

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

(Code of Iowa, Sec. 142D.2[17])

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49[2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Iowa Department of Revenue.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[2k])

(Section 120.05 – Ord. 165 – Oct. 23 Supp.)

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

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

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

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

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

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

(Section 120.06 – Ord. 163 – Oct. 23 Supp.)

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, cigarette shall not be construed to include cigars.
3. “Place of business” means any place where cigarettes, tobacco products, alternative nicotine products, or vapor products are sold, stored, or kept for the purpose of sale or consumption by a retailer.
4. “Retailer” means every person who sells, distributes, or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “Self-service display” means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes

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

121.02 PERMIT REQUIRED.

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

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

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

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

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

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

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

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

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

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

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit. *(Ord. 165 – Oct. 23 Supp.)*

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

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

121.07 PERSONS UNDER LEGAL AGE. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of \$300.00. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 30 days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 10 days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36[6] of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within 30 days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

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|---------------------------------|---|
| 122.01 Purpose | 122.10 Time Restriction |
| 122.02 Definitions | 122.11 Revocation of License |
| 122.03 License Required | 122.12 Hearing |
| 122.04 Application for License | 122.13 Record and Determination |
| 122.05 License Fees | 122.14 Appeal |
| 122.06 Bond Required | 122.15 Effect of Revocation |
| 122.07 License Issued | 122.16 Rebates |
| 122.08 Display of License | 122.17 License Exemptions |
| 122.09 License Not Transferable | 122.18 Charitable and Nonprofit Organizations |

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

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

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

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

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address, and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business, and the length of time sought to be covered by the license. An application fee of \$15.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of \$10.00 per year.
2. Peddlers or Transient Merchants.
 - A. For one day \$50.00
 - B. For one week \$150.00
 - C. For up to six months \$250.00
 - D. For one year or major part thereof \$500.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 7:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address, not less than 10 days before the date set for the hearing on the possible revocation of a license. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons for such revocation or refusal. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least \$5.00 of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the local school districts conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Minor Businesses. An on-site transactional business traditionally operated exclusively by a person under the age of 18, operated on an occasional basis for no more than 89 calendar days in a calendar year.

(Code of Iowa, Sec. 364.3[13])

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit to the Clerk in writing the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees, or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.14 of this chapter.

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CHAPTER 124

ADULT ENTERTAINMENT

124.01 Definitions

124.02 General Regulations

124.01 DEFINITIONS.

1. “Adult amusement or entertainment” means an amusement or entertainment which is distinguished or characterized by an emphasis on acts or material depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined by this section, including, but not limited to, topless or bottomless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment.
2. “Adult book store or gift shop” means an establishment having as a substantial and significant portion of its stock in trade books, magazines, and other periodicals or goods and items held for sale which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.
3. “Adult hotel or motel” means a building with accommodations used for the temporary occupancy of one or more individuals and is an establishment wherein a substantial and significant portion of the materials presented are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by the individuals therein.
4. “Adult photo studio” means an establishment which, upon payment of a fee, provides photographic equipment and/or models for the purpose of photographing specified anatomical areas or specified sexual activities as defined in this section.
5. “Adult theater” means a theater wherein a substantial and significant portion of the materials presented are distinguished or characterized or related to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons herein.
6. “Adult uses” includes adult amusement or entertainment, adult book store or gift shop, adult hotel or motel, adult photo studio, adult theater, and massage parlor.
7. “Massage parlor” means any building, room, place, or establishment, where manipulated massage or manipulated exercise is practiced for pay upon the human body with an emphasis on specified sexual activities or specified anatomical areas, as defined in this section, by anyone not a duly licensed physician, osteopath, chiropractor, registered nurse and practical nurse operating under a physician's direction, physical therapist, chiropodist, registered speech pathologist, and physical or occupational therapist who treat only patients recommended by a licensed physician and operate only under such physician's direction, whether with or without the use of mechanical, therapeutic or bathing devices, and shall include Turkish bath houses. The term shall not include a regular licensed hospital, medical clinic, or nursing home, duly licensed beauty parlors or barber shops.

8. "Specified anatomical areas" means less than completely and opaquely covered human genitals, pubic region, buttocks; and a female breast below a point above the top of the areola; and human male genitals in a discernibly turgid state-even if completely and opaquely covered.
9. "Specified sexual activities" means patently offensive acts, exhibitions, representations, depictions or descriptions of:
 - A. Human genitals in a state of sexual stimulation or arousal;
 - B. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast;
 - C. Intrusion, however slight, actual or simulated, by an object, any part of an animal's body, or any part of a person's body into the genital or anal openings of a person's body;
 - D. Cunnilingus, fellatio, anilingus, bestiality, lewd exhibition of genitals function, actual or simulated; masturbation, or excretory
 - E. Flagellation, mutilation, or torture, actual or simulated, in a sexual context.

