CHAPTER 1

CODE OF ORDINANCES

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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 Mechanicsville, Iowa, 2014.

(Ord. 269 – Dec. 14 Supp.)

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 Mechanicsville, Iowa.

3. "Clerk" means the city clerk of Mechanicsville, 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 Mechanicsville, Iowa, 2014. ***(Ord. 269 – Dec. 14 Supp.)***

6. "Council" means the city council of Mechanicsville, Iowa.

7. "County" means Cedar County, Iowa.

8. "May" confers a power.

9. "Measure" means an ordinance, amendment, resolution or motion.

10. "Must" states a requirement.

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

12. "Ordinances" means the ordinances of the City of Mechanicsville, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

18. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

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

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

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

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

(Ord. 224 – Oct. 09 Supp.)

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CHAPTER 2

CHARTER

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

2.01 TITLE. This chapter may be cited as the charter of the City of Mechanicsville, 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. The Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by State law and by the ordinances, resolutions, rules and regulations of the City.

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

EDITOR'S NOTE

Ordinance No. 86 adopting a charter for the City was passed and approved by the Council on June 11, 1973, and published on June 14, 1973.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties
3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.

2. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.

3. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

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

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

1. Standard Civil Penalties.

   A. First Offense - 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 one thousand dollars ($1,000.00) for each day a violation exists or continues.

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

      (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

      (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.

      (3) The violation does not continue in existence for more than eight (8) hours.

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

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

1. The name and address of the defendant.

2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.

4. The amount of civil penalty to be assessed or the alternative relief sought, or both.

5. The manner, location, and time in which the penalty may be paid.

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

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.

(Ord. 242 – Feb. 11 Supp.)

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings
5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

C. Members of all boards, commissions or bodies created by law.

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

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

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

(Code of Iowa, Sec. 64.13)

2. Bonds Approved. Bonds shall be approved by the Council.
(Code of Iowa, Sec. 64.19)

3. Bonds Filed. All bonds, after approval and proper record, shall be filed with the Clerk.
(Code of Iowa, Sec. 64.23[6])

4. Record. The Clerk shall keep a book, to be known as the "Record of Official Bonds" in which shall be recorded the official bonds of all City officers, elective or appointive.
(Code of Iowa, Sec. 64.24[3])

5.03 DUTIES: GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and this Code of Ordinances, or as otherwise directed by the Council unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13[4])

5.04 BOOKS AND RECORDS. All books and records required to be kept by law or ordinance shall be open to examination by the public upon request, unless some other provisions of law expressly limit such right or require such records to be kept confidential. Access to public records which are combined with data processing software shall be in accordance with policies and procedures established by the City.
(Code of Iowa, Sec. 22.2 & 22.3A)

5.05 TRANSFER TO SUCCESSOR. Each officer shall transfer to his or her successor in office all books, papers, records, documents and property in the officer's custody and appertaining to that office.
(Code of Iowa, Sec. 372.13[4])

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

1. Notice of Meetings. Reasonable notice, as defined by State law, of the time, date and place of each meeting, and its tentative agenda shall be given.
(Code of Iowa, Sec. 21.4)

2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.
(Code of Iowa, Sec. 21.3)

3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and

information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

(Code of Iowa, Sec. 362.5[2])

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

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

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection 8 of this section, or both, if the contracts are made by competitive bid in writing, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the

procurement or preparation of any part of the contract. The competitive bid qualification of this subsection does not apply to a contract for professional services not customarily awarded by competitive bid.

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES. A vacancy in an elective City office during a term of office shall be filled, at the Council's option, by one of the two following procedures:

(Code of Iowa, Sec. 372.13[2])

1. Appointment. By appointment, following public notice, by the remaining members of the Council. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the Council chooses to proceed under this subsection, the Council shall publish notice of the appointment in accordance with Section 372.13 of the *Code of Iowa*. If the remaining members do not constitute a quorum of the full membership, or if a petition is filed requesting an election, the Council shall call a special election as provided by law.

(Code of Iowa, Sec. 372.13[2a])

2. Special Election. By a special election held to fill the office for the remaining balance of the unexpired term as provided by law.

(Code of Iowa, Sec. 372.13[2b])

(Ord. 267 – Oct. 14 Supp.)

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 ten (10) eligible electors, residents of the City.

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

URBAN RENEWAL

8.01 Purpose
8.02 Mechanicsville Urban Renewal Area
8.03 2007 Addition to the Mechanicsville Urban Renewal Area

8.01 PURPOSE. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Urban Renewal Area of the City each year by and for the benefit of the State, City, County, school districts or other taxing districts after the effective date of the ordinance codified by this chapter in order to create a special fund to pay the principal of and interest on loans, advances or indebtedness, including bonds proposed to be issued by the City, to finance projects in such area.

8.02 MECHANICSVILLE URBAN RENEWAL AREA. The provisions of this section apply to the Mechanicsville Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on August 8, 1994:

PIONEER TOWNSHIP

209 N. Jefferson	Lots 10,11, 12, Blk. 18 Original Town	01-13-G-406-002, -003, -004
410 W. 2nd St.	Lots 4, 5, 6, Blk. 18 Original Town	01-13-E-330-001
West Second St.	Lot 3, Blk. 18 Original Town	01-13-G-406-005
West Second St.	Lots 1 and 2, Blk. 18 Original Town	01-13-G-406-006
108 W. Jefferson	Lots 7, 8, Blk. 8 Original Town	01-13-G-455-001
311 N. John St.	Pioneer Subdivision	01-13-H-429-007
Elm and Walnut	Pioneer Outlot 4	01-13-H-480-001
200 N. John St.	Lot 5, Blk. 9 Iroquois Addition	01-13-H-477-012
107 N. Linn St.	S. 70 feet Lots 9, 10, Blk. 15 Iroquois Add.	01-13-H-483-003

FREMONT TOWNSHIP

626 Crestview	Lots 13, 14 Cooks Addition	02-18-E-352-013
County Road X-40	Tract "A"	02-18-E-301-004
County Road X-40	Tract "B"	02-18-E-301-005
n/a	Part of Tract "E"	02-18-G-376-001
n/a	Pt. TR "E" (Former Treatment Plant, Road)	02-18-G-376-002
n/a	Part of Tract "E"	02-18-G-376-003
Walnut Street	Parcel 242 feet by 304 feet	02-18-E-351-001
n/a	Parcel G (1.95 acres)	02-18-E-351-002
Crestview Drive	Part of Tract "E"	02-18-E-351-003
n/a	City Wastewater Treatment Lagoons	02-18-E-326-002
Walnut Street	Assorted Parcels	02-18-E-301-002 02-18-E-301-003 02-18-E-301-006

The Urban Renewal Area (Tax Increment District) is connected by and includes the following street right-of-way:

1. All of Second Street between Fayette and Walnut Streets
2. Jefferson Street between Kohlhase and First Streets
3. John Street between Fourth Street and Second Street
4. Linn Street between Second Street and First Street
5. All of Crestview Drive
6. Walnut Street between Oak Street and Elm Street
7. County Road X-40 (Walnut Street) from Elm Street to North Corporate Limits.

The taxes levied on the taxable property in the Mechanicsville Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 151, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Mechanicsville Urban Renewal Area, as shown on the assessment roll as of January 1, 1993, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Mechanicsville Urban Renewal Area on the effective date of Ordinance No. 151, but to which the territory has been annexed or otherwise included after said effective date, the assessment roll as of January 1, 1993, shall be used in determining the assessed valuation of the taxable property in said Mechanicsville Urban Renewal Area on the effective date.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, advances or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9[1] of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Mechanicsville Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without

limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Mechanicsville Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown on the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Mechanicsville Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Mechanicsville Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Mechanicsville Urban Renewal Area.

4. As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

8.03 2007 ADDITION TO THE MECHANICSVILLE URBAN RENEWAL AREA. The provisions of this section apply to the 2007 Addition to the Mechanicsville Urban Renewal Area, the boundaries of which are set out below, approved by the Council by resolution adopted on February 12, 2007:

> Certain real property situated in the City of Mechanicsville, County of Cedar, State of Iowa, more particularly described as follows:
>
> The South Half of the Southwest Quarter of the Northwest Quarter (S½ SW¼ NW¼) of Section 18, Township 82 North, Range 3, West of the 5th Principal Meridian, Cedar County, Iowa.

The taxes levied on the taxable property in the 2007 Addition to the Mechanicsville Urban Renewal Area each year by and for the benefit of the State, the City, the County and any school district or other taxing district in which the such Urban Renewal Area is located, from and after the effective date of Ordinance No. 207, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of

the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in subsection 2 below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of Ordinance No. 207, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

2. That portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this section. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection 1 of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on

loans, advances, bonds issued under the authority of Section 403.9[1] of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

4. As used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 207 – Nov. 07 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 (4) years.

(Code of Iowa, Sec. 376.2)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Mayor Pro Tem
2. Police Chief
3. Library Board of Trustees

15.04 COMPENSATION. The salary of the Mayor is two thousand five hundred dollars ($2,500.00) per year, payable 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)

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 fifteen (15) days or more, the Mayor Pro Tem may be paid for that period the compensation as determined by the Council, based upon the Mayor Pro Tem's performance of the Mayor's duties and upon the compensation of the Mayor.

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

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CHAPTER 17

COUNCIL

17.01 Number and Term of Council
17.02 Powers and Duties
17.03 Exercise of Power
17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

2. 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 which may be specially assessed.

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

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

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

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

(Code of Iowa, Sec. 384.100)

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 one hundred thousand dollars ($100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated. ***(Ord. 211 – Nov. 07 Supp.)***

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

"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. 380.4)

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

1. Regular Meetings. The time and place of the regular meetings of the Council shall be fixed by resolution of the Council.

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

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

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

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

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

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

5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

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

17.06 COMPENSATION. The salary of each Council member is fifty dollars ($50.00) for each meeting of the Council attended, payable semiannually. Council members not wanting to receive said compensation shall submit a written statement to the City Clerk stating the desire not to be compensated. ***(Ord. 255 – Oct. 14 Supp.)***

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures
18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

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

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

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

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

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

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

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

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

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

City Hall
Post Office
Bridge Community Bank

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 267 – Oct. 14 Supp.)

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer

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

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

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

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

1. 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.

10. Reconciliation with Clerk. Reconcile the Treasurer's books with the Clerk's every month.

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 which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.

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

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

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

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

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

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

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

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

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of seven (7) members with at least one but no more that three (3) nonresident members. All members are appointed by the Mayor with the approval of the Council.

21.03 QUALIFICATIONS OF TRUSTEES. All resident members of the Board shall be bona fide citizens and residents of the City. Any nonresident member of the Board shall be a bona fide citizen and resident of the unincorporated County. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for three (3) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every year of one-third (1/3) the total number or as near as possible, to stagger the terms.

2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of any nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

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

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

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

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

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

4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation, subject to Council approval; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.

5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.

6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, with the exception of General Fund tax dollars budgeted for wages, utilities, maintenance of building and other expenditures as determined by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)

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

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

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

1. Contracting. The Board may contract with any other boards of trustees of free public libraries, with any other city, school corporation, private or semiprivate organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) 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 forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party seeking to terminate the contract.

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

1. Lending. By lending the books or other materials of the Library to nonresidents on the same terms and conditions as to residents of the City, or County, or upon payment of a special nonresident Library fee.

2. Depository. By establishing depositories of Library books or other materials to be loaned to nonresidents.

3. Bookmobiles. By establishing bookmobiles or a traveling library so that books or other Library materials may be loaned to nonresidents.

4. Branch Library. By establishing branch libraries for lending books or other Library materials to nonresidents.

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

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CHAPTER 22

PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission
22.02 Term of Office
22.03 Vacancies
22.04 Compensation
22.05 Powers and Duties

22.01 PLANNING AND ZONING COMMISSION. There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of seven (7) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

22.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

6. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 23

PARKS AND RECREATION BOARD

23.01 Parks and Recreation Board Created
23.02 Board Organization
23.03 Duties of the Board
23.04 Reports
23.05 Rules

23.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds, and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

23.02 BOARD ORGANIZATION. The Board shall consist of a minimum of 5 members, appointed by the Mayor with the approval of the Council, for overlapping terms of 2 years. The Board shall annually choose from its membership a Chairperson and Secretary. Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

23.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board has authority over the properties and personnel devoted to parks and recreation, subject to the limitation of expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for parks and recreation operations. The Board shall cooperate with the Mayor in the allotment of time of City employees for parks and recreation purposes. The Chairperson shall order supplies by the procedures established by the Council for all departments of the City, and payment will be made by check written by the Clerk for invoices submitted and approved by the Board.

23.04 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

23.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation

programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

(Ch. 23 – Ord. 223 – Oct. 09 Supp.)

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CHAPTER 30

POLICE DEPARTMENT

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

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

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

30.03 PEACE OFFICER QUALIFICATIONS. In no case shall any person be selected or appointed as a law enforcement officer unless such person meets the minimum qualification standards established by the Iowa Law Enforcement Academy.

(Code of Iowa, Sec. 80B.11)

30.04 REQUIRED TRAINING. All peace officers shall have received the minimum training required by law at an approved law enforcement training school within one year of employment. Peace officers shall also meet the minimum in-service training as required by law.

(Code of Iowa, Sec. 80B.11 [2])
(IAC, 501-3 and 501-8)

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

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

(Code of Iowa, Sec. 372.4)

30.07 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the police chief by law or ordinance.

2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

3. Writs. Execute and return all writs and other processes directed to the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.

10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.

(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm

which the arrested person may have within such person's control to be disposed of according to law.

(Code of Iowa, Sec. 804.18)

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

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

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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 Fire Chief: Duties
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

35.01 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 Fire Chief shall be subject to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of $200,000 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of $50.00 or more or

emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

35.10 ACCIDENTAL INJURY INSURANCE. The Council shall contract to insure the City against liability for worker's compensation and against

statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

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

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

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

35.12 CALLS OUTSIDE 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 & 3])

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

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

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

(Code of Iowa, Sec. 100.41)

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 thirty (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.

(Ord. 227 – Oct. 09 Supp.)

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.

2. Any other person who discovers a hazardous condition shall notify the Police Chief, which shall then notify the Department of Natural Resources.

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

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

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CHAPTER 37

EMERGENCY AMBULANCE SERVICE

37.01 Ambulance Service Established
37.02 Organization
37.03 Worker's Compensation and Liability Insurance
37.04 Providing Service Outside the Corporate Limits

37.01 AMBULANCE SERVICE ESTABLISHED. There is hereby established an ambulance service owned and operated by the City and known as the Mechanicsville Ambulance Service.

37.02 ORGANIZATION. The Ambulance Service shall be under the general supervision of the Fire Department. The Fire Chief has complete authority to ensure that the service is operated in accordance with high standards and meets all requirements of the State and the Federal government. Personnel for the Ambulance Service shall be made up of a group of volunteers who are qualified and have met the minimum education and training requirements. The volunteers, in cooperation with the Fire Department, shall adopt a constitution and bylaws as deemed necessary to provide for the good operation and coordination of the service. The constitution and bylaws shall be approved by the Council.

37.03 WORKER'S COMPENSATION AND LIABILITY INSURANCE. The City shall purchase sufficient insurance to cover all personnel providing ambulance service under the worker's compensation statutes of the State, and shall purchase sufficient insurance to protect the City against loss from damages or public liability resulting from the operation of the Ambulance Service. The amount of such insurance shall be determined by the Council.

37.04 PROVIDING SERVICE OUTSIDE THE CORPORATE LIMITS. The Ambulance Service is authorized to respond to calls outside the corporate limits of the City and to provide mutual aid to other ambulance services as required by agreements with other services. The Ambulance Service is authorized to transport patients to such locations as may be necessary in individual circumstances.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse
40.06 Peeping Prohibited
40.07 Aiding and Abetting
40.08 Joint Criminal Conduct
40.09 Accessory After the Fact

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 210 – Nov. 07 Supp.)

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

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

8. Funeral or Memorial Service. Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

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

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

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

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

(Code of Iowa, Sec. 723.5)

(Ord. 206 – Nov. 07 Supp.)

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three (3) or more persons to assemble together, with them or any of them acting in a violent manner, and with intent that they or any of them will commit a public offense. No person shall willingly join in or remain part of an unlawful assembly, knowing or having reasonable grounds to believe it is such.

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 PEEPING PROHIBITED. No person, without cause and justification, shall enter and/or remain on public or private property, thereby interfering with or invading the privacy of the rightful occupant thereof, which property includes but is not limited to dwellings, dressing rooms, public restrooms and public showers. Specifically, no person shall enter on private property and peer into a dwelling without the express knowledge, permission and consent of the occupant or occupants of the dwelling.

40.07 AIDING AND ABETTING. All persons concerned in the commission of a City Code violation, whether they directly commit the act constituting the offense or aid and abet its commission, shall be charged, tried

and punished as principals. The guilt of a person who aids and abets the commission of a crime must be determined upon the facts which show the part the person had in it, and does not depend upon the degree of another person's guilt.

40.08 JOINT CRIMINAL CONDUCT. When two or more persons, acting in concert, knowingly participate in a City Code violation, each is responsible for the acts of the other done in furtherance of the commission of the offense or escape therefrom, and each person's guilt will be the same as that of the person so acting, unless the act was one which the person could not reasonably expect to be done in furtherance of the commission of the offense.

40.09 ACCESSORY AFTER THE FACT. Any person having knowledge that a City Code violation has been committed and that a certain person committed it, and who does not stand in the relation of husband or wife to the person who committed the offense, who harbors, aids or conceals the person who committed the offense, with the intent to prevent the apprehension of the person who committed the offense, commits a simple misdemeanor if the public offense was a misdemeanor.