124.02 GENERAL REGULATIONS.

1. **Location.** An adult use shall not be located within 1,000 feet of another adult use, nor shall the adult use be located within 1,000 feet of any public or parochial school, regularly scheduled school bus stop, licensed day care facility, church, public park, or any dwelling (one-family, two-family, or multiple dwelling). or within 1,000 feet of City Hall. The 1,000-foot restriction shall be computed by measurement from the nearest property line of the land used for another adult use or in the case of any regularly scheduled school bus stop, public or parochial school, licensed day care facility, church, public park, dwelling, or City Hall by measurement to the nearest entrance of the building in which adult uses are to occur, using a route of direct horizontal distance.
2. **Concealment.** All building openings, entries, windows, etc. of an adult use shall be covered or screened in such a manner as to prevent a view of the interior from any public or semi-public area. Advertisements, displays, or other promotional materials shall not be shown or exhibited so as to be visible to the public from the pedestrian sidewalks, walkways, or from other public or semi-public areas.
3. **Minors.** No minor shall be permitted in any establishment in which adult uses are permitted.
4. **Alcohol.** No alcohol shall be permitted in any establishment in which adult uses are permitted, unless such is specifically allowed pursuant to the *Code of Iowa*. This prohibition applies equally to the proprietor and the patrons of the establishment involved.
5. **Public Exposure.** Except as hereinafter provided, no person shall expose those parts of his or her body, hereinafter listed, to another in any public place, in any privately owned place open to the public, or in any place where such exposure is seen by another person or persons located in any public place:
 - A. A woman's nipple, the areola thereof, or full breast, except as necessary in the breast-feeding of a baby.

- B. The pubic hair, pubes, perineum, or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting such body parts of prepubescent infants of either sex.
1. This subsection shall not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or such other places where such exposures occur incident to the prescribed use of those facilities. This subsection shall also not apply to exposures occurring in live stage plays, live theatrical performances, or live dance performances conducted in a theater, concert hall, or similar establishment which is primarily devoted to theatrical performances.

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CHAPTER 135

STREET USE AND MAINTENANCE

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| 135.01 Removal of Warning Devices | 135.08 Burning Prohibited |
| 135.02 Obstructing or Defacing | 135.09 Excavations |
| 135.03 Placing Debris On | 135.10 Property Owner's Responsibility for Maintenance |
| 135.04 Playing In | 135.11 Failure to Maintain |
| 135.05 Traveling On Barricaded Street or Alley | 135.12 Dumping of Snow |
| 135.06 Use for Business Purposes | 135.13 Driveway Culverts |
| 135.07 Washing Vehicles | |

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy, or carry away from any street or alley any lamp, obstruction, guard, or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 321.369)

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

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

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

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

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

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

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

1. Permit Required. No excavation shall be commenced without first obtaining a permit. A written application for such permit shall be filed with the City and shall contain the following:
 - A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets and alleys shall be opened in the manner that will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
3. Barricades, Fencing, and Lighting. Adequate barricades, fencing, and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing, or warning lights shall be paid to the City by the permit holder/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, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of 24 hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses for such work to the permit holder/property owner.
9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.
10. Notification. At least 48 hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.
11. Permit Fee. A permit fee of \$5.00 shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

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

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

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

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

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

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

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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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 |
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| 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 and e])

136.04 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. *(Ord. 171 – Mar. 25 Supp.)*

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least four feet wide and four inches thick, and each section shall be no more than four feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four inches thick and no more than six feet in length, and at least six feet wide.
 - 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) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-fourth inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a broom finish or wood float finish.
11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Notice of Vacation Hearing
137.03 Findings Required

137.04 Disposal of Vacated Streets or Alleys
137.05 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.
(Code of Iowa, Sec. 364.12[2a])

137.02 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.03 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.04 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.05 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] and 364.7[3])

[illegible]

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CHAPTER 138

STREET GRADES

138.01 Purpose and Definition
138.02 Established Grades

138.03 Record Maintained

138.01 PURPOSE AND DEFINITION. This chapter is designed to meet the requirements of the *Code of Iowa* for the establishment of street grades. As used herein, “grade” means the longitudinal reference lines, as established by ordinance of the Council, which designate the elevation at which a street or sidewalk is to be built.

138.02 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.

138.03 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 |
| 11 | June 12, 1905 | | |
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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor, and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map, which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Beaman, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 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 that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 and 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within 48 hours

or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits, such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF BEAMAN, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions

146.02 Conversion to Real Property

146.03 Foundation Requirements

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by federal law to display a seal from the United States Department of Housing and Urban Development.
2. “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which 10 or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure, or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or federal seals.
4. “Mobile home park” means any site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity’s own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26)

1. **Retailer’s Stock.** Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. **Existing Homes.** A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995,

shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the *State Building Code*. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the *State Building Code*.

(Code of Iowa, Sec. 103A.10 and 414.28)

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CHAPTER 155

BUILDING AND LAND USE REGULATIONS

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|---|---|
| 155.01 Purpose | 155.15 Restricted Residence District |
| 155.02 Building Official | 155.16 Prohibited Use |
| 155.03 Permit Required | 155.17 Exceptions |
| 155.04 Application | 155.18 Notice Requirements |
| 155.05 Fee | 155.19 Front Yard Requirements |
| 155.06 Amendments | 155.20 Side Yard Requirements |
| 155.07 Completion of Existing Buildings | 155.21 Rear Yard Requirements |
| 155.08 Application Approved | 155.22 Minimum Standards of Principal Structure |
| 155.09 Erosion Control | 155.23 Garages and Other Accessory Buildings |
| 155.10 Application Denied; Appeal | 155.24 Fences |
| 155.11 Restrictions | 155.25 Child Development Homes |
| 155.12 Condition of the Permit | 155.26 Variances |
| 155.13 Revocation | 155.27 Certifying Ordinances |
| 155.14 Permit Void | 155.28 Abatement of Violation |

155.01 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations 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)

155.02 BUILDING OFFICIAL. The Mayor is the Building Official and is responsible for the administration and enforcement of this chapter.

155.03 PERMIT REQUIRED. No building or other structure shall be erected, altered, used or occupied within the City without first receiving a permit therefor.

155.04 APPLICATION. Application shall be made in writing, filed with the Building Official and 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 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 as the Building Official may require.

155.05 FEE. The following fees shall accompany each building permit application, as pertinent:

1. A fee of \$25.00 for projects ranging from \$0.00 to \$10,000.00.
2. A fee of \$100.00 for projects ranging from \$10,001.00 to \$100,000.00.
3. A fee of \$250.00 for projects \$100,001.00 and higher.

155.06 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. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

155.07 COMPLETION OF EXISTING BUILDINGS. Nothing contained in this chapter shall require any change in the plans, construction, size or designated use of a building, for which a valid permit has been issued or lawful approval given before December 13, 1989.

155.08 APPLICATION APPROVED. It is the duty of the Building Official to examine applications for permits within a reasonable time after filing. If, after examination, the Building Official 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 Building Official shall issue a permit.

155.09 EROSION CONTROL. When a land disturbing activity, as defined by the Code of Iowa, is to occur as a part of a project for which a permit hereunder is sought, no permit shall be issued unless there is on file with the City a soil erosion control plan which covers the proposed project and is approved by the Soil Conservation District Commissioners.

(Code of Iowa, Sec. 161A.64)

155.10 APPLICATION DENIED; APPEAL. If the Building Official denies an application for permit, the reasons for such denial shall be stated and the applicant notified of such denial and of the right to appeal to the Council. The Council upon appeal may affirm, modify, or reverse the determination of the Building Official; provided, however, no application shall be approved and permit issued which would result in an abrogation of the intent and purpose of this chapter.

155.11 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. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.
8. Congestion. Any undue gathering, congregating, parking of cars or undue congestion of people or traffic.
9. Other. Any effect that will be obnoxious, offensive, dangerous, or injurious to the health, welfare, and safety of citizens.

155.12 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof.

155.13 REVOCATION. The Building Official 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.

155.14 PERMIT VOID. In the event that construction covered by a permit is not initiated and under way within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect.

155.15 RESTRICTED RESIDENCE DISTRICT. The following area is hereby defined and established as a restricted residence district:

Blocks One, Two, Six, Seven, Eight, Nine, Eleven, Fifteen, and Nineteen; Lots One, Two, Three, and Four of Block Twelve; Lots One, Two, Three, Twenty-one, Twenty-two, Twenty-three, Twenty-four, the west 70.5 feet of the originally platted corner, measuring 51.5 feet by 33 feet of Block Thirteen; Lots One, Two, Three, Nineteen, Twenty, Twenty-one, Twenty-two, Twenty-three, and Twenty-four of Block Fourteen; Lots One, Two, Three, Four, Seven, and Eight of Block Sixteen; Lots Sixteen and Seventeen of Block Seventeen; Lots Twenty, Twenty-one, and Twenty-two of Block Eighteen; and

A tract of land in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Thirty-four (34), Township Eighty-six (86) North, Range Seventeen (17), West of the 5th P.M., in Grundy County, Iowa, described as beginning 66 feet east of the Southeast Corner of Block Fifteen (15) of the Original Plat of the Town of Beaman, Iowa, thence east along the north line of Second Street extended to the east side of the Town alley 142 feet, thence due north along the east line of said alley 175 feet, thence east 70 feet, thence south 175 feet to the north line of Second Street extended, thence east 205 feet, thence north 495 feet, more or less, to the north line of said Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), thence west along said Quarter Section line 417 feet, more or less, to the east line of Beckman Street, thence south 495 feet, more or less, to the point of beginning; and

A tract in Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Thirty-four (34), Township Eighty-six (86) North, Range Seventeen (17), West of the 5th P.M., in Grundy County, Iowa, described as beginning 66 feet east and 40 feet south of the Southeast Corner of Block Fifteen (15) of the Original Plat of the Town of Beaman, Iowa, thence south along the east line of Beckman Street 307 feet, more or less, to the north line of the former Chicago and Northwestern Railway Company right of way, thence east 379 feet, thence north 307 feet, more or less, to the south line of Second Street extended, thence west 379 feet, more or less, to the point of beginning.

155.16 PROHIBITED USE. No building or other structure, except residences, schoolhouses, churches, and other similar structures, shall be erected, altered, used, or occupied within the restricted residence district as defined herein without first receiving from the Council a special use permit. No such special use permit shall be issued without the affirmative vote of three-fourths of all of the members of the Council.

(Code of Iowa, Sec. 414.24)

155.17 EXCEPTIONS. The provisions of the preceding section shall have no application to any business, store, shop, or factory existing and in operation in a restricted residence district

on December 13, 1989, except in the matter of reconstruction, alteration, or change in use of the structure.

155.18 NOTICE REQUIREMENTS. Whenever a restricted residence district is established or its boundaries changed, a public hearing must be held, notice of which shall be given at least seven days in advance of the hearing and in the manner prescribed in Section 18.05 of this Code of Ordinances. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

(Code of Iowa, Sec. 414.24)

155.19 FRONT YARD REQUIREMENTS. Within the restricted residence district there shall be a front yard of not less than 25 feet (measured from the front lot line), except as follows:

(Code of Iowa, Sec. 414.24)

1. **Between Existing Buildings.** Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent buildings on the two sides, or
2. **Adjacent to Existing Building.** Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only within the same block, such building may be erected as close to the street as a line drawn from the closest front corner of that building to a point 25 feet back from the front lot line measured at the center of the lot on which the proposed building is to be erected.