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

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

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.

2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.

3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

41.06 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)

41.07 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])

41.08 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 ten (10) acres or more and is used as agricultural land.

41.09 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.

41.10 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])

41.11 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.

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

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

(Code of Iowa, Sec. 727.2)

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

A. Personal Injury: ..... $250,000 per person.

B. Property Damage:..... $50,000

C. Total Exposure: $1,000,000

(Code of Iowa, Sec. 727.2)

3. Exceptions. This section does not prohibit the sale by a resident, dealer, manufacturer or jobber of such fireworks as are not prohibited; or the sale of any kind of fireworks if they are to be shipped out of State; or the sale or use of blank cartridges for a show or theatre, or for signal

purposes in athletic sports or by railroads or trucks for signal purposes, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

(Code of Iowa, Sec. 727.2)

41.13 DUTY TO CARRY PERMIT TO CARRY WEAPONS. A person armed with a revolver, pistol or pocket billy concealed upon the person shall have in the person's immediate possession the permit provided for in Section 724.4, subsection 4, paragraph "i" of the Code of Iowa, and shall produce the permit for inspection at the request of a peace officer. Failure to so produce a permit is a simple misdemeanor.

(Code of Iowa, Sec. 724.5)

41.14 OBSTRUCTION OF EMERGENCY COMMUNICATIONS. An emergency communication is any telephone call or radio transmission to a fire department or police department for aid, or a call or transmission for medical aid or ambulance service, when human life or property is in jeopardy and the prompt summoning of aid is essential. A person who fails to relinquish a telephone or telephone line which the person is using when informed that the phone or line is needed for an emergency call or who knowingly and intentionally obstructs or interferes with an emergency call or transmission commits a simple misdemeanor.

(Code of Iowa, Sec. 727.5)

41.15 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. ***(Ord. 241 – Feb. 11 Supp.)***

(Code of Iowa, Sec. 719.1A)

41.16 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)

(Ord. 261 – Oct. 14 Supp.)

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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

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the

property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose
43.02 Controlled Substance Defined
43.03 Drug Paraphernalia Defined
43.04 Determining Factors
43.05 Possession of Drug Paraphernalia
43.06 Manufacture, Delivery or Offering For Sale

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

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

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

1. Growing Kits. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

2. Processing Kits. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

3. Isomerization Devices. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

6. Diluents. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, used, intended for use, or designed for use in cutting controlled substances.

7. Separators - Sifters. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

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

1. Statements. Statements by an owner or by anyone in control of the object concerning its use.

2. Prior Convictions. Prior convictions, if any, of an owner, or of anyone in control of the object under any State or federal law relating to any controlled substance.

3. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

4. Proximity To Substances. The proximity of the object to controlled substances.

5. Residue. The existence of any residue of controlled substances on the object.

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

8. Instructions. Instructions, oral or written, provided with the object concerning its use.

9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.

10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

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

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

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Container on Streets and Highways

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

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

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

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

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

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

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

(Ord. 268 – Oct. 14 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 which provides teaching for any grade from kindergarten through grade twelve.

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

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINER ON STREETS AND HIGHWAYS. (*See Section 62.08 of this Code of Ordinances.*)

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency
46.04 Minors in Taverns

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

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

A. "Curfew hours" means eleven o'clock (11:00) p.m. on any day until six o'clock (6:00) a.m. of the following day.

B. "Emergency" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

C. "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

D. "Guardian" means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

E. "Minor" means any person under seventeen (17) years of age.

F. "Operator" means any person operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

G. "Parent" means a person who is:

(1) A natural parent, adoptive parent or step-parent of another person; or

(2) At least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.

H. "Public place" means any place to which the public or a substantial group of the public has access and includes but is not limited to streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops, alleys, sidewalks, parks, playgrounds and vacant lots.

I. "Remain" means:

(1) To linger or stay; or

(2) To fail to leave the premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

J. "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

2. Offense.

A. A minor commits an offense if he or she remains in any public place or on the premises of any establishment within the City during curfew hours.

B. A parent or guardian commits an offense if he or she knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

C. The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

3. Defenses.

A. It is a defense to prosecution under subsection 2 of this section that the minor was:

(1) Accompanied by the minor's parent or guardian;

(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(7) Attending an official school, religious or other recreational activity supervised by adults or sponsored by the City, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization or other similar entity that takes responsibility for the minor;

(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(9) Married or previously married or if said minor had disabilities of minority removed in accordance with lawful authority of the State.

B. It is a defense to prosecution under subsection 2(C) of this section that the owner, operator or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

4. Enforcement. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based upon any response and other circumstances, no defense in subsection 3 of this section is present.

5. Penalties. Any person violating any provision of this section is guilty of a misdemeanor.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative

nicotine products, vapor products, or cigarettes by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products.

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

(Ord. 264– Oct. 14 Supp.)

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

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

46.04 MINORS IN TAVERNS. No person under legal age shall enter into, remain upon, or frequent the place of business of any class "A", "B" or "C" liquor license holder or any class "B" beer permit holder after seven o'clock (7:00) p.m., in which the business of selling alcoholic liquor and/or beer constitutes more than fifty percent (50%) of the gross business transacted therein, unless the person under legal age is accompanied by a parent or legal guardian.

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Fires
47.03 Littering
47.04 Parks Closed
47.05 Camping

47.01 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.

(Code of Iowa, Sec. 364.12)

47.02 FIRES. No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

47.03 LITTERING. No person shall place, deposit, or throw any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.

47.04 PARKS CLOSED. No person shall enter or remain within any park between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. unless such person has permission from the Clerk or designated City official.

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

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CHAPTER 48

DISORDERLY HOUSES AND WRONGFUL DRINKING ESTABLISHMENTS

48.01 Disorderly Houses Prohibited
48.02 Wrongful Drinking Houses Prohibited
48.03 Presence Considered Prima Facie Evidence of Violation
48.04 Violation
48.05 Penalty

48.01 DISORDERLY HOUSES PROHIBITED. Any building, room or other structure within the corporate limits of the City where illegal gaming or illegal gambling of any kind is allowed or carried on, all houses or places of ill fame or where persons resort for the purpose of prostitution, assignation, lewdness or for the use of controlled substances as defined in the *Uniform Controlled Substances Act*, Chapter 124 of the Code of Iowa as it now exists or is hereafter amended, or where prescription drugs are illegally kept, illegally sold or illegally given away are hereby declared "disorderly houses" and are prohibited and shall be suppressed, and the keepers and inmates thereof punished as hereinafter provided.

48.02 WRONGFUL DRINKING HOUSES PROHIBITED. Any building, room or other structure within the City where intoxicating liquor or beer is illegally kept, illegally sold or illegally given away are hereby declared to be "wrongful drinking establishments" and are prohibited, and shall be suppressed, and the keepers and inmates thereof punished as hereinafter provided.

48.03 PRESENCE CONSIDERED PRIMA FACIE EVIDENCE OF VIOLATION. Each person found in any building, room or other structure as defined in Section 48.01 and 48.02 of this chapter, whether male or female, or any person resorting thereto, shall be considered an inmate thereof within the meaning of Section 48.04 of this chapter, and said person's presence in any such building, room or place at any hour of the day or night shall be prima facie evidence that said person is an inmate.

48.04 VIOLATION. If any person is guilty of keeping or maintaining a building, room or other structure as described in Sections 48.01 or 48.02, or is an inmate thereof or is in any way connected with or in any way contributes to the support of or knowingly owns or is interested as proprietor or landlord in such building, room or other structure, such person is deemed guilty of an offense and, upon conviction thereof, shall be punished as provided in Section 48.05. It is not necessary to prove payment in order to prove a sale within the meaning and intent of this chapter.

48.05 PENALTY. Any person violating any provision, section or paragraph of this chapter is guilty of a simple misdemeanor. Each day a violation occurs shall constitute a separate offense.

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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 Notice to Abate: Contents
50.07 Method of Service
50.08 Request for Hearing
50.09 Abatement in Emergency
50.10 Abatement by City
50.11 Collection of Costs
50.12 Installment Payment of Cost of Abatement
50.13 Failure to Abate

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

(Code of Iowa, Sec. 657.1)

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

1. Offensive Smells. Erecting, continuing or using any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

(Code of Iowa, Sec. 657.2[1])

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.

(Code of Iowa, Sec. 657.2[2])

3. Impeding Passage of Navigable River. Obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

(Code of Iowa, Sec. 657.2[3])

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.

(Code of Iowa, Sec. 657.2[4])

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.

(Code of Iowa, Sec. 657.2[5])

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.09)**

(Code of Iowa, Sec. 657.2[7])

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)**

(Code of Iowa, Sec. 657.2[10])

8. Air Pollution. Emission of dense smoke, noxious fumes or fly ash.

(Code of Iowa, Sec. 657.2[11])

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.

(Code of Iowa, 657.2[12])

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

(Code of Iowa, Sec. 657.2[13])

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

(Code of Iowa, Sec. 657.2[9])

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.

(Code of Iowa, Sec. 657.2[6])

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

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

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever the Mayor or other authorized municipal officer finds that a nuisance exists, such officer shall cause to be served upon the property owner a written notice to abate the nuisance within a reasonable time after notice.

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

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

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

1. Description of Nuisance. A description of what constitutes the nuisance.

2. Location of Nuisance. The location of the nuisance.

3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

4. Reasonable Time. A reasonable time within which to complete the abatement.

5. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against such person.

50.07 METHOD OF SERVICE. The notice may be in the form of an ordinance or sent by certified mail to the property owner.

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

50.08 REQUEST FOR HEARING. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request

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

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

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

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

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

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

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

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds five hundred dollars ($500.00), the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

(Ord. 249– Oct. 14 Supp.)

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

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.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions
51.02 Junk and Junk Vehicles Prohibited
51.03 Junk and Junk Vehicles a Nuisance
51.04 Exceptions
51.05 Notice to Abate

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

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

2. "Junk vehicle" means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:

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

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

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

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

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

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

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

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

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

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

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

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

1. Structure. A garage or other enclosed structure approved by the Council; 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 (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

CHAPTER 52

NOISE

52.01 Definitions
52.02 Noise Prohibitions and Limited Sound Sources
52.03 Enforcement

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

1. "Exhaust system" means the device or combination of devices that collects the exhaust from the engine or motor, delivers the exhaust to the atmosphere, and reduces the noise emissions. Exhaust system includes manifold or headers, exhaust pipe, muffler and tail pipe.

2. "Motor vehicle" means every vehicle which is self-propelled.

3. "Noise disturbance" means any transmission of sound across a real property boundary from a source specifically limited by this chapter, which noise is excessive, loud or unusual and tends to disturb the peace.

4. "Real property boundary" means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

5. "Receiving land use" means, for purposes of this chapter, the use or occupancy of the property which receives the transmission of sound.

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

7. "Used" or "occupied" shall be deemed to include the words "intended, designed or arranged to be used or occupied" where either word appears herein.

52.02 NOISE PROHIBITIONS AND LIMITED SOUND SOURCES. The following sound sources are limited by this chapter:

1. No person shall perform, create, cause or permit a radio, television set, musical instrument or any other device or activity to produce, reproduce or amplify sound at a level which creates a noise disturbance when operated on a motor vehicle.

2. No person shall use a muffler cutout, bypass or similar device on a motor vehicle on a public highway or City street.

3. Every motor vehicle shall be at all times equipped with an exhaust system in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. (The intent of this provision is that it is necessary to prevent both noise and smoke and either one constitutes a violation.)

4. No person shall own, possess or harbor any animal or bird which frequently or for a continued duration emits sounds native to the species which are a noise disturbance. Excepted from the provisions of this subsection are guide dogs for the blind and deaf.

5. No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound at a level which creates a noise disturbance. Church or clock carillons, bells or chimes, parades or processions, and mobile radio or telephone signal devices are all excepted from the provisions of this subsection.

6. No person shall use or operate or permit the use or operation of a power lawn mower, power trimmer or other gasoline or electric powered device intended for mowing or trimming a lawn between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

7. No person shall use or operate or permit the use or operation of a gasoline powered lawn mower which does not have a muffler if such use or operation creates a noise disturbance as defined by this chapter.

8. No person shall use or operate or permit the use or operation of a power chain saw between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

9. No person shall use or operate or permit the use or operation of any solid waste collection and/or hauling equipment between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. the following morning if such use or operation creates a noise disturbance as defined in this chapter.

10. Governmental fire department equipment and devices used by emergency vehicles or by governmental officials or organizations for authorized public purposes are exempt from the provisions of this chapter.

11. No person shall operate, play or permit the operation or playing of any radio, tape deck or player, sound amplifier or similar device which produces, reproduces or amplifies sound in a motor vehicle so as to create a sound 50 or more feet from the device which endangers or injures the welfare, safety or health of a human being, or disturbs a reasonable person of normal sensitivities or devalues or injures personal or real property.

52.03 ENFORCEMENT. The provisions of this chapter which prohibit the making, continuing or causing the making or continuance of a noise disturbance may be enforced upon receipt of a complaint made or filed with City officials by a person disturbed by such noise disturbance. Certification by an official charged with enforcement of the provisions of this chapter that such complaint was made shall be sufficient to establish the fact of the complaint. However, peace officers may enforce violations of this chapter without the necessity of a complaint if sufficient evidence exists in the judgment of the peace officer to establish a violation of the provisions of this chapter.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect
55.03 Livestock Neglect
55.04 Abandonment of Cats and Dogs
55.05 Livestock
55.06 At Large Prohibited
55.07 Damage or Interference
55.08 Annoyance or Disturbance
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55.10 Number of Animals
55.11 Unhealthful or Unsanitary Conditions and Other Regulations
55.12 Tethering of Animals
55.13 Animals in Parks
55.14 Rabies Vaccination
55.15 Owner's Duty
55.16 Confinement
55.17 Impoundment
55.18 Pet Awards
55.19 Vicious Animal Exceptions

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.

2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)

3. "At large" means off the premises of the owner unless:

A. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of the person holding said leash, cord, chain or similar restraint, or

B. The animal is within a motor vehicle, or

C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or animal shelter.

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

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.

5. "Cat" means any member of the feline species, male or female, neutered or unneutered.

6. (Repealed by Ordinance 213 – Nov. 07 Supp.)

7. "Dog" means any member of the canine species, male or female, neutered or unneutered.

8. "Fair" means any of the following:

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.

9. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.

10. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.

(Code of Iowa, Sec. 717.1)

11. "Owner" means any person owning, keeping, sheltering or harboring an animal.

12. "Vicious animal" means an animal which inflicts a bite or bites upon and/or attacks human beings or domesticated animals without cause or justification, or one with a propensity to bite and/or attack human beings or domesticated animals and where such propensity is known or ought reasonably to be known to the owner.

13. "Walker" means any person walking an animal on a leash and in control over or attempting control over said animal when off the premises of the owner.

14. "Dangerous animal" means (a) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon, or causing disease among, human beings or domestic animals and having known tendencies as a species to do so; (b) any animals declared to be dangerous by the Board of Health or the City Council or its designee; (c) the following animals which shall be deemed to be dangerous animals per se:

A. Wolves and coyotes

B. Badgers, wolverines, weasels, mink, and other mustelids (except ferrets)

C. Bears

D. All apes (including chimpanzees), baboons, and macaques

E. Monkeys, except the squirrel monkey

F. Elephants

G. Wild Boar

H. Black widow spiders and scorpions

I. Snakes which are naturally venomous or poisonous or constrictors

J. All cats, except domestic cats (Carnivore of the family Felidae including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.)

K. Raccoons, opossums, and skunks

L. Alligators and crocodiles

M. Buffalo.

(Ord. 237 – Feb. 11 Supp.)

55.02 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.

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

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

(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS. A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership and custody or the person may deliver the cat or dog to an animal shelter or pound.

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

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

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

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

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

55.09 VICIOUS OR DANGEROUS ANIMAL. No person shall:

1. Own or possess a vicious or dangerous animal within the City.

2. Cause or allow a dangerous animal owned by a person or in the person's possession to breed.

3. Transport a dangerous wild animal into this City.

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

(Ord. 237 – Feb. 11 Supp.)

55.10 NUMBER OF ANIMALS. No person shall harbor or maintain such number of animals to create unhealthful or unsanitary conditions for the humans or animals occupying the premises or create any other conditions constituting a nuisance.

55.11 UNHEALTHFUL OR UNSANITARY CONDITIONS AND OTHER REGULATIONS.

1. An owner shall maintain all structures, pens, coops, or yards wherein animals are confined in a clean and sanitary condition, devoid of vermin, and free of odor arising from feces and urine.

2. No owner or walker of any animal shall permit the animal to discharge feces upon any public or private property of another. In the event feces is discharged, the walker or owner shall immediately clean up the feces and dispose of it in a proper manner at such person's own residence.

55.12 TETHERING OF ANIMALS. No person shall stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over or across any public sidewalk, street or alley, or private property other than the property of the owner.

55.13 ANIMALS IN PARKS. No animal shall be allowed in any area of a City Park unless it is attached to a leash not more than six (6) feet in length and of sufficient strength to restrain the animal when the leash is held by a person capable of restraining and controlling the animal.

55.14 RABIES VACCINATION.

1. It is unlawful for any person to own, keep or harbor a cat or dog over six (6) months of age which has not been currently vaccinated against rabies. Any dog or cat acquired by a resident of the City shall be vaccinated for rabies by a licensed veterinarian within 30 days after such acquisition or when said animal reaches the age of 6 months, whichever occurs later.

2. Every cat or dog which is over six months of age shall wear a collar with a valid rabies vaccination tag attached to the collar when outside the owner's dwelling.