155.20 SIDE YARD REQUIREMENTS. Within the restricted residence district no building shall be erected closer than four feet to either side lot line. If a corner lot, there shall be a minimum side yard of 12 feet.

(Code of Iowa, Sec. 414.24)

155.21 REAR YARD REQUIREMENTS. Within the restricted residence district there shall be a rear yard provided for each principal building of not less than four feet (when measured from the rear lot line).

(Code of Iowa, Sec. 414.24)

155.22 MINIMUM STANDARDS OF PRINCIPAL STRUCTURE. No dwelling shall be erected, placed, or occupied within the restricted residence district that contains less than 960 square feet of area on its ground floor level.

155.23 GARAGES AND OTHER ACCESSORY BUILDINGS. A garage, deck or other similar accessory building may be built in a rear yard but such garage, deck or accessory building shall not occupy more than 30 percent of a rear yard and shall not be nearer than two feet to any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than 10 feet to the alley line and except that a garage that is located closer than 10 feet to the rear line of the main building shall provide the side yard for the main building. Also, a garage, deck or accessory building may be built in a side yard if compliance is made with the same side yard requirements as for the main building. The deck or accessory building shall be back four feet from the alley as the alley is 20 feet wide.

155.24 FENCES. Fences may be erected no closer than six inches to the lot line, except if both parties agree to put the fence on the boundary line.

155.25 CHILD DEVELOPMENT HOMES. Establishment and operation of child development homes (in-home child care providers) is allowed as long as all other requirements of this chapter are met and followed.

155.26 VARIANCES. Variances to minimum yard or fence requirements may be approved by securing an affirmative vote of three-fourths of all of the members of the Council. Said variance must include the reason for a variance, why the variance was granted and specific description of the property for which the variance was granted.

155.27 CERTIFYING ORDINANCES. Within 15 days of the effective date of the adoption of any amendments to the provisions of this chapter, the Clerk shall certify such amendment to the County Recorder.

(Code of Iowa, Sec. 380.11)

155.28 ABATEMENT OF VIOLATION. Any building or structure erected, altered, used or occupied in violation of this chapter shall be determined a nuisance, and the same may be abated by the City or by any property owner within said district in the manner provided for the abatement of nuisances.

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CHAPTER 160

FLOODPLAIN MANAGEMENT

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|--|---|
| 160.01 Definitions | 160.06 Establishment of Variance Procedures |
| 160.02 Statutory Authority, Findings of Fact and Purpose | 160.07 Nonconforming Uses |
| 160.03 General Provisions | 160.08 Penalties for Violation |
| 160.04 Administration | 160.09 Amendments |
| 160.05 Floodplain Management Standards | |

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

1. “Appurtenant structure” means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” means the flood having one percent chance of being equaled or exceeded in any given year (also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. “Development” does not include minor projects or routine maintenance of existing buildings and facilities, as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” means the floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of 160.05(4)(A) of this chapter; and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking, or storage; and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the base flood elevation; and
 - D. The enclosed area is not a basement, as defined in this section.
7. “Existing construction” means any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.

8. “Existing factory-built home park or subdivision” means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.
9. “Expansion of existing factory-built home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
10. “Factory-built home” means any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For purposes of this chapter, factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. “Factory-built home park” means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. “500-year flood” means a flood, the magnitude of which has a two-tenths percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every 500 years.
13. “Flood” means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
14. “Flood insurance rate map” (FIRM) means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
15. “Flood insurance study” (FIS) means a report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. “Floodplain” means any land area susceptible to being inundated by water as a result of a flood.
17. “Floodplain management” means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
18. “Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
19. “Floodway” means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

20. "Floodway fringe" means those portions of the special flood hazard area outside the floodway.
21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. "Historic structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.
23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of "enclosed area below lowest floor" are met.
24. "Maximum damage potential development" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. "Minor projects" means small development activities (except for filling, grading, and excavating) valued at less than \$500.00.
26. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management regulations adopted by the community.
28. "Recreational vehicle" means a vehicle which is:
- A. Built on a single chassis;

- B. 400 square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding.
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - C. Basement sealing.
 - D. Repairing or replacing damaged or broken window panes.
 - E. Repairing plumbing systems, electrical systems, heating, or air conditioning systems and repairing wells or septic systems.
30. "Special flood hazard area" (SFHA) means the land within the City subject to the base flood. This land is identified on the City's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether that alteration affects the external dimensions of the building.
32. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities, and/or other similar uses.
33. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of

such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. “Substantial improvement” means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (i) before the start of construction of the improvement; or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of a historic structure, provided the alteration will not preclude the structure’s designation as a historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. “Variance” means a grant of relief by a community from the terms of the floodplain management regulations.

36. “Violation” means the failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 364, *Code of Iowa*, as amended, delegated the power to cities to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges, and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort, and convenience of its residents.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and

improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Paragraph 2(A) of this section with provisions designed to:

- A. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
- C. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.03 GENERAL PROVISIONS.

1. **Lands to Which Chapter Applies.** The provisions of this chapter shall apply to all areas having special flood hazards within the jurisdiction of the City. For purposes of this chapter, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map (FIRM) for Grundy County and Incorporated Areas, City of Beaman, Panel 19075C0430C, dated December 20, 2019, which is hereby adopted and made a part of this chapter. The Flood Insurance Study for Grundy County is hereby adopted by reference and is made a part of this chapter for the purpose of administering floodplain management regulations.
2. **Rules for Interpretation of Flood Hazard Boundaries.** The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the City Clerk shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the City Clerk in the enforcement or administration of this chapter.
3. **Compliance.** No structure or land shall hereafter be used, and no structure shall be located, extended, converted, or structurally altered, without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
4. **Abrogation and Greater Restrictions.** It is not intended by this chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.
5. **Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
6. **Warning and Disclaimer of Liability.** The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that

areas outside the designated special flood hazard areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

7. Severability. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.04 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Administrator.

A. The City Clerk is hereby appointed to implement and administer the provisions of this chapter and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, State, and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of: (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures; or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this chapter.

(6) Submit to the Federal Insurance Administration an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this chapter and advise the City Council of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when:

- a. Development placed within the Floodway results in an increase in the base flood elevations or alteration to the floodway boundary.
- b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
- c. Development relocates or alters the channel.

Within six months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this chapter.

2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, storage of material and equipment, excavation, or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

- (1) Description of the work to be covered by the permit for which application is to be made.
- (2) Description of the land on which the proposed work is to be done (e.g., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.
- (6) Elevation (in relation to North American Vertical Datum 1988 of the lowest floor (including basement) of structures or of the level to which a structure is to be floodproofed.
- (7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.
- (8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

C. Action on Permit Application. The Administrator shall, within a reasonable time, determine whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove

the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the City Council.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based on approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.05 FLOODPLAIN MANAGEMENT STANDARDS. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine: (i) whether the land involved is either wholly or partly within the floodway or floodway fringe; and (ii) the base flood elevation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination. Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where: (i) the bridge or culvert is located on a stream that drains less than two square miles; and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567 IAC 71.2(2).

1. All Development. All development within the special flood hazard areas shall:
 - A. Be designed and adequately anchored to prevent flotation, collapse, or lateral movement.
 - B. Use construction methods and practices that will minimize flood damage.
 - C. Use construction materials and utility equipment that are resistant to flood damage.
 - D. Obtain all other necessary permits from federal, State, and local governmental agencies including approval when required from the Iowa Department of Natural Resources.
2. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the base flood elevations. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot above the base flood elevations and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means

of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

3. Nonresidential Structures. All new or substantially improved nonresidential structures shall have the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation, or together with attendant utility and sanitary systems, be flood proofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the lowest floor (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

- (1) A minimum of two openings, with positioning on at least two walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage. Where the distance between the floor and ceiling of the fully enclosed area below the lowest floor is five feet or more, the applicant shall be required to sign and record with the County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in this paragraph.

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or flood-proofed to a minimum of one foot above the base flood elevation.

5. Factory-Built Homes.
 - A. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one foot above the base flood elevation.
 - B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.
6. Utility and Sanitary Systems.
 - A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
 - B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the base flood elevation.
 - C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one foot above the base flood elevation.
 - D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of Materials and Equipment. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the base flood elevation. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and be anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.
8. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.
9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development

associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five acres or 50 lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures to Residential Uses. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:

- A. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 square feet in size. Those portions of the structure located less than one foot above the BFE must be constructed of flood-resistant materials.
- B. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.
- C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
- D. The structure shall be firmly anchored to resist flotation, collapse, and lateral movement.
- E. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.
- F. The structure's walls shall include openings that satisfy the provisions of Subsection 4(A) of this section.

Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

- A. Recreational vehicles are exempt from the requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
 - (1) The recreational vehicle shall be located on the site for less than 180 consecutive days; and
 - (2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Subsection 5 of this section regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood proofed shall be maintained by the Administrator. Where 0.2 percent chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

160.06 ESTABLISHMENT OF VARIANCE PROCEDURES.

1. The City Council may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. In cases where the variance involves a lower level of flood protection for structures than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors upon Which the Decision of the City Council Shall Be Based. In passing upon applications for variances, the City Council shall consider all relevant factors specified in other sections of this chapter and:

- A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- B. The danger that materials may be swept on to other land or downstream to the injury of others.
- C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- E. The importance of the services provided by the proposed facility to the City.
- F. The requirements of the facility for a floodplain location.
- G. The availability of alternative locations not subject to flooding for the proposed use.
- H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
- L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical, and water systems), facilities, streets, and bridges.
- M. Such other factors which are relevant to the purpose of this chapter.

3. Conditions Attached to Variances. Upon consideration of the factors listed above, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

- A. Modification of waste disposal and water supply facilities.
- B. Limitation of periods of use and operation.
- C. Imposition of operational controls, sureties, and deed restrictions.
- D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this chapter.
- E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the

regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

160.07 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance codified in this chapter, but which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:

A. If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.08 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation.

160.09 AMENDMENTS. The regulations and standards set forth in this chapter may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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APPENDIX TO CODE OF ORDINANCES

USE AND MAINTENANCE OF THE CODE OF ORDINANCES

The following information is provided to assist in the use and proper maintenance of this Code of Ordinances.

DISTRIBUTION OF COPIES

1. **OFFICIAL COPY.** The “OFFICIAL COPY” of the Code of Ordinances must be kept by the City Clerk and should be identified as the “OFFICIAL COPY.”