3. Cats and dogs shall be licensed by their owners through the procedure by which the rabies vaccination tag and certificate are obtained. The rabies vaccination tag and certificate shall be the license required by this chapter.

4. The owner of any dog or cat within the City which is subject to vaccination in accordance with the provisions of this chapter shall have such dog or cat vaccinated against rabies by a licensed veterinarian annually or in such other way as to maintain said dog or cat's immunity from rabies.

55.15 OWNER'S DUTY. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to 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)

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

(Code of Iowa, Sec. 351.39)

55.17 IMPOUNDMENT. Any animal found running "at large" or in violation of any other provisions of this chapter may be seized and impounded by any City official or designee and the owner of such animal so impounded shall be subject to the following:

1. Animals impounded by the City may be claimed by their owner within three (3) business days, excluding holidays, upon payment of an impoundment fee of one hundred dollars ($100.00) plus payment of three dollars ($3.00) per day for feeding of said animal.

2. If the impounded animal is not claimed by its owner within three business days, excluding holidays, and the owner is known, the owner will then be sent, by registered mail to said owner's last known address, notice that the impounded animal will be put up for adoption or humanely destroyed within fifteen (15) days of the date of the notice. If after the 15-day notice the owner has not reclaimed the animal, the animal may thereafter be adopted or humanely destroyed.

3. If the owner of the animal impounded is unknown, the animal shall be kept a minimum of three (3) business days, excluding holidays, and thereafter if unclaimed may be humanely destroyed.

4. The City may contract with another entity to provide impoundment services and if such a contract is entered into, all charges and fees assessed by said entity for said service shall be paid by the owner of such impounded animal.

5. All fees and charges, as well as policies regarding the length of time an impounded animal will be kept before being humanely disposed of, established by said contracted entity, will be approved by resolution of the Council and be on file at City Hall.

55.18 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

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 event.

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 which 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.

55.19 VICIOUS ANIMAL EXCEPTIONS. The prohibition contained in Section 55.09 of this Code shall not apply to the keeping of vicious animals in the following circumstances.

1. Animals under the control of a law enforcement or military agency.

(Ord. 237 – Feb. 11 Supp.)

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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 Traffic Accidents: Reports
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers
60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Mechanicsville Traffic Code."

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.

5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. "Stop" means when required, the complete cessation of movement.

8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.

10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

or permit of such vehicle. A peace officer having probable cause to stop a vehicle may require exhibition of the proof of financial liability coverage card issued for the vehicle.

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Police Chief. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

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

4. Control By Police and Fire Fighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes
61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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

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 321.79 – Intent to injure.

6. Section 321.91 – Penalty for abandonment.

7. Section 321.98 – Operation without registration.

8. Section 321.99 – Fraudulent use of registration.

9. Section 321.174 – Operators licensed.

10. Section 321.174A – Operation of motor vehicles with expired license.

11. Section 321.180 – Instruction permits.

12. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.

13. Section 321.193 – Restricted licenses.

14. Section 321.194 – Special minor's licenses.

15. Section 321.216 – Unlawful use of license and nonoperator's identification card.

16. Section 321.216B – Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.

17. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.

18. Section 321.219 – Permitting unauthorized minor to drive.

19. Section 321.220 – Permitting unauthorized person to drive.

20. Section 321.221 – Employing unlicensed chauffeur.

21. Section 321.222 – Renting motor vehicle to another.

22. Section 321.223 – License inspected.

23. Section 321.224 – Record kept.

24. Section 321.232 – Radar jamming devices; penalty.

25. Section 321.234A – All-terrain vehicles.

26. Section 321.235A – Electric personal assistive mobility devices.

27. Section 321.247 – Golf cart operation on City streets.

28. Section 321.257 – Official traffic control signal.

29. Section 321.259 – Unauthorized signs, signals or markings.

30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.

31. Section 321.262 – Damage to vehicle.

32. Section 321.263 – Information and aid.

33. Section 321.264 – Striking unattended vehicle.

34. Section 321.265 – Striking fixtures upon a highway.

35. Section 321.275 – Operation of motorcycles and motorized bicycles.

36. Section 321.276 – Use of electronic communication device while driving; text-messaging.

37. Section 321.278 – Drag racing prohibited.

38. Section 321.281 – Actions against bicyclists.

39. Section 321.288 – Control of vehicle; reduced speed.

40. Section 321.295 – Limitation on bridge or elevated structures.

41. Section 321.297 – Driving on right-hand side of roadways; exceptions.

42. Section 321.298 – Meeting and turning to right.

43. Section 321.299 – Overtaking a vehicle.

44. Section 321.302 – Overtaking and otherwise.

45. Section 321.303 – Limitations on overtaking on the left.

46. Section 321.304 – Prohibited passing.

47. Section 321.306 – Roadways laned for traffic.

48. Section 321.307 – Following too closely.

49. Section 321.308 – Motor trucks and towed vehicles; distance requirements.

50. Section 321.309 – Towing; convoys; drawbars.

51. Section 321.310 – Towing four-wheel trailers.

52. Section 321.312 – Turning on curve or crest of grade.

53. Section 321.313 – Starting parked vehicle.

54. Section 321.314 – When signal required.

55. Section 321.315 – Signal continuous.

56. Section 321.316 – Stopping.

57. Section 321.317 – Signals by hand and arm or signal device.

58. Section 321.319 – Entering intersections from different highways.

59. Section 321.320 – Left turns; yielding.

60. Section 321.321 – Entering through highways.

61. Section 321.322 – Vehicles entering stop or yield intersection.

62. Section 321.323 – Moving vehicle backward on highway.

63. Section 321.323A – Approaching certain stationary vehicles.

64. Section 321.324 – Operation on approach of emergency vehicles.

65. Section 321.324A – Funeral processions.

66. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.

67. Section 321.330 – Use of crosswalks.

68. Section 321.332 – White canes restricted to blind persons.

69. Section 321.333 – Duty of drivers.

70. Section 321.340 – Driving through safety zone.

71. Section 321.341 – Obedience to signal of train.

72. Section 321.342 – Stop at certain railroad crossings; posting warning.

73. Section 321.343 – Certain vehicles must stop.

74. Section 321.344 – Heavy equipment at crossing.

75. Section 321.344B – Immediate safety threat; penalty.

76. Section 321.354 – Stopping on traveled way.

77. Section 321.359 – Moving other vehicle.

78. Section 321.362 – Unattended motor vehicle.

79. Section 321.363 – Obstruction to driver's view.

80. Section 321.364 – Preventing contamination of food by hazardous material.

81. Section 321.365 – Coasting prohibited.

82. Section 321.367 – Following fire apparatus.

83. Section 321.368 – Crossing fire hose.

84. Section 321.369 – Putting debris on highway.

85. Section 321.370 – Removing injurious material.

86. Section 321.371 – Clearing up wrecks.

87. Section 321.372 – School buses.

88. Section 321.381 – Movement of unsafe or improperly equipped vehicles.

89. Section 321.381A – Operation of low-speed vehicles.

90. Section 321.382 – Upgrade pulls; minimum speed.

91. Section 321.383 – Exceptions; slow vehicles identified.

92. Section 321.384 – When lighted lamps required.

93. Section 321.385 – Head lamps on motor vehicles.

94. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

95. Section 321.387 – Rear lamps.

96. Section 321.388 – Illuminating plates.

97. Section 321.389 – Reflector requirement.

98. Section 321.390 – Reflector requirements.

99. Section 321.392 – Clearance and identification lights.

100. Section 321.393 – Color and mounting.

101. Section 321.394 – Lamp or flag on projecting load.

102. Section 321.395 – Lamps on parked vehicles.

103. Section 321.398 – Lamps on other vehicles and equipment.

104. Section 321.402 – Spot lamps.

105. Section 321.403 – Auxiliary driving lamps.

106. Section 321.404 – Signal lamps and signal devices.

107. Section 321.404A – Light-restricting devices prohibited.

108. Section 321.405 – Self-illumination.

109. Section 321.408 – Back-up lamps.

110. Section 321.409 – Mandatory lighting equipment.

111. Section 321.415 – Required usage of lighting devices.

112. Section 321.417 – Single-beam road-lighting equipment.

113. Section 321.418 – Alternate road-lighting equipment.

114. Section 321.419 – Number of driving lamps required or permitted.

115. Section 321.420 – Number of lamps lighted.

116. Section 321.421 – Special restrictions on lamps.

117. Section 321.422 – Red light in front.

118. Section 321.423 – Flashing lights.

119. Section 321.430 – Brake, hitch and control requirements.

120. Section 321.431 – Performance ability.

121. Section 321.432 – Horns and warning devices.

122. Section 321.433 – Sirens, whistles and bells prohibited.

123. Section 321.434 – Bicycle sirens or whistles.

124. Section 321.436 – Mufflers, prevention of noise.

125. Section 321.437 – Mirrors.

126. Section 321.438 – Windshields and windows.

127. Section 321.439 – Windshield wipers.

128. Section 321.440 – Restrictions as to tire equipment.

129. Section 321.441 – Metal tires prohibited.
130. Section 321.442 – Projections on wheels.
131. Section 321.444 – Safety glass.
132. Section 321.445 – Safety belts and safety harnesses; use required.
133. Section 321.446 – Child restraint devices.
134. Section 321.449 – Motor carrier safety regulations.
135. Section 321.450 – Hazardous materials transportation.
136. Section 321.454 – Width of vehicles.
137. Section 321.455 – Projecting loads on passenger vehicles.
138. Section 321.456 – Height of vehicles; permits.
139. Section 321.457 – Maximum length.
140. Section 321.458 – Loading beyond front.
141. Section 321.460 – Spilling loads on highways.
142. Section 321.461 – Trailers and towed vehicles.
143. Section 321.462 – Drawbars and safety chains.
144. Section 321.463 – Maximum gross weight.
145. Section 321.465 – Weighing vehicles and removal of excess.
146. Section 321.466 – Increased loading capacity; reregistration.

(Ord. 239 – Feb. 11 Supp.)

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

(Code of Iowa, Sec. 321.255)

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

62.04 CLINGING TO VEHICLE. No person shall drive a motor vehicle on the streets of the City unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person riding upon any

bicycle, coaster, roller skates, in-line skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

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

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

62.07 OPEN CONTAINERS IN MOTOR VEHICLES.

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

(Code of Iowa, Sec. 321.284)

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

(Code of Iowa, Sec. 321.284A)

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

62.08 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.

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

(Code of Iowa, Sec. 321.277)

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

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.

2. Simulating a temporary race.

3. Causing any wheel or wheels to unnecessarily lose contact with the ground.

4. Causing the vehicle to unnecessarily turn abruptly or sway.

62.11 TEMPORARY STREET CLOSING. Monroe Street shall be closed from the south line of the alley located in Blocks 10 and 3 to the intersection of South Street on Monday through Friday, from 7:30 a.m. until 4:30 p.m. during the school year. The cost of any signs and notices shall be the school's responsibility, who shall post same.

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Special Speed Restrictions
63.04 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 – twenty (20) miles per hour.
2. Residence or School District – twenty-five (25) miles per hour.
3. Suburban District – forty-five (45) miles per hour.

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

(Code of Iowa, Sec. 321.290)

1. Special 45 MPH Speed Zones. A speed in excess of forty-five (45) miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. U.S. Hwy. No. 30 from Station 294 + 00 to Station 316 + 00

2. Special 55 MPH Speed Zones. A speed in excess of fifty-five (55) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. U.S. Hwy. No. 30 from Station 286 + 34 to Station 294 + 00

B. U.S. Hwy. No. 30 from Station 316 + 00 to Station 335 + 30

3. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. First Street from Madison Street to Elm Street.

4. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. North Elm Street from East Fourth Street to the north City limits.

(Ord. 216 – Oct. 08 Supp.)

63.04 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 Authority to Mark **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:

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited at the following designated intersections:

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

1. At the intersection of Cherry Street and East First Street.

2. At the intersection of Madison Street and West First Street.

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Through Streets - Stop
65.02 Stop Required
65.03 Four-Way Stop Intersections
65.04 Yield Required
65.05 School Stops
65.06 Church Stop
65.07 Stop Before Crossing Sidewalk
65.08 Stop When Traffic Is Obstructed
65.09 Yield to Pedestrians in Crosswalks

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

(Code of Iowa, Sec. 321.345)

1. U.S. Highway No. 30 from the east corporate limits to the west corporate limits.

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

(Code of Iowa, Sec. 321.345)

1. Washington Street. Vehicles traveling south on Washington Street shall stop at West First Street;

2. Fayette Street. Vehicles traveling on Fayette Street shall stop at West First Street;

3. Jefferson Street. Vehicles traveling on Jefferson Street shall stop at West First Street;

4. Jefferson Street. Vehicles traveling north on Jefferson Street shall stop at Reeder Street;

5. Madison Street. Vehicles traveling north on Madison Street shall stop at Reeder Street;

6. Monroe Street. Vehicles traveling on Monroe Street shall stop at South Street;

7. Monroe Street. Vehicles traveling on Monroe Street shall stop at West First Street;

8. Jackson Street. Vehicles traveling on Jackson Street shall stop at West First Street;

9. Jackson Street. Vehicles traveling north on Jackson Street shall stop at Reeder Street;

10. John Street. Vehicles traveling on John Street shall stop at West First Street;

11. John Street. Vehicles traveling north on John Street shall stop at Fourth Street;

12. Cherry Street. Vehicles traveling north on Cherry Street shall stop at Fourth Street;

13. Linn Street. Vehicles traveling on Linn Street shall stop at First Street;

14. Elm Street. Vehicles traveling on Elm Street shall stop at First Street;

15. Walnut Street. Vehicles traveling on Walnut Street shall stop at First Street;

16. Walnut Street. Vehicles traveling north on Walnut Street shall stop at Elm Street;

17. Short Street. Vehicles traveling west on Short Street shall stop at Madison Street;

18. Cedar Street. Vehicles traveling on Cedar Street shall stop at Cherry Street;

19. South Street. Vehicles traveling on South Street shall stop at Cherry Street;

20. South Street. Vehicles traveling west on South Street shall stop at Monroe Street;

21. South Street. Vehicles traveling east on South Street shall stop at Madison Street;

22. Oak Street. Vehicles traveling south on Oak Street shall stop at First Street;

23. No Name Street. Vehicles traveling south on No Name Street shall stop at First Street;

24. Second Street. Vehicles traveling west on Second Street shall stop at Washington Street;

25. Second Street. Vehicles traveling on Second Street shall stop at Elm Street;

26. Reeder Street. Vehicles traveling east on Reeder Street shall stop at Jackson Street;

27. Fourth Street. Vehicles traveling east on Fourth Street shall stop at Elm Street;

28. Crestview Drive. Vehicles traveling west on Crestview Drive shall stop at Walnut Street;

29. Oak Street. Vehicles traveling west on Oak Street shall stop at Walnut Street;

30. Reeder Street. Vehicles traveling west on Reeder Street shall stop at Jefferson Street;

31. Kohlhase Street. Vehicles traveling west on Kohlhase Street shall stop at Jefferson Street;

32. Kohlhase Street. Vehicles traveling east on Kohlhase Street shall stop at John Street;

33. Jefferson Street. Vehicles traveling south on Jefferson Street shall stop at West South Street;

34. Walnut Street. Vehicles traveling south on Walnut Street shall stop at East Cedar Street;

35. Elm Street. Vehicles traveling south on Elm Street shall stop at East Cedar Street;

36. Linn Street. Vehicles traveling south on Linn Street shall stop at East Cedar Street;

37. John Street. Vehicles traveling south on John Street shall stop at East Cedar Street;

38. Jackson Street. Vehicles traveling south on Jackson Street shall stop at West Cedar Street;

39. Cedar Street. Vehicles traveling west on Cedar Street shall stop at South Monroe Street;

40. Fourth Street. Vehicles traveling west on Fourth Street shall stop where the street intersects with North Cherry Street;

41. Country View Drive. Vehicles traveling west on Country View Drive shall stop at Elm Street.

42. Country View Drive. Vehicles traveling north on Country View Drive shall stop at 125th Street.

43. 125th Street. Vehicles traveling west on 125th shall stop at Elm Street.

44. Elm Street. Vehicles traveling north on Elm Street shall stop at 125th Street.

45. Cottage Drive. Vehicles traveling south on Cottage Drive shall stop at Country View Drive.

46. Cottage Drive. Vehicles traveling east on Cottage Drive shall stop at Country View Drive.

(Ord. 235 – Feb. 11 Supp.)

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Madison Street and West First Street;

2. Intersection of Cherry Street and East First Street.

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

(Code of Iowa, Sec. 321.345)

1. Cedar Street. Vehicles traveling west on Cedar Street shall yield at Monroe Street;

2. Jackson Street. Vehicles traveling on Jackson Street shall yield at South Street;

3. John Street. Vehicles traveling on John Street shall yield at South Street;

4. South Street. Vehicles traveling on South Street shall yield at Linn Street;

5. South Street. Vehicles traveling on South Street shall yield at Elm Street;

6. South Street. Vehicles traveling on South Street shall yield at Walnut Street;

7. Second Street. Vehicles traveling on Second Street shall yield at Madison Street;

8. Second Street. Vehicles traveling on Second Street shall yield at Jackson Street;

9. Second Street. Vehicles traveling on Second Street shall yield at John Street;

10. Second Street. Vehicles traveling on Second Street shall yield at Cherry Street;

11. Fayette Street. Vehicles traveling north on Fayette Street shall yield at Second Street;

12. Monroe Street. Vehicles traveling north on Monroe Street shall yield at Second Street;

13. ***(Repealed by Ord. 204 – July 06 Supp.)***

14. Second Street. Vehicles traveling on Second Street shall yield at Walnut Street;

15. Kohlhase Street. Vehicles traveling on Kohlhase Street shall yield at Madison Street;

16. Kohlhase Street. Vehicles traveling east on Kohlhase Street shall yield at Jackson Street;

17. Jackson Street. Vehicles traveling south on Jackson Street shall yield at Cedar Street;

18. John Street. Vehicles traveling south on John Street shall yield at Cedar Street;

19. Linn Street. Vehicles traveling south on Linn Street shall yield at Cedar Street;

20. Elm Street. Vehicles traveling south on Elm Street shall yield at Cedar Street;

21. Walnut Street. Vehicles traveling south on Walnut Street shall yield at Cedar Street;

22. No Name Street. Vehicles traveling east on No Name Street shall yield at Oak Street;

23. South Street. Vehicles traveling west on South Street shall yield at Fayette Street.

65.05 SCHOOL STOPS. ***(Repealed by Ord. 260 – Oct. 14 Supp.)***

65.06 CHURCH STOP. At the following church crossing zones, every driver of a vehicle approaching said zone shall bring the vehicle to a stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized church stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such church crossing zone. An authorized church stop sign shall be a portable stop sign approved by the City and provided to a designated church for traffic control use during regularly scheduled church services and/or activities. The designated church shall be responsible for putting up and removing said stop signs.

(Code of Iowa, Sec. 321.249)

1. First Street at Linn Street – Methodist Church.

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

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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.

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

— NONE —

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

(Code of Iowa, Sec. 321.471)

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

1. Truck Routes Designated. Every motor vehicle weighing ten (10) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

A. First Street from west City limits to east City limits;

B. Madison Street from West First Street to U.S. Highway 30;

C. Cherry Street from First Street to U.S. Highway 30;

D. Washington Street from First Street to north corporate limits;

E. Elm Street from north corporate limits to East Cedar Street;

F. Cedar Street from Monroe Street to Walnut Street;

G. Jackson Street from First Street to Cedar Street;

H. Monroe Street from First Street to Cedar Street;

I. John Street from First Street to Cedar Street;

J. Short Street from Madison Street to Monroe Street.

2. Deliveries Off Truck Route. Any motor vehicle weighing ten (10) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing
67.04 Use Sidewalks

67.01 WALKING IN STREET. Pedestrians shall at all times when walking on or along a street, walk on the left side of the street.

(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, Sec. 321.328)

67.04 USE SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

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

— NONE —

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb - One-way Street
69.03 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 Truck Parking Limited
69.10 Parking Limited to Fifteen Minutes
69.11 Illegal Off-street Parking
69.12 Fire Lanes
69.13 Loading Space
69.14 Snow Emergency
69.15 Snow Routes
69.16 Temporary No Parking Zones
69.17 Reserved Parking Spaces

69.01 PARK ADJACENT TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

69.02 PARK ADJACENT TO CURB - ONE-WAY STREET. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

69.03 ANGLE PARKING. Angle or diagonal parking is permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. First Street, on the south side, from Cherry Street to Jackson Street;

2. First Street, on the north side, from Cherry Street to John Street;

3. First Street, on the north side, from John Street to a point 200 feet west;

4. Cherry Street, on the west side, from First Street to a point 100 feet north;

5. John Street, on the east side, from First Street to a point 150 feet north;

6. John Street, on the east side, from First Street to a point 100 feet south.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than forty-eight (48) hours, 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 twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.

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

4. Sidewalks. On or across a sidewalk.

(Code of Iowa, Sec. 321.358 [1])

5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358 [2])

6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358 [6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358 [8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358 [10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358 [11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358 [13])

14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left

standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the Code of Iowa.

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

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

1. Crestview Drive on the south side to the end of street;

2. Crestview Drive on the north side from Pioneer Terrace Entry Drive to Walnut Street;

3. Elm Street on both sides from First Street North to City limits;

4. Elm Street on the west side from First Street to Cedar Street;

5. Madison Street on the west side from Highway 30 to First Street;

6. Reeder Street on the north side from Madison Street to Jefferson Street;

7. South Street on the south side from Monroe Street to Cherry Street;

8. The first 25 feet on East First Street on the south side from Cherry Street east;

9. Washington Street on the west side from West First Street to City limits;

10. The first 25 feet on East First Street on the south side from Elm Street west;

11. Cherry Street on both sides from East First Street to Highway 30;

12. East First Street on both sides from Jackson Street to Cherry Street, between 3:00 a.m. and 7:00 a.m., from November 15 of each year until April 15 the following year;

13. Country View Drive on the north side from Elm Street to its east end;

14. 125th Street on both sides from Elm Street East to the City limits.

(Ord. 217 – Oct. 08 Supp.)

69.09 TRUCK PARKING LIMITED. No person shall park a motor truck, trailer, semi-trailer, truck tractor or motor home in violation of the following regulations.

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

1. Restricted. No such vehicle which exceeds 96 inches in width or 25 feet in length shall be parked on any street between sunrise and sunset for a period longer than 60 minutes, or between sunset and sunrise for a period longer than 30 minutes, except for loading and unloading purposes or while in the actual process of being loaded or unloaded or making necessary minor repairs and except for the designated parking on Cedar Street.

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 ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (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 thirty (30) minutes and no empty livestock truck shall be parked on any street unless the same has been cleaned or flushed immediately prior thereto.

69.10 PARKING LIMITED TO FIFTEEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than fifteen (15) minutes between the hours of eight o'clock (8:00) a.m. and four o'clock (4:00) p.m. on each weekday except Saturday in the following designated locations:

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

1. First Street, the first parking space east of Jackson Street.

69.11 ILLEGAL OFF-STREET PARKING. No person shall park a vehicle on privately owned property or area developed as an off-street parking facility without the consent of the owner, lessee or person in charge of the

privately owned property or facility. Upon a written complaint of such owner, lessee or person in charge of the privately owned property or facility, appropriate charges may be filed against the violator or the Police Department may move such vehicle to a storage place, or both. It is the responsibility of the owner, lessee or person in charge of the privately owned property or facility to post signs giving reasonable notice of the prohibited parking.

69.12 FIRE LANES. No person shall park a vehicle in any place designated by the Fire Department as a fire lane, whether such fire lane is upon publicly owned property or right-of-way, or upon privately owned property. Charges shall be filed against the violator or the Police Department may move such vehicle to a storage place, or both. A fire lane shall be posted with signs at least every 50 linear feet thereof. A fire lane shall be deemed to encompass that area within a 25-foot radius of any fire lane sign posted pursuant to this section.

69.13 LOADING SPACE. In front of shipping or receiving entrances to businesses having no access to an alley, "No Parking" spaces may be provided in accordance with the following:

1. The owner or occupant desiring a "No Parking" space in front of such building shall make application for a permit in writing to the Council setting forth all relevant information and stating the number of feet desired for such purposes.

2. The Council shall have the authority to grant or refuse such permit at its discretion, or may grant the same with reasonable restrictions and limitations.

3. Such permit may at any time, when the public welfare will be promoted, be withdrawn or further limited by the Council.

4. To enforce the provisions of such permit, the holders thereof shall place two "No Parking" standards or signs on the sidewalk next to the curb, marking the limits of such "No Parking" space. Such signs shall be of the size, character and description required by the Department of Public Safety.

5. It is unlawful for any person to park any vehicle in such designated "No Parking" space except for the purposes of loading or unloading merchandise.

69.14 SNOW EMERGENCY. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned or leased off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley or parking area and the snow has ceased to fall. A snow emergency parking ban shall continue

from its proclamation throughout the duration of the snow or ice storm and the forty-eight (48) hour period after cessation of such storm except as above provided upon streets which have been fully opened. Such emergency may be extended or shortened when conditions warrant. When weather forecasts or occurrences indicate the need, the Mayor shall proclaim a snow emergency and request all available news media to publicize the proclamation and applicable parking restrictions.

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

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

69.16 TEMPORARY NO PARKING ZONES. No one shall stop, stand or park a vehicle in an established temporary No Parking Zone except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control device in the following locations:

1. Both sides of Highway 30 within the City limits from 12:00 noon until 12:00 midnight on the day authorized for the Mechanicsville Fourth of July fireworks display.

2. Any street, for whatever time period necessary for street, sewer or utility maintenance where parked vehicles would inhibit the maintenance, traffic flow is restricted or sight distances reduced as determined by the Police Chief and Public Works Director.

All temporary No Parking Zones shall be marked by use of temporary No Parking signs at intervals sufficient to inform motorists of the temporary limitation on parking.

69.17 RESERVED PARKING SPACES. The following parking spaces are reserved:

1. For Official City Vehicles, after 4:00 p.m., Monday through Friday, the first space east of Jackson on the north side of East First Street.

2. For Doctor's Office Parking, 9:00 a.m. to 6:00 p.m., Monday through Friday, the seventh space from east on south side of East First Street.

3. For U.S. Mail Vehicles, third space to the north on the east side of North John Street.

4. For Congregate Meals, 11:00 a.m. to 1:00 p.m., fourth space to the north on the east side of North John Street.

5. For Doctor Parking, 8:00 a.m. to 5:00 p.m., Monday through Friday, fifth space to the north on the east side of North John Street.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate
70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

70.02 SCHEDULED VIOLATIONS. For violations of the Traffic Code 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 & 805.8A)

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars ($25.00) for snow route parking violations and twenty-five dollars ($25.00) for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars ($5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00).

(Ord. 233 – Feb. 11 Supp.)

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

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

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

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 Hours of Operation
75.06 Operation of All-Terrain Vehicles
75.07 Negligence
75.08 Accident Reports
75.09 Thaw Ban
75.10 Dead Man Throttle

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 one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand two hundred (1,200) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Ord. 250 – Oct. 14 Supp.)

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

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

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

3. "Off-road utility vehicle" means a motorized 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" 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 off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Ord. 265 – Oct. 14 Supp.)

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

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

(Ord. 209 – Nov. 07 Supp.)

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

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

(Ord. 209 – Nov. 07 Supp.)

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

1. Streets. Snowmobiles shall be operated only upon streets which 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 ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

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

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

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

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

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

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

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

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

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 HOURS OF OPERATION. No snowmobile shall be operated in the City between the hours of 10:00 p.m. and 7:00 a.m. except for emergency situations or for loading and unloading from a transport trailer.

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

1. Streets. ATVs and off-road utility vehicles may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street. ***(Ord. 240 – Feb. 11 Supp.)***

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

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

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

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

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

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

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

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

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

75.08 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars ($1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

75.09 THAW BAN. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.

75.10 DEAD MAN THROTTLE. No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

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CHAPTER 76

BICYCLE REGULATIONS

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

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the

bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 77

SNOW SLEDDING HILL

77.01 Snow Sledding Hill Designated
77.02 Parking
77.03 Emergency Access
77.04 Hours
77.05 Barricaded Intersections

77.01 SNOW SLEDDING HILL DESIGNATED. North Jackson Street from First Street to Kohlhase Street in the City is designated as a snow sledding hill during the snow season. No other sledding on public streets in the City is permitted, except on North Jackson Street and under such rules and regulations as set forth in this chapter.

77.02 PARKING. There shall be no on-street parking of motor vehicles permitted on North Jackson Street between First Street and Kohlhase Street when there is snow upon the traveled portion of the roadway. Loading and unloading will be permissible.

77.03 EMERGENCY ACCESS. Emergency access to properties along North Jackson Street shall have priority in decisions to plow alleys, cross streets and North Jackson Street. Decisions as to snow clearance from those areas shall be made either by the Fire Chief, the Ambulance Coordinator or the Police Chief. The intersection of North Jackson Street and Second Street shall not be designated as a snow route. The street will be maintained to drivable conditions.

77.04 HOURS. All persons using the sledding hill for sledding shall use Jackson Street only and shall not be permitted on adjacent sidewalks or yards. Snow sledding shall be permitted on North Jackson Street only during the following hours: Sunday through Thursday 9:00 a.m. to 8:00 p.m.; Friday and Saturday 9:00 a.m. to 10:00 p.m.

77.05 BARRICADED INTERSECTIONS. Motor vehicle traffic shall not be permitted to cross North Jackson Street on Second Street during the snow season and when barricades are in place at that intersection.

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions
80.02 Authority to Take Possession of Abandoned Vehicles
80.03 Notice by Mail
80.04 Notification in Newspaper
80.05 Fees for Impoundment
80.06 Disposal of Abandoned Vehicles
80.07 Disposal of Totally Inoperable Vehicles
80.08 Proceeds from Sales
80.09 Duties of Demolisher

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

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

1. "Abandoned vehicle" means any of the following:

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

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

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity which is a garage keeper (any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles) to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Ord. 228 – Oct. 09 Supp.)

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the Code of

Iowa, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

(Ord. 228 – Oct. 09 Supp.)

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

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

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay five dollars ($5.00) if claimed within five (5) days of impounding, plus one dollar ($1.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

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

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

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

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

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

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

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

CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals
81.03 Obstructing Streets
81.04 Crossing Maintenance

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

1. "Operator" means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.

2. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.

2. Avoid Striking. When necessary to avoid striking any object or person on the track.

3. Disabled. When the train is disabled.

4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.

5. In Motion. When the train is in motion except while engaged in switching operations.

6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee's action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])
(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

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

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.

2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. "Superintendent" means the Public Works Superintendent of the City 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 sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 FEE FOR PERMIT AND CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay twenty-five dollars ($25.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition there shall be a connection charge in the amount of one hundred fifty dollars ($150.00) paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

(Code of Iowa, Sec. 384.84)

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

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal

written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

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

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 (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the 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.

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

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

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

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

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the 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 twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

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CHAPTER 91

WATER METERS

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

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

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

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

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

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

91.06 METER COSTS. The full cost of any meter larger than that required for a residential dwelling shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.

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

91.09 INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation of a water meter in excess of a 3/4-inch meter in accordance with the schedule of such fees approved by resolution of the Council.

91.10 ACCURACY TEST. The Superintendent shall make a test of the accuracy of any water meter at any time when requested in writing, but not more often than once in eighteen (18) months. Such request shall be accompanied by a refundable deposit of twenty dollars ($20.00) guaranteeing payment of costs if found due. If the meter is found to overrun to the extent of two percent (2%) or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than three (3) months, plus the meter test deposit. If the meter is found to be accurate or slow, or less than two percent (2%) fast, the customer deposit shall be forfeited as the reasonable costs of the test, and the customer shall be liable for any deficiency over two percent (2%) up to three (3) months.

(Ord. 257 – Oct. 14 Supp.)

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:

(Code of Iowa, Sec. 384.84)

1. Basic User Fee. A basic water user fee of $7.75 per customer per month.

2. Usage Fee.

   A. First 4,000 gallons used per month @ $7.00 (minimum bill);

   B. All over 4,000 gallons used per month @ $1.75 per 1,000 gallons.

(Ord. 256 – Oct. 14 Supp.)

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

(Code of Iowa, Sec. 364.4 & 384.84)

92.04 BILLING FOR WATER SERVICE. 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 first 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 fifteenth (15th) day of each month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

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

4. Fees. A fee of forty dollars ($40.00) 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.

(Ord. 254 – Oct. 14 Supp.)

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

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION.

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

2. Other Service Exemption. The lien for nonpayment shall also not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The City may require a deposit not exceeding the usual cost of ninety (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 thirty (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 ten (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 thirty (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 ten (10) business days of the completion of the change of ownership.

(Ord. 262 – Oct. 14 Supp.)

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer. ***(Ord. 232 – Oct. 09 Supp.)***

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer a fifty dollar ($50.00) deposit intended to guarantee the payment of bills for service. If the customer is the owner of the premises, the deposit will be refunded after one year, provided that all bills have been paid on time.

(Code of Iowa, Sec. 384.84)

CHAPTER 93

WATER CONSERVATION

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

93.01 WATER SHORTAGES. From time to time during and following drought conditions, or due to equipment failure, the City's water supply may become significantly and seriously depleted so that there will not be a sufficient supply of water to meet all customary and unusual demands. Under these conditions, the Council may find and declare by resolution a public Water Watch, Water Warning or Water Emergency, during which time the following measures and provisions shall be in effect to produce an orderly and equitable reduction of water consumption, until, by resolution, the Council finds and declares the water shortage condition to be ended.

93.02 CONDITIONS.

1. Water Watch. A Water Watch may be declared when a water shortage or equipment failure poses a potential threat to the ability of the water system to meet the needs of its customers currently or in the foreseeable future. Indicators of the need to impose a Water Watch include:

   A. System operating at seventy-five percent (75%) of pumping capacity;

   B. Moderate decrease in the pumping water level of wells or moderate decrease in recovery rate of water level in wells.

2. Water Warning. A Water Warning may be declared when a water shortage or equipment failure poses a serious threat to the ability of the water system to meet the needs of its customers currently and in the foreseeable future. Indicators of the need to impose a Water Warning include:

   A. System operating at eighty-five percent (85%) of pumping capacity;

   B. Significant decrease in the pumping water level of wells or significant decrease in recovery rate of water level in wells.

3. Water Emergency. A Water Emergency may be declared when a water shortage or equipment failure poses a severe and immediate threat to the ability of the water system to meet the needs of its customers. Indicators of the need to impose a Water Emergency include:

A. System operating at ninety-five percent (95%) of pumping capacity;

B. Serious decrease in the recovery rate of water level in wells.

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

1. No watering of lawns, shrubs or gardens between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m.

2. No water should be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.

3. No water should be used to wash streets, parking lots, driveways, sidewalks or building exteriors.

4. No water should be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.

5. Water should be served at restaurants only upon the request of the customer.

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

1. Outdoor watering of any kind is prohibited between the hours of eight o'clock (8:00) a.m. and eight o'clock (8:00) p.m. daily.