2. **DISTRIBUTION.** Other copies of the Code of Ordinances should be made available to all persons having a relatively frequent and continuing need to have access to ordinances which are in effect in the City as well as reference centers such as the City Library, County Law Library, and perhaps the schools.

3. **SALE.** The sale or distribution of copies in a general fashion is not recommended as experience indicates that indiscriminate distribution tends to result in outdated codes being used or misused.

4. **RECORD OF DISTRIBUTION.** The City Clerk should be responsible for maintaining an accurate and current record of persons having a copy of the Code of Ordinances. Each official, elected or appointed, should return to the City, upon leaving office, all documents, records and other materials pertaining to the office, including this Code of Ordinances.

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

NUMBERING OF ORDINANCES AMENDING THE CODE OF ORDINANCES

It is recommended that a simple numerical sequence be used in assigning ordinance numbers to ordinances as they are passed. For example, if the ordinance adopting the Code of Ordinances is No. 163, we would suggest that the first ordinance passed changing, adding to, or deleting from the Code be assigned the number 164, the next ordinance be assigned the number 165, and so on. We advise against using the Code of Ordinances numbering system for the numbering of ordinances.

RETENTION OF AMENDING ORDINANCES

Please note that two books should be maintained: (1) the Code of Ordinances; and (2) an ordinance book. We will assist in the maintenance of the Code of Ordinances book, per the Supplement Agreement, by revising and returning appropriate pages for the Code of Ordinances book as required to accommodate ordinances amending the Code. The City Clerk is responsible for maintaining the ordinance book and must be sure that an original copy of each ordinance adopted, bearing the signatures of the Mayor and Clerk, is inserted in the ordinance book and preserved in a safe place.

SUPPLEMENT RECORD

A record of all supplements prepared for the Code of Ordinances is provided in the front of the Code. This record will indicate the number and date of the ordinances adopting the original Code and of each subsequently adopted ordinance which has been incorporated in the Code. For each supplemented ordinance, the Supplement Record will list the ordinance number, date, topic, and chapter or section number of the Code affected by the amending ordinance. A periodic review of the Supplement Record and ordinances passed will assure that all ordinances amending the Code have been incorporated therein.

DISTRIBUTION OF SUPPLEMENTS

Supplements containing revised pages for insertion in each Code will be sent to the Clerk. It is the responsibility of the Clerk to see that each person having a Code of Ordinances receives each supplement so that each Code may be properly updated to reflect action of the Council in amending the Code.

AMENDING THE CODE OF ORDINANCES

The Code of Ordinances contains most of the laws of the City as of the date of its adoption and is continually subject to amendment to reflect changing policies of the Council, mandates of the State, or decisions of the Courts. Amendments to the Code of Ordinances can only be accomplished by the adoption of an ordinance.

(Code of Iowa, Sec. 380.2)

The following forms of ordinances are recommended for making amendments to the Code of Ordinances:

ADDITION OF NEW PROVISIONS

New material may require the addition of a new SUBSECTION, SECTION or CHAPTER, as shown in the following sample ordinance:

ORDINANCE NO. ____

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
CITY OF BEAMAN, IOWA, BY ADDING A NEW SECTION LIMITING
PARKING TO 30 MINUTES ON A PORTION OF
_____ STREET**

BE IT ENACTED by the City Council of the City of Beaman, Iowa:

SECTION 1. NEW SECTION. The Code of Ordinances of the City of Beaman, Iowa, is amended by adding a new Section 69.16, entitled PARKING LIMITED TO 30 MINUTES, which is hereby adopted to read as follows:

69.16 PARKING LIMITED TO 30 MINUTES. It is unlawful to park any vehicle for a continuous period of more than 30 minutes between the hours of 8:00 a.m. and 8:00 p.m. on each day upon the following designated streets:

1. _____ Street, on the _____ side, from _____ Street to _____ Street.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 20____.

City Clerk

DELETION OF EXISTING PROVISIONS

Provisions may be removed from the Code of Ordinances by deleting SUBSECTIONS, SECTIONS or CHAPTERS, as shown in the following sample ordinance:

ORDINANCE NO. ____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BEAMAN, IOWA, BY REPEALING SECTION 65.02, SUBSECTION 5, PERTAINING TO THE SPECIAL STOP REQUIRED ON _____ STREET.

BE IT ENACTED by the City Council of the City of Beaman, Iowa:

SECTION 1. SUBSECTION REPEALED. The Code of Ordinances of the City of Beaman, Iowa, is hereby amended by repealing Section 65.02, Subsection 5, which required vehicles traveling south on _____ Street to stop at _____ Street.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 __, and approved this ____ day of _____, 20 __.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 __.

City Clerk

MODIFICATION OR CHANGE OF EXISTING PROVISION

Existing provisions may be added to, partially deleted, or changed, as shown in the following sample:

ORDINANCE NO. ____**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE
CITY OF BEAMAN, IOWA, BY AMENDING PROVISIONS
PERTAINING TO SEWER SERVICE CHARGES**

BE IT ENACTED by the City Council of the City of Beaman, Iowa:

SECTION 1. SECTION MODIFIED. Section 99.01 of the Code of Ordinances of the City of Beaman, Iowa, is repealed and the following adopted in lieu thereof:

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges in the amount of _____ percent of the bill for water and water service attributable to the customer for the property served, but in no event less than \$_____ dollars per _____.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20____, and approved this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20____.