2. Watering or irrigation of flower and vegetable gardens, trees and shrubs less than four (4) years old and new seedling or sod is permitted once per week with an application not to exceed one (1) inch.

3. Car washing is prohibited except in commercial establishments that provide that service.

4. No water shall be used to fill private swimming pools, children's wading pools, reflecting pools or any other outdoor pool or pond.

5. No water shall be used to wash streets, parking lots, driveways, sidewalks or building exteriors.

6. No water shall be used for nonessential cleaning of commercial and industrial equipment, machinery and interior spaces.

7. Water shall be served in restaurants only upon the request of the customer.

8. Use of water-consuming air conditioning equipment which consumes in excess of five percent (5%) of the water circulating in such equipment is prohibited.

9. Tankload water sales may be curtailed or eliminated.

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

93.05 WATER EMERGENCY. Under a Water Emergency, Water Warning use restrictions shall be in effect and, in addition, each customer will be afforded a quarterly allocation of water.

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

1. First Violation. For a first violation, the utility shall issue a written notice of violation to the water user violating the water use restrictions imposed during a Water Warning or Water Emergency.

2. Second Violation. For a second violation within a 12-month period, a surcharge shall be imposed in an amount equal to 25 percent of the previous water bill.

3. Subsequent Violations. For any subsequent violation within a 12-month period, a surcharge shall be imposed in an amount equal to 25 percent of the previous bill, and in addition, the utility shall interrupt water service to that customer at the premises at which the violation occurred. Service shall not be restored until the customer has paid the reconnection fee and has provided reasonable assurance that future violation of Water Warning or Water Emergency use restrictions will not occur.

Any customer charged with a violation of the Water Warning or Water Emergency use restrictions may request a hearing before the Water Appeal

Board. The Water Appeal Board may conclude that a violation did not occur or that the circumstances under which the violation occurred warrant a complete or partial mitigation of the penalty.

93.07 BASE ALLOCATION. The base allocation of water for residential use shall be 85% per household per billing period. For commercial, industrial or institutional use, the base allocation shall be established by resolution as a percentage of the average water used during the same billing period of the previous year.

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

1. For single-family residential use, the base allocation may be increased by 1,000 gallons per person per month for all individuals residing at the appellant's residence for a period of more than thirty (30) days.

2. For commercial, industrial, institutional or other residential uses, the base allocation may be increased based on factors appropriate to the individual customer; such as usage, production, service and occupancy data provided by the customer.

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

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

1. Adjustments may be granted for over-consumption due to mechanical failures such as broken or leaky water pipes or fixtures but not for over-consumption due to human carelessness.

2. The applicant shall furnish proof that the mechanical failure was repaired promptly. This should be in the form of a plumber's invoice or statement or a materials receipt.

3. The adjustment shall be granted only for the billing period prior to the correction of the failure.

4. For those accounts granted an adjustment of the premium rate charges, the minimum adjusted rate shall be forty percent (40%) of the actual bill which shall include the premium rate charges and sales tax.

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

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

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

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a 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 three (3) feet outside the inner face of the building wall.

(IAC, 567-69.3[1])

3. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

(IAC, 567-69.3[1])

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from a dwelling or other facility serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

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

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

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

18. "Sewer" means a pipe or conduit for carrying sewage.

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

20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

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

22. "Superintendent" means the Public Works Superintendent of the City or any authorized deputy, agent, or representative.

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

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

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

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

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within thirty (30) days after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12 [3f])
(IAC, 567-69.3[3])

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

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

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

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

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Permit Fee and Connection Charge
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.06 Interceptors Required
96.07 Sewer Tap
96.08 Inspection Required
96.09 Property Owner's Responsibility
96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the 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 thirty (30) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount of twenty-five dollars ($25.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, there shall be a connection charge in the amount of one hundred seventy-five dollars ($175.00) for residential property, or three hundred fifty dollars ($350.00) for commercial and industrial property, paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council,

after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.

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

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the 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, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

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

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

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

A. Recommended grade at one-fourth (¼) inch per foot.

B. Minimum grade of one-eighth (1/8) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the 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 (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be compatible with the type of pipe used, subject to the approval of the 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 (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the 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 "Y" saddle 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 and attached with 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 under ground 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 thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges
97.05 Restricted Discharges - Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. 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 (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the 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 one hundred fifty (150) degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100)

milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the 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 which 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 or 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 which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the 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 of the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

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CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges in the amount of one hundred sixty percent (160%) of the bill for water and water service attributable to the customer for the property served.

(Code of Iowa, Sec. 384.84)

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 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)

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

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service

charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Ord. 251 – Oct. 14 Supp.)

(Code of Iowa, Sec. 384.84)

99.07 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.

CHAPTER 100

STORM WATER UTILITY

100.01 Purpose
100.02 Definitions
100.03 Storm Water Drainage System District Established
100.04 Rates
100.05 Payment of Bills
100.06 Lien for Nonpayment

100.01 PURPOSE. The purpose of this chapter is to establish a Storm Water Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

100.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.

2. "Customer" means, in addition to any person receiving storm 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. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping, or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water system

within the City, to which sanitary sewage flows are not intentionally admitted.

4. "User" means any person who uses property that maintains connection to, discharges to, or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

100.03 STORM WATER DRAINAGE SYSTEM DISTRICT ESTABLISHED. Pursuant to the authority of Section 384.84[5] of the Code of Iowa, the entire City is hereby declared a Storm Water Drainage System District for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management facilities. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water Drainage System District.

(Code of Iowa, Sec. 384.84)

100.04 RATES. Each customer shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial and industrial user within the City. The Council may adopt rules, charges, rates, and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based upon the actual costs of operation, maintenance, acquisition, extension and replacement of the City's system, the costs of bond repayment, regulation, administration, and services of the City. A fee of two dollars ($2.00) shall be charged to each residential utility customer each billing cycle and a fee of three dollars ($3.00) shall be charged to each commercial utility customer each billing cycle.

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

(Code of Iowa, Sec. 384.84)

100.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.07 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management facilities. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Ord. 251 – Oct. 14 Supp.)

(Code of Iowa, Sec. 384.84)

(Ch. 100 – Ord. 246 – July 12 Supp.)

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required
105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices
105.12 Sanitary Disposal Project Designated

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

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

1. "Collector" means any person authorized to gather solid waste from public and private places.

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

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

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

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

(IAC, 567-100.2)

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

(IAC, 567-20.2[455B])

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

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

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

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

(IAC, 567-100.2)

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

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

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

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

14. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such

materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

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

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

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

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

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

(Ord. 266 – Oct. 14 Supp.)

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

(Code of Iowa, Ch. 657)

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

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

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

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in

cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

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

(IAC, 567-23.2[3b])

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

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (¼) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

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

(IAC, 567-23.2[3e])

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

(IAC, 567-23.2[3f])

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

(IAC, 567-23.2[3g])

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

(IAC, 567-23.2[3h])

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

(IAC, 567-23.2[3i])

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

(IAC, 567-23.2[3j])

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

(IAC, 567-23.2[2])

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

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

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

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

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

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

(IAC, 567-100.2)

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

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

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

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than twenty (20) gallons or more than thirty-five (35) gallons in nominal capacity, and shall be leakproof and waterproof. The total weight of any container and contents shall not exceed seventy-five (75) pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

(1) Be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container;

(2) Have handles, bails or other suitable lifting devices or features;

(3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;

(4) Be of lightweight and sturdy construction.

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

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive

amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

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

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

4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

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

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

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Collection Fees
106.08 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.05 within the City.

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

(IAC, 567-104.9[455B])

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

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

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

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

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

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

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:

A. For each single-family dwelling and for each dwelling unit of a multi-family dwelling:

35 gallon container - $8.75 per month.

64 gallon container - $12.00 per month.

96 gallon container - $15.00 per month.

B. For each commercial, industrial and institutional premises without a dumpster:

35 gallon container - $8.75 per month.

64 gallon container - $12.00 per month.

96 gallon container - $15.00 per month.

C. For each commercial, industrial and institutional premises with one:

2-yard dumpster - $60.00 per month.

3-yard dumpster - $75.00 per month.

6-yard dumpster - $140.00 per month.

2. Fee for Recycling. An additional fee of $5.40 per month is charged to each customer for collection of recyclable materials.

3. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

(Ord. 221 – Oct. 08 Supp.)

106.08 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 are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Ord. 251 – Oct. 14 Supp.)

(Code of Iowa, Sec. 384.84)

CHAPTER 107

RECYCLING

107.01 Definition **107.02 Separation of Recyclables Required**

107.01 DEFINITION. "Recyclables" means designated consumer wastes which are collected and marketed for resource recovery. This includes all items accepted for recycling, all of which must be clean, and currently includes:

1. Plastics. All plastic containers designed as recyclable.

2. Aluminum. All types of aluminum including beverage cans, pie pans and trays and aluminum foil.

3. Glass. Beverage and food containers, colored clear, green or amber, non-broken and lids removed (labels need not be removed). Absolutely no drinking glasses, light bulbs, ceramics, window glass, Pyrex or dishes of any type.

4. Tin. Food containers only. Labels need not be removed.

5. Paper. Includes newspapers (including inserts), typing paper and envelopes, computer paper, magazines that have shiny pages and cardboard. Does not include paper towels, tissues or wax paper.

Because the definition of recyclables depends upon what products are accepted, the above listing is subject to change from time to time.

107.02 SEPARATION OF RECYCLABLES REQUIRED. All recyclables shall be separated from all other garbage and refuse accumulated by every residence and business establishment within the City and properly disposed of as follows: The City will contract with a hauler who will pick up recyclables from each residence within the City and properly dispose of same. The City will directly bill each residential household monthly and collect said funds for payment by the City directly to the hauler. Failure to separate recyclable materials from other garbage or refuse will result in the premises' garbage not being collected and after written notice of the violation of this chapter and failure to correct the violation, the responsible party shall be charged with a violation of this Code of Ordinances.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Mains and Pipes; Indemnification
110.03 Excavations
110.04 Construction and Maintenance
110.05 Service Requirements
110.06 Nonexclusive
110.07 Term of Franchise
110.08 Entire Agreement

110.01 FRANCHISE GRANTED There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right, franchise and privilege for the term of twenty-five (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 a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

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

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

110.08 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 the 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, that create additional burdens upon the Company or which delay utility operations.

EDITOR'S NOTE

Ordinance No. 248 adopting a natural gas franchise for the City was passed and adopted on June 11, 2012.

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Grant of Franchise
111.02 Placement of Appliances
111.03 Excavations
111.04 Construction and Maintenance
111.05 Installation of Meters
111.06 Standard of Service
111.07 Nonexclusive Franchise
111.08 Uninterrupted Service
111.09 Term of Franchise
111.10 Entire Agreement

111.01 GRANT OF FRANCHISE. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, reconstruct, 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, alleys and public places in the City to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

111.02 PLACEMENT OF APPLIANCES. 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 said 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, 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, and shall back fill all openings in such manner as to prevent settling or depressions in 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 a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive

payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities

111.05 INSTALLATION OF 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 STANDARD OF SERVICE. 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 its inhabitants thereof and shall be kept in a modern and up-to-date condition.

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

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

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

111.10 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon written 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 the 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 within this chapter, that create additional burdens upon the Company or which delay utility operations.

EDITOR'S NOTE

Ordinance No. 247 adopting an electric franchise for the City was adopted by the Council on June 11, 2012.

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted
112.02 Location of Equipment
112.03 Restoration of Public Property
112.04 Franchise Subject to City Ordinances
112.05 Indemnification
112.06 Nonexclusive Franchise
112.07 Company's Property

112.01 FRANCHISE GRANTED. Mechanicsville Telephone Company, a corporation organized under the laws of the State of Iowa, its successors and assigns (herein referred to as "Company") are granted the right, privilege and authority, for a period of twenty-five (25) years from and after the adoption, approval and final acceptance of the ordinance codified in this chapter, to construct, maintain and operate a telephone system within the present and future corporate limits of the City. The Company is granted the right, privilege and authority to construct and install all necessary poles, towers, conduits, manholes, wires, cables, fixtures and apparatus over, across and under the streets and alleys of the City and over and across any private lands therein upon proper proceedings in eminent domain for the said period of time and for said purposes upon the terms and conditions set out in subsequent sections.

112.02 LOCATION OF EQUIPMENT. All poles and fixtures erected, operated and maintained by the Company under and by virtue of this chapter shall be located, erected and maintained under the supervision and direction of the Council and shall be so located as not to interfere permanently with or obstruct the free public use of or travel over any street or alley or permanently interfere with the repairs of the same.

112.03 RESTORATION OF PUBLIC PROPERTY. After the placing of any cable, conduit or manhole, or the erection of any pole or fixture, or the removal of any such, the Company shall, at its own expense, restore the surface of the street, alley or sidewalk which was disturbed by it to the condition in which it was found. The work of restoring the streets, alleys or sidewalks shall be done under the supervision of the Streets and Alleys Committee of the Council.

112.04 FRANCHISE SUBJECT TO CITY ORDINANCES. This franchise is granted subject to all ordinances now in force in the City and such other reasonable regulations by ordinance as may be enacted by the City.

112.05 INDEMNIFICATION. The Company shall hold the City free and harmless from any and all damages of every kind and character whatsoever

caused by the construction, operation and maintenance of said telephone lines, fixtures and equipment.

112.06 NONEXCLUSIVE FRANCHISE. Nothing in this chapter shall be construed as granting to the Company the exclusive right or franchise to use the streets or alleys of the City for said purposes or to prevent the grant of similar privileges to other individuals or corporations for like purposes.

112.07 COMPANY'S PROPERTY. The City shall pass such ordinances as the Council may deem necessary or advisable for the due, legal and complete protection of the Company in the enjoyment of all its rights and privileges granted herein and shall attach lawful penalty for interference with or damage to the property of the Company.

EDITOR'S NOTE

Ordinance No. 150 adopting a telephone franchise for the City was passed and adopted on June 27, 1994.

CHAPTER 113

CABLE TELEVISION FRANCHISE

113.01 Term of Franchise
113.02 Agreement and Waiver
113.03 Nonexclusive Franchise
113.04 Subscriber Rates and Charges
113.05 Change of Rates and Charges
113.06 Rates for New Services
113.07 Franchise Fee
113.08 Construction
113.09 Observance of FCC Regulations
113.10 Complaints
113.11 Technical Standards
113.12 Transfer of Franchise
113.13 Forfeiture and Termination
113.14 Deregulation
113.15 Subscriber Privacy
113.16 New Developments
113.17 Approval of Rates
113.18 Franchise Renewal
113.19 Enforcement

113.01 TERM OF FRANCHISE. Mechanicsville Cablevision, its successors and assigns (hereinafter referred to as "Grantee") are hereby granted the right, franchise and authority for a period of twenty-five (25) years to construct, and continue to operate, a cable television system over, under and upon property of the City and to sell and supply to individuals, firms and corporations, public or private, at any and all places within the corporate limits of the City, as said limits now are or hereafter may be established, audio and video communications and such other services as are now available and those which may in the future become available as part of the Cable Television Industry, subject to the conditions and restrictions hereinafter provided and subject to Chapter 114 of this Code of Ordinances, hereinafter referred to as the "Cable Television Regulations."

113.02 AGREEMENT AND WAIVER. Grantee agrees to abide by all provisions of the franchise and all other applicable ordinances of the City, including, but not limited to the Cable Television Regulations as presently enacted and as may be hereafter amended by the City. Further, Grantee agrees that it will not set up as against the City and claim that the provisions of the franchise or any other applicable ordinances are unreasonable, arbitrary or void.

113.03 NONEXCLUSIVE FRANCHISE. The franchise shall not be exclusive and shall neither restrict the Council in the exercise of its regulatory power nor prevent it from granting any other cable television system franchise or franchises.

113.04 SUBSCRIBER RATES AND CHARGES. Grantee shall be allowed to charge the rates and charges for its services as set forth in the Cable Television Regulations as presently enacted or as hereafter amended.

113.05 CHANGE OF RATES AND CHARGES. Any increase in rates and charges shall be made only in accordance with the procedures set forth in the Cable Television Regulations as presently enacted or hereafter amended.

113.06 RATES FOR NEW SERVICES. To the extent permitted by the Federal Communications Commission (FCC) Rules and Regulations, rates or charges for new services which may be offered in the future by Grantee shall be established by the City upon application of Grantee. Such rates or charges shall be established in accordance with the procedure for rate changes as set forth in Section 113.05 above.

113.07 FRANCHISE FEE. The franchise fee will be in accordance with the provisions of the Cable Television Regulations.

113.08 CONSTRUCTION. All construction and reconstruction of Grantee's facilities shall be in strict compliance with the rules and regulations of the FCC and of the Cable Television Regulations of the City.

113.09 OBSERVANCE OF FCC REGULATIONS. Grantee shall comply with all applicable rules and regulations of the FCC which are now in effect or which may hereafter be promulgated. Furthermore, any modifications of Section 76.31 of sub-part C - *Federal-State/Local Regulatory Relationships*, of the FCC Rules and Regulations pertaining to cable television systems shall be incorporated into this franchise within one year of the adoption of said modification by the FCC or at the time of any renewal of the franchise, whichever occurs first.

113.10 COMPLAINTS. Grantee shall maintain an office within the City for the purpose of receiving, investigation and responding to complaints regarding the quality of service, equipment malfunctions and other similar matters pertaining to the cable television system. Grantee shall, if requested, report to the City the date and substance of each complaint received and the date and nature of action taken by Grantee to respond to such complaint.

113.11 TECHNICAL STANDARDS. In connection with the operation of a cable television system, Grantee shall render its services in accordance with those technical standards already enacted by the City and those reasonable technical standards and reporting requirements which may hereafter be enacted by the City.

113.12 TRANSFER OF FRANCHISE. Grantee shall not sell, transfer or assign the franchise without prior approval of the Council.

113.13 FORFEITURE AND TERMINATION. If the Grantee fails to comply with any of the provisions of the franchise or defaults in any of its obligations hereunder, except for causes beyond the reasonable control of the Grantee, and fails within thirty (30) days after written notice from the City to commence and, within a reasonable time, complete the correction of such default or noncompliance, the City shall have the right to revoke the franchise and all rights of the Grantee hereunder. In the event Grantee shall be dissolved or liquidated or should Grantee file a voluntary petition in bankruptcy or be adjudged as bankrupt, or should there be an appointment of a receiver for Grantee or any portion of its property constituting a part of the franchise or the approval by a court of competent jurisdiction of a petition applicable to Grantee in any proceedings instituted under the provisions of the Federal bankruptcy laws or under any similar acts which may hereafter be enacted, the City may declare the franchise herein granted forfeited and terminated.

113.14 DEREGULATION. If any Federal or State power, authority or jurisdiction over the cable services delivery system is deregulated, withdrawn or reduced, the City shall have the option to exercise such power, authority or jurisdiction over the Grantee to the extent such was exercisable at the time the franchise became effective. If at any time the powers, rights and duties of the City or any agent or official of the City are transferred by law to any other board, authority, agent or official, then such other entity shall have the powers, rights and duties previously vested under the franchise in the City.

113.15 SUBSCRIBER PRIVACY. Neither the Grantee nor any other person shall arrange for or permit the tapping of any subscriber tap, cable, line, signal output device, subscriber outlet or receiver for any purpose whatsoever. Neither the City nor any other person shall monitor or arrange for or permit the monitoring of any subscriber tap, cable, line, signal input device or subscriber outlet or receiver without prior written valid authorization from each subscriber so affected, except that the Grantee may scan all and only all subscribers for unauthorized reception of service or for the total number of unidentified subscribers using a service at a given time. Any request for authorization to monitor shall be made available to the authorizing subscriber in understandable fashion, and shall never be a condition, or even have the appearance of being a condition, for the reception of any cable service. Before Grantee monitors or allows any monitoring of a cable delivered service, at its own expense, it shall provide the affected subscriber a signaling device which informs the subscriber when such subscriber's use of a cable service is being monitored. Nothing in this section shall be construed to prohibit the subscriber's voluntarily sending and the grantor's receiving, upstream signals as part of a cable service specifically designed and so understood by the subscriber for the purpose of the subscriber's voluntarily and knowingly sending upstream messages or signals.

113.16 NEW DEVELOPMENTS. The Council may amend this chapter whenever necessary to enable franchisee to take advantage of any developments in the field of transmission of communications signals which will afford it an opportunity to more effectively, efficiently or economically serve its customers; however, this section shall not be construed to require the City to make any such amendment.

113.17 APPROVAL OF RATES. All rates for the provision of service to subscribers, whether private or commercial, are subject to the prior approval of the City.

113.18 FRANCHISE RENEWAL

1. Public Meeting to Be Scheduled. At least six (6) months prior to the expiration of a franchise, the City shall schedule and hold a public meeting or meetings with the Grantee to review and discuss the performance of the Grantee under the franchise, including the results following previous franchise reviews. In particular, the City may inquire whether the Grantee is supplying a level and variety of services equivalent to those being generally offered at that time in the industry in comparable market situations. The Grantee shall make available, if requested by the City, such records, information and documents which are relevant to such meetings and inquiry. Any interested person shall have the opportunity to be heard regarding whether or not the Grantee did reasonably comply with the terms and conditions imposed by this chapter and the franchise agreement.

2. Determination on Re-issue. Irrespective of the type and quality of the performance of the Grantee, the City is under no obligation whatsoever to re-issue a franchise to the Grantee. At least five (5) months prior to the expiration of the franchise, however, the City shall advise the Grantee whether or not the franchise re-issuance shall be based solely upon negotiations by and between the Grantee and the City. The failure to re-issue such a franchise, however, shall not prohibit the Grantee from applying for a new franchise in competition with other applicants for a franchise in the event the City decides to consider proposals from new applicants for the franchise.

113.19 ENFORCEMENT. Any repeated violation by the Grantee, its vendee, lessee or its successors, of any material provision of this chapter or of any supplemental written agreement entered into by and between the City and the Grantee or the failure to promptly perform any of the provisions thereof, not satisfactorily resolved, shall after reasonable notice to the Grantee requesting such performance or the resolution of such complaints be cause for cancellation of all rights under the franchise.

EDITOR'S NOTE

Ordinance No. 121 adopting a cable TV franchise for the City was passed and adopted on April 11, 1983.

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CHAPTER 114

CABLE TELEVISION REGULATIONS

114.01 Purpose and Scope
114.02 Definitions
114.03 Compliance With Applicable Law
114.04 Performance Standards
114.05 Service Procedures
114.06 Program Alteration Prohibited
114.07 Removal of Existing Antenna
114.08 System Construction, Maintenance and Procedures
114.09 Placement and Use of Poles
114.10 Removal of Equipment Upon Expiration of Franchise
114.11 Line Extensions
114.12 City Rights
114.13 Rates
114.14 Franchise Fee
114.15 Change of Control of Grantee
114.16 Inspection of Records
114.17 Supervision and Inspection
114.18 Filings and Communications with Regulatory Agencies
114.19 Discrimination Prohibited
114.20 Protection of Privacy
114.21 Program Content Restrictions
114.22 Liability and Indemnification
114.23 Payment of Costs
114.24 Activities Prohibited

114.01 PURPOSE AND SCOPE. The purpose of this chapter is to regulate cable television systems within the City which operate pursuant to City franchise and to so regulate consistent with Federal Communications Commission rules and regulations and other applicable statutes, ordinances or regulations.

114.02 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings given in this section. The definitions shall also control and be applicable to any cable television franchise.

1. "Cable television system" (or CATV system) means any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals by wire or cable to subscribing members of the public who pay for such service.

2. "Channel" means a 6 Mhz band for transmission of visual and audio signals for television.

3. "Connection, existing" means the connection of the cable or wire to a television or radio receiver when the house drop has previously been installed.

4. "Connection, new" means the installation of a house drop and the connection of the cable or wire to a television or radio receiver.

5. "Converter" means a device capable of providing more than the number of channels on a standard television receiver.

6. "Distortion" means the departure, during transmission or amplification, from the received signal waveform from that of the original transmitted waveform.

7. "FCC" means the Federal Communications Commission.

8. "Franchise" means a legal contract between the City and a person, which contract contains terms and conditions for constructing and operating a cable television system.

9. "Ghost images" means weak or shadowy images in the received picture, offset from the primary image.

10. "Grantee" means a person holding a franchise to operate a cable television system.

11. "House drop" means the wire or cable that connects each building or home to the main (trunk) cable.

12. "Outlet" means the point of connection of the cable or wire to a television or radio receiver.

13. "Subscriber" means a person who purchases cable television services.

114.03 COMPLIANCE WITH APPLICABLE LAW. A Grantee shall at all times comply with the rules and regulations of the FCC and shall also comply with all other applicable statutes, ordinances and regulations. FCC rules and regulations shall in all cases be controlling if any part of this chapter or any cable television franchise is in conflict with any FCC rules and regulations.

114.04 PERFORMANCE STANDARDS. A Grantee shall produce a picture in black and white or in color, that is undistorted, free from ghost images and accompanied with proper sound on typical standard production TV sets in good repair. A Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all outlets throughout the City without causing cross-modulation in the cables or interfering with other electrical or electronic systems.

114.05 SERVICE PROCEDURES. During the term of the franchise and any renewal thereof, the Grantee shall maintain within the City a nearby 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 Grantee 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 Grantee'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 (4) business days after their receipts. The Grantee shall keep a maintenance 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. The log shall be made available for periodic inspection by the City.

114.06 PROGRAM ALTERATION PROHIBITED. All programs of broadcasting stations carried by a Grantee shall be carried in their entirety as received, with announcement and advertisement and without additions.

114.07 REMOVAL OF EXISTING ANTENNA. A Grantee shall in no way tamper with or remove an existing television antenna without the subscriber's consent.

114.08 SYSTEM CONSTRUCTION, MAINTENANCE AND PROCEDURES.

1. In furtherance of the Grantee'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 Grantee for use of poles and posts necessary for proper installation of the system, the Grantee 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 Grantee'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 Grantee 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 Grantee and restored to serviceable condition.

2. The Grantee'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 Grantee 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 Grantee 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 Grantee 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 electrical and phone lines are buried to the subscriber's residence, the Grantee shall be required to bury the cable also.

5. In case of any disturbance of pavement, sidewalk, driveway, grass or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, grass 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 Grantee, upon reasonable notice by the City, shall remove, relay or relocate its wires, cables, underground conduits, manholes and other fixtures at its own expense.

7. The Grantee 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 Grantee 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 Grantee shall have the authority to require such payment in advance. The Grantee shall be given no less than forty-eight (48) hours' advance notice to arrange for such temporary wire changes.

9. The Grantee 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 at the expense of the Grantee.

10. The Grantee 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 means only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

114.09 PLACEMENT AND USE OF POLES.

1. Where poles or other wire-holding structures already serving the City are available for use by any Grantee, but Grantee does not make arrangements for such sue, the City may require a Grantee to use such poles and structures if the City determines that the public convenience would be enhanced thereby and if the terms of the use available to the Grantee are just and reasonable.

2. Where the City or a public utility serving the City desires to make use of the poles or other wire-holding structures of a Grantee but agreement with a Grantee cannot be reached, the City may require the Grantee to permit such use for such consideration and upon such terms as the City deems to be just and reasonable, if the City determines that the use would enhance the public convenience and would not unduly interfere with a Grantee's operations.

3. No Grantee shall erect or maintain any poles or aerial wires or cables within any underground districts which have been established by the City or which may hereafter be established by the City. Furthermore, no poles or aerial wires or cables shall be installed or maintained in any area where other utilities are required by law to be underground or where such other utilities are already installed underground.

114.10 REMOVAL OF EQUIPMENT UPON EXPIRATION OF FRANCHISE. Upon the termination or cancellation of any cable television franchise, a Grantee shall remove its poles, cable television transmission and distribution systems and all other appurtenances from the streets, sidewalks and public ways of the City, when ordered to do so by the City, and shall restore such streets, sidewalks and public ways to their original condition. If the Grantee fails to remove such items or fails to remove such items in a reasonable time after notification by the City, the City shall have the right and authority to remove such poles, cable television transmission and distribution systems and other appurtenances from the City streets, sidewalks and public ways.

114.11 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service with the City, the Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of forty-five (45) homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only a basis which is reasonable and compensatory.

114.12 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 Grantee shall, upon request of the Clerk, make available its facilities to the City for emergency use during the emergency or disaster period.

3. No Property Right. Nothing in this chapter shall grant to the Grantee 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 Grantee 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 City Engineer or other 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 Grantee to insure the proper performance of the terms of this chapter.

114.13 RATES. In consideration for services rendered to subscribers, the Grantee shall have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the Grantee's need to

attract new capital and provide a reasonable return on invested capital. No increase shall be implemented without the prior specific approval of the Council.

114.14 FRANCHISE FEE. Within thirty (30) days after the end of each quarter of the Grantee's fiscal year, the Grantee shall pay to the City a franchise fee equivalent to three percent (3%) of the gross revenues from all cable services for that quarter, subject to the following:

1. In regard to revenue received from the operation of pay cable, sometimes referred to as "Home Box Office," the franchise fee shall be based only on the revenue actually received by the Grantee from Home Box Office or based on fifty percent (50%) of the gross amount paid by subscribers to Home Box Office, whichever is greater.

2. The Council may change the franchise fee back to five percent (5%) in the event the FCC removes restrictions on the use of the franchise fee by the City.

114.15 CHANGE OF CONTROL OF GRANTEE. Prior approval of the Council shall be required where ownership or control of more than twenty-five percent (25%) of the right of control of a Grantee is acquired by a person or several persons acting in concert, none of whom already owns or controls twenty-five percent (25%) or more of such right of control, singularly or collectively. Any such acquisition occurring without prior approval of the Council shall constitute a violation of a Grantee's franchise.

114.16 INSPECTION OF RECORDS. The City shall have the right, power and authority to inspect the records of any Grantee at the premises of such Grantee during the normal business hours of any working day, or at any other reasonable time and place provided Grantee is given no less than seven (7) days' notice.

114.17 SUPERVISION AND INSPECTION. The City shall have the right to supervise all construction or installation work performed by any Grantee in the City and make such inspections as it shall find necessary to insure compliance with the terms of any cable television franchise, this chapter or other pertinent provisions of law.

114.18 FILINGS AND COMMUNICATIONS WITH REGULATORY AGENCIES. Copies of all petitions, applications and communications submitted by any Grantee to the FCC, Securities and Exchange Commission or any other Federal or State regulatory commission or agency having jurisdiction in regard to any matters affecting cable television shall also be submitted simultaneously to the Council.

114.19 DISCRIMINATION PROHIBITED. The Grantee shall not, as to rates, charges, services, service facilities, rules and regulations, or in any other respect, make or grant any undue preference or advantage to any person, or subject any person to prejudice or disadvantage. Nothing in this section, however, shall be deemed to prohibit promotional campaigns to stimulate subscriptions to the system or be deemed to prohibit the charging of special rates so long as that rate is reasonable, lawful and has received the prior approval of the Council after notice and hearing. A Grantee shall not discriminate against any person on the basis of race, religion, color, creed, sex, national origin or ancestry. Furthermore, a Grantee shall also take affirmative action to recruit employees from members of minority groups.

114.20 PROTECTION OF PRIVACY. The Grantee shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual or digital signals 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 Grantee for same. Such action shall be a simple misdemeanor.

114.21 PROGRAM CONTENT RESTRICTIONS. In addition to providing basic cable television service consisting of broadcast and automated signals, the Grantee may offer subscribers optional services on a per-program or per-channel basis. However, the Grantee shall not display X-rated motion pictures either as part of its basic cable or pay cable services.

114.22 LIABILITY AND INDEMNIFICATION. The Grantee 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 Grantee's representative within fifteen (15) days after the presentation of any claim or demand to the City, either by suit, or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Grantee. The Grantee agrees as follows:

1. The Grantee shall carry Worker's Compensation insurance with statutory limits and Employers' Liability insurance with limits of not less than one hundred thousand dollars ($100,000.00) which shall cover all operations to be performed by the Grantee as a result of this chapter.

2. The amounts of insurance to be carried for liability due to property damage shall be five hundred thousand dollars ($500,000.00) as to any one occurrence and against liability due to injury or death of persons and five hundred thousand dollars ($500,000.00) as to any one

person and one million dollars ($1,000,000.00) as to any one occurrence. 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 Grantee of all increases or decreases in said insurance coverage requirements. The Grantee shall, within sixty (60) days of receipt of that written notice, obtain such insurance coverage as is specified in said notice.

3. Grantee'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 three million dollars ($3,000,000) and Grantee 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 ten (10) days' prior written notice first be given to the City.

114.23 PAYMENT OF COSTS. In the granting of any cable television franchise, the City shall be governed by the applicable provisions of Chapter 364 of the Code of Iowa or such other enactments of the General Assembly which might hereafter amend or supersede said chapter. Furthermore, any person asking the Council to initiate the submission of the question of granting a cable television franchise to the electors of the City or any person petitioning the Council to so submit the cable television franchise question shall pay the costs incurred in holding such franchise election.

114.24 ACTIVITIES PROHIBITED.

1. The Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by the Grantee, 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. No person shall wrongfully or unlawfully intercept the signals of the Grantee.

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CHAPTER 115

CEMETERY

115.01 Definition
115.02 Trusteeship
115.03 Records
115.04 Sale of Interment Rights
115.05 Perpetual Care
115.06 Cemetery Lots Without Perpetual Care
115.07 Annual Care
115.08 Rules and Regulations
115.09 Burial Vaults

115.01 DEFINITION. The term "cemetery" means the Rose Hill Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the Code of Iowa and which shall be operated under the provisions of Chapter 523I of the Code of Iowa and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the Code of Iowa, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

(Code of Iowa, Sec. 523I.502)

115.03 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.

   A. The name and last known address of each owner or previous owner of interment rights.

   B. The date of each purchase or transfer of interment rights.

   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.

   A. The date the remains are interred.

   B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.

   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.04 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the Code of Iowa. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

115.05 PERPETUAL CARE. The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the Code of Iowa.

(Code of Iowa, Sec. 523I.503, 523I.507 & 523I.508)

115.06 CEMETERY LOTS WITHOUT PERPETUAL CARE. Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

115.07 ANNUAL CARE. An annual care charge as specified in the rules and regulations shall be made by the City on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The City reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

115.08 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran,

as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

(Ord. 252 – Oct. 14 Supp.)

(Code of Iowa, Sec. 523I.304)

115.09 BURIAL VAULTS. An approved cement burial vault shall be required for all burials in Rose Hill Cemetery.

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CHAPTER 116

ELECTRIC TRANSMISSION SYSTEM FRANCHISE

116.01 Franchise Granted
116.02 Indemnification
116.03 Relocation
116.04 Modern System
116.05 Pruning
116.06 Continuous Service
116.07 Non-Exclusivity
116.08 Term of Agreement
116.09 Future Developments
116.10 Entire Agreement

116.01 FRANCHISE GRANTED. There is hereby granted to ITC MIDWEST LLC, a wholly owned subsidiary of ITC HOLDINGS CORP., its successors and assigns (the "Company"), the right and franchise to acquire, construct, erect, maintain and operate in the City of Mechanicsville, Cedar County, Iowa, (the "City") a transmission system for electric power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances or equipment and substations for the transmission of electric current (collectively, the "facilities") along, under and upon the streets, avenues, alleys and public places in the City, also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City for the period of twenty-five (25) years[†], also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

116.02 INDEMNIFICATION. The facilities shall be placed and maintained so as not to unnecessarily interfere with the travel on the streets, alleys, and public places in the 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 shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of the transmission system.