City Clerk

ORDINANCES NOT CONTAINED IN THE CODE OF ORDINANCES

There are certain types of ordinances which the City will be adopting which do not have to be incorporated in the Code of Ordinances. These include ordinances: (1) establishing grades of streets or sidewalks; (2) vacating streets or alleys; (3) authorizing the issuance of bonds; and (4) amending the zoning map.

(Code of Iowa, Sec. 380.8)

ORDINANCE NO. ____

AN ORDINANCE VACATING (INSERT LOCATION OR LEGAL DESCRIPTION OF STREET OR ALLEY BEING VACATED) TO BEAMAN, IOWA

Be It Enacted by the City Council of the City of Beaman, Iowa:

SECTION 1. The (location or legal description of street or alley) to Beaman, Iowa, is hereby vacated and closed from public use.

SECTION 2. The Council may by resolution convey the alley described above to abutting property owners in a manner directed by the City Council.

SECTION 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

SECTION 5. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 20 __, and approved this ____ day of _____, 20 __.

Mayor

ATTEST:

City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. ____ on the ____ day of _____, 20 __.

City Clerk

These ordinances should be numbered in the same numerical sequence as any other amending ordinance and placed in their proper sequence in the ordinance book.

SUGGESTED FORMS

FIRST NOTICE – DANGEROUS BUILDING

TO: (Name and address of owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) within ____ days from service of this notice or file written request for a Council hearing with the undersigned officer within said time limit.

The nuisance consists of (describe the nuisance and cite the law or ordinance) and shall be abated by (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance, as directed, or file written request for hearing within the time prescribed herein, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the cost will be assessed against you as provided by law.

Date of Notice: _____

City of Beaman, Iowa

By: _____
(enforcement officer)

NOTICE OF HEARING ON DANGEROUS BUILDING

TO: (Name and address of the owner, agent, or occupant of the property on which nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified that the City Council of Beaman, Iowa, will meet on the ____ day of _____, 20____, at _____ p.m., in the Council Chambers of the City Hall, at (address of City Hall) for the purpose of considering whether or not the alleged nuisance consisting of (describe the nuisance) on your property, locally known as _____, constitutes a nuisance pursuant to Chapter _____ of the Code of Ordinances of Beaman, Iowa, and should be abated by (state action necessary to abate the particular nuisance).

You are further notified that at such time and place you may appear and show cause why the said alleged nuisance should not be abated.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Beaman, Iowa

By: _____
(enforcement officer)

**RESOLUTION AND ORDER
REGARDING DANGEROUS BUILDING**

BE IT RESOLVED, by the City Council of the City of Beaman, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on (property owner's name), through (agent's name or "none"), agent, to abate the nuisance existing at (legal description and address) within ____ days from service of said notice upon the said (name of owner or agent). and

(EITHER)

WHEREAS, a hearing was requested by the said (name of property owner or agent) and the same was held at this meeting and evidence produced and considered by the City Council.

(OR, ALTERNATE TO PRECEDING PARAGRAPH)

WHEREAS, the said owner (agent) named above has failed to abate or cause to be abated the above nuisance as directed within the time set, and after evidence was duly produced and considered at this meeting, and said owner has failed to file a written request for hearing, as provided, after being properly served by a notice to abate.

NOW THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent (name of owner or agent) is hereby directed and ordered to abate the nuisance consisting of (describe the nuisance) by (state action necessary to abate) within ____ days after the service of this Order upon said owner or agent. and

BE IT FURTHER RESOLVED that the enforcement officer be and is hereby directed to serve a copy of this Order upon the said property owner or agent named above. and

BE IT FURTHER RESOLVED that in the event the owner, or agent (name the owner or agent) fails to abate the said nuisance within the time prescribed above, then and in that event the City will abate the said nuisance and the cost will be assessed against the property and/or owner (owner's name) at (address), as the law shall provide.

Moved by _____ to adopt.

Adopted this ____ day of _____, 20____.

Mayor

ATTEST:

City Clerk

Note: It is suggested by the blank space in the resolution that additional time be allowed the owner to abate the nuisance after the passage of the resolution before any action is taken on the part of the City to abate the same. In some instances, for the sake of public safety, the time element could be stricken from the resolution and immediate action be taken to abate the nuisance after the order is given.

NOTICE TO ABATE NUISANCE

TO: (Name and address of owner, agent, or occupant of the property on which the nuisance is located or the person causing or maintaining the nuisance).

You are hereby notified to abate the nuisance existing at (name location of nuisance) or file written request for a hearing with the undersigned officer within (hours or days) from service of this notice.

The nuisance consists of: (describe the nuisance) and shall be abated by: (state action necessary to abate the particular nuisance).

In the event you fail to abate or cause to be abated the above nuisance as directed, the City will take such steps as are necessary to abate or cause to be abated the nuisance and the costs will be assessed against you as provided by law.

Date of Notice: _____

City of Beaman, Iowa

By: _____
(designate officer initiating notice)

NOTICE

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that connection to the public sanitary sewer system is required at the following described property within _____ (____) days from service of this notice or that you must file written request for a hearing before the Council with the undersigned office within said time limit.

Description of Property

The nearest public sewer line within _____ (____) feet of the above described property is located _____

In the event you fail to make connection as directed, or file written request for hearing within the time prescribed herein, the connection shall be made by the City and the costs thereof assessed against you as by law provided.