116.03 RELOCATION. Except as provided herein below, the Company shall, at its cost and expense, locate and relocate its facilities in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, 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 facilities for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private

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[†] EDITOR'S NOTE: Ordinance No. 258 adopting an electric transmission system franchise for the City was passed and adopted on May 13, 2013.

developer or other non-public entity, and such relocation is necessary to prevent interference and not merely for the convenience of the City or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its facilities. 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 alternate location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities until the reasonable cost of relocating the same are paid to the Company.

116.04 MODERN SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be kept in a modern and up-to-date condition.

116.05 PRUNING. To promote public safety in proximity to its facilities and to maintain electric reliability, the Company is authorized and empowered to prune or remove at Company expense any trees or shrubs or parts thereto extending into any street, alley, right-of-way or public grounds. The pruning shall be completed in accordance with the then-current nationally accepted safety and utility industry standards, as revised and updated from time to time.

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

116.07 NON-EXCLUSIVITY. The franchise granted by this chapter shall not be exclusive.

116.08 TERM OF AGREEMENT. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the Company. The anniversary date shall be the date this franchise is filed with the City Clerk or otherwise becomes effective by operation of law.

116.09 FUTURE DEVELOPMENTS. The City agrees it will not permit any real estate developments or land uses in the City that would cause the Company's facilities to violate the setback or safety requirements of the National Electric Safety Code or any law, regulation or ordinance of the State of Iowa, Cedar County or the City.

116.10 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 any prior electric system ordinance between the Company and the City as of the date this chapter is accepted by the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees, that create additional burdens upon the Company or that delay utility operations.

(Ch. 116 - Ord. 258 – Oct. 14 Supp.)

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

(Code of Iowa, Sec. 123.32 [2])

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) a.m. and six o'clock (6:00) a.m. on a weekday, and between the hours of two o'clock (2:00) a.m. on Sunday and six o'clock (6:00) a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may sell or dispense alcoholic liquor, beer or wine between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) a.m. on Sunday and two o'clock (2:00) a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

(Code of Iowa, Sec. 123.49 [2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49 [2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49 [2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Alcoholic Beverages Division. ***(Ord. 253 – Oct. 14 Supp.)***

(Code of Iowa, Sec. 123.49 [2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. Permit a person under legal age to enter into, remain upon, or frequent a place of business after 7:00 p.m. in which the selling of alcoholic liquor and/or beer constitutes more than fifty percent (50%) of the gross business transacted therein, unless the person under legal age is engaged in a trade, occupation or business which is not otherwise prohibited by the Code of Iowa and which requires his or her presence upon said premises or is accompanied by a parent or legal guardian.

12. Sell, give, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form. ***(Ord. 205 – Nov. 07 Supp.)***

120.06 AMUSEMENT DEVICES.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device. ***(Ord. 215 – Nov. 07 Supp.)***

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

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration
121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-service Sales Prohibited
121.09 Permit Revocation

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

(Code of Iowa, Sec. 453A.1)

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "Alternative nicotine product" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

3. "Place of business" means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.

4. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.

5. "Self-service display" means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

6. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

7. "Vapor product" means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. "Vapor product" includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

(Ord. 264 – Oct. 14 Supp.)

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.

(Ord. 264 – Oct. 14 Supp.)

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant. ***(Ord. 214 – Nov. 07 Supp.)***

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

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

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

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

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

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

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

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three 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 sixty (60) days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Ord. 264 – Oct. 14 Supp.)

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. ***(Ord. 264 – Oct. 14 Supp.)***

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable
122.10 Time Restriction
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122.12 Notice
122.13 Hearing
122.14 Record and Determination
122.15 Appeal
122.16 Effect of Revocation
122.17 License Exemptions
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 which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

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

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set

forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of ten dollars ($10.00) 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 twenty-five dollars ($25.00) for up to six (6) months, or fifty dollars ($50.00) for one year.

2. Peddlers or Transient Merchants.

   A. For one day ..... $ 10.00

   B. For one week..... $ 15.00

   C. For up to six (6) months..... $ 50.00

   D. For one year or major part thereof.. $ 100.00

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 eight o'clock (8:00) a.m. and six o'clock (6:00) p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 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 North Cedar School District conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee
123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any method other than upon a properly licensed motor vehicle.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - $50,000 per person; $100,000 per accident.
2. Property Damage - $50,000 per accident.

123.06 PERMIT FEE. A permit fee of twenty-five dollars ($25.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On; Grass Clippings Prohibited
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts

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; GRASS CLIPPINGS PROHIBITED. 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. The owner or occupant of a premises shall ensure that grass clippings do not become deposited or blown into any street or gutter. Any owner or occupant of a premises who causes grass clippings to be deposited or blown into any street or gutter shall remove and clean up said material immediately and in no event later than three (3) hours thereafter. If said removal and cleanup is not completed within 3 hours, the work shall be done by the City and the entire cost thereof charged to said owner or occupant.

(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, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

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

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so

placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars ($1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars ($1,000.00) may be filed with the City.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

A. Bodily Injury - $50,000.00 per person; $100,000.00 per accident.

B. Property Damage - $50,000.00 per accident.

6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, or resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Issued. Upon approval of the application and filing of bond and insurance certificate, a permit shall be issued. A separate permit shall be required for each excavation.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead trees on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

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

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

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

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for

the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice and Accumulations
136.04 Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Permit Required
136.08 Sidewalk Standards
136.09 Barricades and Warning Lights
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136.11 Interference with Sidewalk Improvements
136.12 Awnings
136.13 Encroaching Steps
136.14 Openings and Enclosures
136.15 Fires or Fuel on Sidewalks
136.16 Defacing
136.17 Debris on Sidewalks
136.18 Merchandise Display
136.19 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

5. "Portland cement" means any type of cement except bituminous cement.

6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. "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. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within 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.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-

base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) 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 shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (½) inch above the curb for each foot between the curb and the sidewalk.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a “broom” or “wood float” finish.

11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not

limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board. ***(Ord. 238 – Feb. 11 Supp.)***

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

(Ord. 229 – Oct. 09 Supp.)

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
91	April 12, 1976		
131	August 8, 1988		

CHAPTER 138

STREET GRADES

138.01 Established Grades
138.02 Record Maintained

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
9	1957		
62	March 6, 1961		
100	July 11, 1978		

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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. Ordinance. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by ordinance, 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 Mechanicsville, 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 amendment 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. No

amendment to this chapter which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.

CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed
140.05 Permitted Access Points on U.S. No. 30

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term "controlled access facility" means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

140.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities within the City, described as follows:

(Code of Iowa, Sec. 306A.3)

1. Project No. FN-57. On the Primary Road System extension improvement, Project No. FN-57, Primary Road No. U.S. 30, within the City, described as follows:

From Station 286+34 to Station 335+30

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-57, on file in the office of the Clerk.

140.05 PERMITTED ACCESS POINTS ON U.S. NO. 30. Points of access are hereby permitted as follows:

(Code of Iowa, Sec. 306A.4)

STATION	SIDE OF STREET*	WIDTH	USE OF DRIVE OR ENTRANCE
300+38.8	Left	24 feet	Street
300+54	Right	36 feet	County Road
301+52	Right	36 feet	Commercial
302+33	Right	18 feet	Residential
303+75	Right	18 feet	Field Entrance
305+26	Right	33 feet	Commercial
306+25	Right	36 feet	Commercial
307+25	Left	24 feet	Street
307+33	Right	15 feet	Residential
307+58	Right	36 feet	Residential and Commercial
308+62	Right	18 feet	Residential
309+32	Right	24 feet	Commercial
309+90	Right	33 feet	Commercial
310+85	Right	36 feet	Commercial
311+45	Right	36 feet	Commercial
312+35	Right	45 feet	Commercial
314+63	Right	45 feet	Commercial
319+85	Right	22 feet	Farm Drive
*Right side of road centerline is south and left side of road centerline is north.			

(Ord. 245 – July 12 Supp.)

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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
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

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 (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

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 MECHANICSVILLE, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

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 of this Code of Ordinances.

Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions
146.02 Conversion to Real Property
146.03 Foundation Requirements
146.04 Mobile Home Park Area and Yard Requirements
146.05 Compliance with State Building Code

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

(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor

or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

146.04 MOBILE HOME PARK AREA AND YARD REQUIREMENTS. Mobile home or trailer parks shall be designed and maintained in accordance with the following requirements:

1. Minimum Requirements for Mobile Home Parks.

   A. Mobile Home Park area – 8 acres;

   B. Front yard (to be measured from all streets on which park abuts) – 50 feet;

   C. Side yard – 35 feet;

   D. Rear yard – 35 feet;

   E. Sanitary facilities – connection with the municipal sewer system or adequate private sewage disposal facilities;

F. Streets – Each mobile home lot shall have direct access to a park street. The minimum roadway width of interior park streets shall be as follows:

(1) One-way, no parking.....11 feet

(2) One-way, parking one side.....18 feet

(3) One-way, parking both sides.....24 feet

(4) Two-way, no parking .....24 feet

(5) Two-way, parking one side.....27 feet

(6) Two-way, parking both sides .....34 feet

Such streets shall be surfaced as to acceptable City standards to be determined for residential streets and shall be maintained in good condition and lighted at night.

2. Minimum Requirements for Mobile Home Spaces.

A. Area – 50 feet by 80 feet;

B. Size – 4,000 square feet;

C. Off drive parking – one parking space for each mobile home space;

D. Off-street or on-street parking – one for each two such mobile home lots, to accommodate guests;

E. Front yard – 15 feet;

F. Rear yard – 10 feet;

G. Side yard – 5 feet each side, with a minimum of 20 feet between any two mobile homes.

3. Sidewalks. Sidewalks shall be provided from the entrance of each mobile home or trailer to the service facilities. The walks shall be constructed of concrete.

4. Landscaping of Unused Area. All areas not used for access, parking, circulation, buildings and service shall be completely and permanently landscaped and the entire site maintained in good condition. A landscaped strip of land, not less than ten (10) feet in width, shall be established and maintained within the mobile home park along its exterior boundaries.

5. Concrete Slab. Each mobile home unit lot shall be equipped with a concrete slab of sufficient size to support the wheels and the front parking jack. Said slab shall have a minimum horizontal dimension of

eight (8) feet by ten (10) feet and a minimum thickness of four (4) inches.

6. Recreation Areas. There shall be provided within each mobile home park an adequate site or sites for recreational use by residents. The minimum area provided for such recreation site or sites shall consist of an aggregate of one hundred (100) square feet for each mobile home space in said park. The recreation sites shall be of appropriate design and provided with appropriate equipment.

7. Length of Occupancy. No mobile home shall remain in a mobile home park for a period exceeding fifteen (15) days without connection to the permanent sanitary sewer system of the park.

146.05 COMPLIANCE WITH STATE BUILDING CODE. Before being located, whether permanently or for a temporary period of time, all mobile homes located in the City limits shall have a certificate that shows the mobile home is in compliance with the current State Building Code as to mobile home construction.

CHAPTER 147

FIRE ZONE

147.01 Fire Zone Established
147.02 Plans Submitted
147.03 Buildings Prohibited
147.04 Construction Standards
147.05 Reconstruction Prohibited
147.06 Special Permit
147.07 Removal of Buildings
147.08 Storage of Materials Restricted

147.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

> All of Lots One, Two, Three, Four and Five in Block Six; all of Lots One, Two, Three, Four and Five in Block Seven; all of Lots One, Two, Three, Four and Five in Block Ten; all of Lots One, Two, Three, Four and Five in Block Eleven; Lot Five in Block Fifteen, all in Iroquois addition to the City of Mechanicsville, Iowa.

147.02 PLANS SUBMITTED. It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

147.03 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire Zone, unless constructed in strict compliance with the provisions of this chapter.

147.04 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code.

147.05 RECONSTRUCTION PROHIBITED. Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

147.06 SPECIAL PERMIT. The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary

purposes for a period of time not exceeding six (6) months from the date of such permission.

147.07 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

147.08 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire Zone as described in this chapter.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Plan

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Duty to Trim Trees
151.04 Trimming Trees to be Supervised
151.05 Disease Control
151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, "parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.

2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.

3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 165

ZONING REGULATIONS

165.01 Title
165.02 Purpose
165.03 Definitions
165.04 Establishment of Districts
165.05 Adoption of Official Zoning Map
165.06 Identification of Official Zoning Map
165.07 Changes in Official Zoning Map
165.08 Interpretation of District Boundaries
165.09 Schedules of District Regulations
165.10 Supplementary District Regulations
165.11 Application of District Regulations
165.12 Nonconforming Uses
165.13 Nonconformities May Not Be Enlarged
165.14 Nonconforming Lots of Record
165.15 Nonconforming Uses of Land
165.16 Nonconforming Structures
165.17 Nonconforming Uses of Structures
165.18 Repairs and Maintenance
165.19 Uses Under Special Exception Provisions
165.20 Administration and Enforcement
165.21 Appeals from Decision of Administrative Officer
165.22 Interpretation of Provisions
165.23 Violations
165.24 Separate Offenses May Be Charged
165.25 Injunction; Mandamus
165.26 Construction Compliance Certificate
165.27 Occupancy Compliance Certificate
165.28 Fees
165.29 Board of Adjustment Created
165.30 Proceedings of the Board of Adjustment
165.31 Hearings, Appeals and Notice
165.32 Appeal Fee
165.33 Stay of Proceedings
165.34 Powers and Duties of the Board of Adjustment
165.35 Conditions of Variance
165.36 Decisions of the Board of Adjustment
165.37 Appeals from the Board of Adjustment
165.38 Changes and Amendments
165.39 Application for Change of Zoning District Boundaries

165.01 TITLE. This chapter shall be known and cited as "The Zoning Ordinance of the City of Mechanicsville."

165.02 PURPOSE. The Council deems it necessary to prevent and to lessen congestion in the streets and highways; to secure safety from fire, flood, panic and other dangers; to protect the public health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements; to conserve the value of buildings and encourage the most appropriate use of land throughout the City; all in accordance with a comprehensive plan.

165.03 DEFINITIONS. For use in this chapter, certain terms and words are hereby defined.

1. "Accessory use or structure" means a use or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land. An "accessory use or structure" includes but is not limited to the following:

A. A children's playhouse, garden house or private greenhouse;

B. A garage, shed or building for domestic storage;

C. Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations;

D. Storage of goods used in or produced by manufacturing activities, on the same lot or parcel of ground with such activities, unless such storage is excluded by the district regulations;

E. Off-street motor vehicle parking areas, and loading and unloading facilities;

F. Signs, as permitted and regulated in each district incorporated herein;

G. Swimming pool, private, in residential districts for use by the occupants of the residence or building and their guests;

H. Public utility, communication, electric, gas, water and sewer lines, their supports and incidental equipment;

I. Where a substantial part of the wall of an accessory structure is a part of the wall of the main building, or where an accessory structure is attached to the main building in a substantial manner, as by a roof, such accessory structure shall be counted as part of the main building.

2. "Apartment" means a room or suite of rooms used as the dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.

3. "Apartment house" means a building arranged, intended or designed to be occupied by three or more families living independently of each other.

4. "Alterations, structural" means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

5. "Basement" means a story having part but not more than one-half its height below grade. A basement is counted as a story for the purpose of height regulations.

6. "Boarding house" means a building other than a hotel where, for compensation and by arrangement, lodging or lodging and meals are provided for three (3) or more persons.

7. "Building or structure" means anything constructed, erected or built, the use of which requires more or less permanent location on the

ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind, including, but without limiting the generality of the foregoing, installations such as signs, billboards, radio towers and other facilities not designed for storage of property or occupancy by persons.

8. "Building, height of" means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

9. "Cellar" means a story having more than one-half (½) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

10. "Commission" means the Planning and Zoning Commission of the City of Mechanicsville, Iowa.

11. "Dwelling" means any building or portion thereof which is designed for and used exclusively for residential purposes.

12. "Dwelling multiple" means a building designed for or occupied exclusively by more than two families.

13. "Dwelling, single-family" means a building designed for or occupied by one family.

14. "Dwelling, two-family" means a building designed for or occupied by two families.

15. "Family" means one or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from a group occupying a boarding house, lodging house or hotel.

16. "Farm" means an area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term "farming" includes the operating of such area for one or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings.

17. "Frontage" means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

18. "Garage, private" means an accessory building or an accessory portion of the principal building, including a carport, which is intended for and used for storing the privately owned motor vehicles, boats and trailers of the family or families resident upon the premises, and in which no business service by industry connected directly or indirectly with motor vehicles, boats and trailers is carried on, provided that not more than two-thirds of the parking spaces therein may be rented for the storage of motor vehicles, boats and trailers of persons not resident on the premises, except that all the parking spaces in a garage of one, two or three-car capacity may be so rented.

19. "Garage, public" means a building or portion thereof other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling or storing motor-driven vehicles.

20. "Grade" means the average level of the finished surface of the ground adjacent to the exterior walls of the building except when any wall approximately parallels and is not more than five (5) feet from a street line, then the elevation of the street at the center of the wall adjoining the street shall be grade.