Date of Notice: _____

City of Beaman, Iowa

By: _____, _____
(Name) (Title)

NOTICE OF HEARING

REQUIRED SEWER CONNECTION

TO: _____
(Name)

(Street Address)
_____, Iowa

You are hereby notified that the City Council of Beaman, Iowa, will meet on the ____ day of _____, 20__, at _____ m. in the Council Chambers of the City Hall for the purpose of considering whether or not connection to the public sanitary sewer system shall be required at the following described property:

Description of Property

You are further notified that at such time and place you may appear and show cause why said connection should not be required.

You are further notified to govern yourselves accordingly.

Date of Notice: _____

City of Beaman, Iowa

By: _____, _____
(Name) (Title)

RESOLUTION AND ORDER
REQUIRED SEWER CONNECTION

BE IT RESOLVED, by the City Council of the City of Beaman, Iowa:

WHEREAS, notice has heretofore been served on the ____ day of _____, 20____, on
_____,
(Name of Property Owner)
through _____, Agent,
(Agent's Name or "None")

to make connection of the property described as

to the public sanitary sewer located _____
within _____ (_____) days from service of notice upon said owner or agent. and

(EITHER)

WHEREAS, a hearing was requested by the said owner or agent and the same was held at this meeting and evidence produced and considered by the City Council.

(OR AS ALTERNATE TO THE PRECEDING PARAGRAPH)

WHEREAS, the said owner or agent named above has failed to make such required connection within the time set, and after evidence was duly produced and considered at this meeting, and said owner or agent has failed to file a written request for hearing after being properly served by a notice to make such connection or request a hearing thereon.

NOW, THEREFORE, BE IT RESOLVED that the owner of said property, or said owner's agent, _____

(Name of Owner or Agent)

is hereby directed and ordered to make such required connection within _____ days after the service of this ORDER upon said owner or agent. and

BE IT FURTHER RESOLVED that the City Clerk be and the same is hereby directed to serve a copy of this ORDER upon said property owner or agent named above. and

BE IT FURTHER RESOLVED, that in the event the owner, or agent,

_____,
(Name of Owner or Agent)

fails to make such connection within the time prescribed above, then and in that event the City will make such connection and the cost thereof will be assessed against the property and/or owner

(Owner's Name)

_____, as provided by law.
(Address)

Moved by _____ to adopt.

Seconded by _____.

AYES: _____,
_____, _____.

NAYS: _____,
_____, _____.

Resolution approved this ____ day of _____, 20__.

Mayor

ATTEST:

City Clerk

CITY OF BEAMAN, IOWA

APPLICATION FOR A BUILDING/LAND USE PERMIT

DATE: _____ APPLICATION NO.: _____ FEE: _____

Applicant _____
Address _____

Tel. No. (Bus.) _____ (Res.) _____

FOR OFFICE USE ONLY

____ FEE PAID
____ PLOT DIAGRAM SUBMITTED
____ PLAN SUBMITTED
____ APPLICATION FOR A CERTIFICATE OF OCCUPANCY SUBMITTED

I/WE HEREBY REQUEST A BUILDING/LAND USE PERMIT TO:

☐ BUILD ☐ ALTER ☐ CHANGE THE USE OF

THE FOLLOWING DESCRIBED PROPERTY:

STREET ADDRESS _____

LEGAL DESCRIPTION:

TYPE OF IMPROVEMENT: _____

PRESENT USE: _____

PROPOSED USE: _____

A PLOT DIAGRAM, showing lot lines, exact location and dimensions of all existing and proposed structures on the property, AND A PLAN OF ANY PROPOSED WORK MUST ACCOMPANY THIS APPLICATION.

I have read Chapter _____ of the Code of Ordinances of Beaman, Iowa, and believe to the best of my knowledge, that the work proposed in this application would not violate any portion of this chapter.

(Applicant's Signature)

CITY OF BEAMAN, IOWA

BUILDING/LAND USE PERMIT

PERMIT NO. _____ (Date)

APPLICATION NO. _____
(Date of Application)

LOCATION _____

THIS PERMIT IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER ____,
“BUILDING AND LAND USE REGULATIONS” OF THE CODE OF ORDINANCES OF
BEAMAN, IOWA.

APPROVED BY COUNCIL _____ (Date)

THIS PERMIT ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

CITY OF BEAMAN, IOWA

APPLICATION FOR A CERTIFICATE OF OCCUPANCY

DATE _____ APPLICATION NO. _____

APPLICATION NO. OF BUILDING/LAND USE PERMIT _____

APPLICANT: _____

ADDRESS: _____

TELEPHONE NO. (Business) _____
(Home) _____

Signature of Applicant

Signature of Building Official

CITY OF BEAMAN, IOWA

CERTIFICATE OF OCCUPANCY

NO. _____

☐ PERMANENT

☐ TEMPORARY

DATE: _____

C.O. APPLICATION NO. _____

BUILDING/LAND USE PERMIT NO. _____

DATE ISSUED: _____

LOCATION _____

THIS CERTIFICATE IS ISSUED PURSUANT TO THE REQUIREMENTS OF CHAPTER
_____ OF THE CODE OF ORDINANCES OF _____, IOWA,
AND COMPLIES WITH ALL THE BUILDING AND HEALTH LAWS.

THIS CERTIFICATE ISSUED TO:

NAME: _____

ADDRESS: _____

Signature of Building Official