21. "Home occupation" means an occupation or a profession which:

A. Is customarily carried on in a dwelling unit, and

B. Is carried on by a member of the family residing in the dwelling unit, and

C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and

D. Does not employ more than one person outside the immediate family, and

E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building, and

F. Does not occupy more than thirty percent (30%) of the area of one floor of the dwelling unit, and

G. Has not more than one (1) exterior sign mounted flush with the face of the building, which sign shall not exceed three (3) square feet in area, and

H. Produces no offensive noise, vibration, smoke, dust, odors, heat or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

"Home occupation" includes professional offices, minor repair services, photo and art studios, dressmaking, teaching, barber and beauty shops, baby sitting, and other similar uses as determined by the Council. However, "home occupation" does not include tourist homes, restaurants, or similar uses.

22. "Institution" means a building occupied by a nonprofit corporation or a nonprofit establishment for public use.

23. "Junk yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled, or packed, disassembled, stored, abandoned or handled, including the dismantling or "wrecking" of automobiles or other vehicles or machinery, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such activities are conducted entirely within a completely enclosed building.

24. "Kennel" means an establishment where dogs are boarded for compensation or where dogs are bred or raised for commercial purposes or sale.

25. "Loading space" means a space within the main building or on the same lot providing for the standing, loading or unloading of trucks, having minimum dimensions of twelve (12) by thirty-five (35) feet and vertical clearance of at least fourteen (14) feet.

26. "Lot" means a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.

27. "Lot, corner" means a lot abutting upon two (2) or more streets at their intersections.

28. "Lot, depth of" means the mean horizontal distance between the front and rear lot lines.

29. "Lot, double frontage" means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

30. "Lot, interior" means a lot other than a corner lot.

31. "Lot of record" means a lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Recorder.

32. "Lot, reversed corner" means a corner lot, the side street line of which is substantially a continuation of the front line of the first lot to its rear.

33. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

34. "Nursing home" means a home for the aged, chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, or shelter and care, for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

35. "Parking space" means a surfaced area, enclosed in the main building or in any accessory building, or unenclosed, having an area of not less than one hundred and eighty (180) square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

36. "Place" means any open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.

37. "Sign" means any structure or part thereof or device attached thereto or painted, or represented thereon, which displays or includes any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard" but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

38. "Story" means that portion of a building other than a cellar included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

39. "Story, half" means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3) feet above the floor of such story, except that

any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

40. "Street" means a public or private thoroughfare which affords the principal means of access to abutting property.

41. "Trailer camp" or "tourist camp" means any area providing spaces for two or more travel trailers, camping trailers or tent sites for temporary occupancy with necessary incidental services, sanitation and recreation facilities to serve the traveling public.

42. "Travel trailer" or "camping trailer" means a vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed to permit the vehicle to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight (8) feet in width, and any length provided its gross weight does not exceed 4,500 pounds, which shall be the manufacturer's shipping or the actual weight, provided its overall length does not exceed twenty-eight (28) feet. Such vehicle shall be customarily or ordinarily used for vacation or recreation purposes. If used as a place of human habitation for more than ninety (90) days in any twelve (12) month period, it shall be classified as a mobile home regardless of the size and weight limitation provided herein. This definition also includes house cars and camp cars having motive power and designated for temporary occupancy as herein defined.

43. "Yard" means an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building or any projection thereof shall be used.

44. "Yard, front" means a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projection thereof, other than the projection of the usual uncovered steps, uncovered balconies or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where the owner shall elect to front his or her building on the street parallel to the lot line having the greater dimension.

45. "Yard, rear" means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof, other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

46. "Yard, side" means a yard between the main building and the side line of the lot and extending from the required front yard to the required rear yard, and being the minimum horizontal distance between a side lot line and the side of the main building or any projection thereof.

47. "Zero lot line single-family attached dwelling" means a residential dwelling unit other than a mobile home designed for occupancy for one family only, which physically adjoins one other matching residential single-family dwelling unit across an abutting side lot line, with each unit occupying its own parcel.

Editor's Note: See the Appendix to this Code of Ordinances for illustrations of Lot Area and Lot Coverage, Building Line, Yards, and Nonconforming Building and Uses.

165.04 ESTABLISHMENT OF DISTRICTS. The City is hereby divided into districts which shall be designated as follows:

A-l Agricultural
R-l Single-Family Residential
R-2 Mixed Residential
R-3 Mixed Residential
C-1 Highway Commercial
C-2 General Retail
M-1 Industrial

The locations and boundaries of these districts are shown on the Official Zoning Map.

165.05 ADOPTION OF OFFICIAL ZONING MAP. The Official Zoning Map, including the explanatory material thereon, is hereby adopted by reference and declared to be a part of this chapter.

165.06 IDENTIFICATION OF OFFICIAL ZONING MAP. The Official Zoning Map shall be identified by the signature of the Mayor and attested to by the Clerk under the following statement:

This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance of Mechanicsville, Iowa, as adopted the ___ day of_____, 19____.

The Official Zoning Map shall be on file in the office of the Clerk and shall be the final authority as to the current zoning status of land, buildings and other structures in the City.

165.07 CHANGES IN OFFICIAL ZONING MAP. No changes in the Official Zoning Map shall be made except as may be required by amendments to this chapter. If required, such changes shall be promptly made and the ordinance number, nature of change, and date of change shall be noted on the map, approving such change in the Official Zoning Map. Any unauthorized change of any kind whatsoever in the Official Zoning Map by any person or persons shall constitute a violation of this chapter. *(See EDITOR'S NOTE at the end of this chapter for ordinances amending the zoning map.)*

165.08 INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.

1. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines.

2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following township lines or section lines shall be construed as following said township lines or section lines.

4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

5. Boundaries indicated as following the centerlines of streams or other bodies of water shall be construed to follow such centerlines, and in the event of change in the centerlines, shall be construed as moving with the actual centerline.

6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

165.09 SCHEDULES OF DISTRICT REGULATIONS. The following schedules of district regulations are hereby adopted:

A-1 Agricultural
R-1 Single-Family Residential
R-2 Mixed Residential
R-3 Mixed Residential
C-1 Highway Commercial
C-2 General Retail
M-1 Industrial

A-1 AGRICULTURAL A-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Agriculture, horticulture, general farming and other agricultural activities	None
2. Single-family dwellings	2 spaces per unit
3. Parks and recreation areas	5 spaces for each acre developed for active use
4. Stable or kennel	3 spaces
5. Cemetery	10 spaces plus 1 space per acre
6. Public utilities but not including equipment storage	1 space per substation or 1 space per employee on the site
7. Railroads	None

PERMITTED ACCESSORY USES AND STRUCTURES

1. Farm buildings incidental to agricultural uses.
2. Private garage.
3. Home occupation.
4. Tennis court, swimming pool, greenhouse or other similar accessory use clearly incidental to the permitted principal use or structure of this district and not involving the conduct of business on the premises except home occupations as provided herein.
5. Temporary buildings used in conjunction with construction work, provided such buildings are promptly removed upon the completion of the construction work.
6. Refreshment stand in conjunction with a park or recreation area.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.34(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Sanitary landfill or waste disposal area, provided it is not used for disposal of dead animals, that refuse is covered with dirt daily if it contains raw garbage, that a nuisance due to smoke, odor or blowing of trash and debris is not created, and that the site is restored to a condition compatible with the adjacent area upon conclusion of the dump operation. An access road having at least a graveled surface and five (5) parking spaces shall be provided. No landfill or waste disposal area shall be located closer that one-fourth (¼) mile to any dwelling, park, school or place of public assembly.

A-1	AGRICULTURAL	A-1
MINIMUM LOT AREA AND WIDTH	**MINIMUM YARD REQUIREMENTS**	**MAXIMUM HEIGHT**
Dwellings: Area:.....20,000 square feet Width: .....125 feet Depth.....150 feet	Dwellings and other non-institutional uses: Front: ..... 35 feet Rear: ..... 30 feet Side:..... 10 feet Side street, corner lot... 20 feet	2 1/2 stories or 35 feet

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed one (1) square foot in area.
2. Church or public bulletin boards not to exceed sixteen (16) square feet in area.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area.
4. Home occupation signs not to exceed three (3) square feet in area.
5. Billboards or advertising signs provided:
   (a) They are not within three hundred (300) feet of an intersection, residence or another billboard.
   (b) They are not within one hundred (100) feet of a park, school, cemetery, public or semi-public building.
   (c) They are not within seventy-five (75) feet of the centerline of a city or county road, or one hundred (100) feet of a state highway.
6. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, the area shall be restored to a condition free from refuse and rubbish.

SPECIAL REQUIREMENTS

1. Public utility substations or buildings shall meet the front and rear yard requirements for dwellings and shall have side yards of not less than twenty-five (25) feet.

R-1 SINGLE-FAMILY RESIDENTIAL R-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Parks and recreation areas	5 spaces for each acre developed for active use
3. Golf course and country club	1 space for each 50 square feet of floor area
4. Public or semi-public swimming pool	1 space for each 50 square feet of water area
5. Church or other place of worship	1 space for every 4 seats in the main auditorium
6. Elementary or secondary school	1 space per classroom and office plus 1 space for each 6 seats in the main auditorium or stadium
7. Public utilities but not including equipment storage or maintenance yards and buildings, or general administrative and sales offices	1 space per substation or one per employee on the site
8. Railroads	None

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Home occupation.
3. Tennis court, swimming pool, greenhouse or similar accessory use clearly incidental to the permitted principal use or structure of this district and not including the conduct of business on the premises except home occupations as provided herein.
4. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
5. Refreshment stand in conjunction with a park or recreation area.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.34(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Rest, nursing and convalescent homes; homes for the orphaned and aged on sites of two (2) acres or more, provided that one parking space for each two (2) beds is provided.
2. Public housing developments on sites of two acres or more. Two (2) off-street parking spaces per unit shall be provided.

R-1	SINGLE-FAMILY RESIDENTIAL	R-1
MINIMUM LOT AREA AND WIDTH	**MINIMUM YARD REQUIREMENTS**	**MAXIMUM HEIGHT**
Single-Family Dwellings: Area:.....9,600 square feet Width: ....75 feet Depth.....120 feet Where a lot is not served by a public water and/or sanitary sewer system, the minimum lot area shall not be less than 20,000 square feet and the width not less than 125 feet.	Dwellings and other non-institutional uses: Front: ..... 25 feet Rear:..... 30 feet Side: ..... 8 feet Side street, corner lot ..... 20 feet Schools, churches or other public or institutional buildings: Front: ..... 35 feet Rear:..... 40 feet Side: ..... 20 feet Side street, corner lot ..... 20 feet	2 1/2 stories or 35 feet

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed one (1) square foot in area.
2. Church or public bulletin boards not to exceed sixteen (16) square feet in area.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area.
4. Home occupation signs not to exceed three (3) square feet in area.
5. Illumination of signs, bulletin boards and nameplates shall not exceed 60 watts and shall be lighted only with indirect, non-intermittent lighting.
6. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building.
7. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

R-2 MIXED RESIDENTIAL R-2

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Single-family dwellings	2 spaces per unit
2. Two or multi-family dwellings	2 spaces per unit
3. Private kindergartens and day nurseries	1 space plus 1 space for each employee
4. Funeral home	1 space for each 4 seats in the chapel
5. Parks and recreation areas	5 spaces for each acre developed for active use
6. Community meeting or recreation building	1 space for every 50 square feet of floor area
7. Church or other place of worship	1 space for every 4 seats in the main auditorium
8. Elementary or secondary school	1 space per classroom and office plus 1 space for each 6 seats in the main auditorium or stadium
9. Public utilities but not including equipment storage or maintenance yards and buildings, or general administrative and sales offices	1 space per substation or one per employee on the site
10. Railroads	None
11. Municipal structures	
12. Zero lot line single-family attached dwelling	2 spaces per unit

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Home occupation.
3. Tennis court, swimming pool, greenhouse or similar accessory use clearly incidental to the permitted principal use or structure of this district and not including the conduct of business on the premises except home occupations as provided herein.
4. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.
5. Serving of meals and renting rooms or both to up to three (3) persons not members of the family residing therein, provided that the character of the dwelling is not changed from that of a dwelling, or that it becomes in any sense a nursing or rest home as defined herein, and that one (1) additional off-street parking space is provided for each roomer.

SPECIAL EXCEPTION USES AND STRUCTURES

1. Rest, nursing and convalescent homes; homes for the orphaned and aged on sites of one (1) acre or more, provided that one parking space for each two (2) beds is provided.
2. Public housing developments on sites of two acres or more. Two (2) off-street parking spaces per unit shall be provided. Yards required shall be the same as multi-family dwellings.

R-2	MIXED RESIDENTIAL	R-2
MINIMUM LOT AREA AND WIDTH	**MINIMUM YARD REQUIREMENTS**	**MAXIMUM HEIGHT**
Single-family Dwellings: Area:.....7,200 square feet Width: ....60 feet Depth.....120 feet Two-family Dwellings: Area:.....9,000 square feet Width: ....75 feet Depth.....120 feet	Single and two-family dwellings and other non-institutional uses: Front: ..... 25 feet Rear:..... 25 feet Side:..... 7 feet Side street, corner lot ..... 15 feet	3 stories or 40 feet
Multi-family Dwellings up to 12 units: Area:.....6,000 square feet plus 1,500 square feet for each unit over one. Width: ....75 feet Depth.....125 feet	Multi-family dwellings, schools, churches or other public or institutional buildings: Front: ..... 30 feet Rear:..... 35 feet Side:..... 15 feet Side street, corner lot ..... 20 feet	
Zero Lot Line Single-family Attached Dwellings: Area:.....6,000 square feet per dwelling unit (minimum) Width: ....50 feet (minimum street frontage) Depth.....120 feet per dwelling (minimum) Total Project Area for all permitted uses: 12,000 sq. ft.	Zero Lot Line Single-family Attached Dwellings: Front: ..... 25 feet Rear:..... 25 feet Side:..... 7 feet Side street, corner lot ..... 15 feet	

R-2 MIXED RESIDENTIAL R-2

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed one (1) square foot in area.
2. Church or public bulletin boards not to exceed sixteen (16) square feet in area.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area.
4. Home occupation signs not to exceed three (3) square feet in area.
5. Illumination of signs, bulletin boards and nameplates shall not exceed 60 watts and shall be lighted only with indirect, non-intermittent lighting.
6. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building.
7. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

ZERO LOT LINE SINGLE-FAMILY ATTACHED DWELLING REQUIREMENTS

Any zero lot line dwelling must meet the following requirements:

1. A one-inch air space shall be maintained between the common walls contiguous to the zero lot line, and each side must be constructed with a layer of 5/8-inch type “x” fire code drywall or its equivalent.
2. Such dwellings shall be constructed side by side across the zero lot line and not constructed parallel to the zero lot line.
3. The front wall of such dwelling shall be of the same material, same type and same color on each side of the zero lot line.
4. Each dwelling unit shall be provided with a separate building access and with separately metered utility service.

Prior to the division of any lot into two parcels for a zero lot line single-family attached dwelling, there shall be recorded in the Cedar County Recorder’s office Restrictive and Protective Covenants providing that the owners thereof are jointly and severally liable and responsible for the maintenance and repair of the common wall as well as other common aspects, including but not limited to, utilities, water, sanitary sewer, storm sewer, easements, driveways, roof and siding, all to the point of division.

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R-3 MIXED RESIDENTIAL R-3	
PERMITTED PRINCIPAL USES AND STRUCTURES	**MINIMUM REQUIRED OFF-STREET PARKING**
1. Single-family dwellings	2 spaces per unit
2. Multi-family dwellings	2 spaces per unit
3. Mobile home park	1 space plus 1 space per employee
4. Funeral home	1 space for each 4 seats in the chapel
5. Rest, nursing and convalescent homes; homes for the orphaned and aged on sites of one (1) acre or more	1 space for each 2 beds
6. Public housing developments on sites of two acres or more	2 spaces per unit
7. Parks and recreation areas	5 spaces per acre developed for active use
8. Community meeting or recreation building	1 space for every 50 square feet of floor area
9. Church or other place of worship	1 space for every 4 seats in the main auditorium
10. Elementary or secondary school	1 space per classroom and office plus 1 space for each 6 seats in the main auditorium or stadium
11. Public utilities but not including equipment storage or maintenance yards and buildings, or general administrative and sales offices	1 space per substation or one per employee on the site

PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garage.
2. Home occupation.
3. Tennis court, swimming pool, greenhouse or similar accessory use clearly incidental to the permitted principal use or structure of this district and not including the conduct of business on the premises except home occupations as provided herein.
4. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

None

R-3	MIXED RESIDENTIAL	R-3
MINIMUM LOT AREA AND WIDTH	**MINIMUM YARD REQUIREMENTS**	**MAXIMUM HEIGHT**
Multi-family Dwellings up to 12 units: Area:.....6,000 square feet plus 1,500 square feet for each unit over one. Width: ....75 feet Depth.....125 feet	Non-institutional uses: Front: ..... 25 feet Rear:..... 25 feet Side:..... 8 feet Side street, corner lot ..... 15 feet Multi-family dwellings, schools, churches or other public or institutional buildings: Front: ..... 30 feet Rear:..... 35 feet Side:..... 15 feet Side street, corner lot ..... 20 feet	3 stories or 40 feet

PERMITTED SIGNS

1. Nameplates attached flat against the wall of the main building not to exceed one (1) square foot in area.
2. Church or public bulletin boards not to exceed sixteen (16) square feet in area.
3. Temporary signs advertising the lease or sale of the premises not to exceed six (6) square feet in area.
4. Home occupation signs not to exceed three (3) square feet in area.
5. Illumination of signs, bulletin boards and nameplates shall not exceed 60 watts and shall be lighted only with indirect, non-intermittent lighting.
6. Signs and bulletin boards shall be at least twenty (20) feet from the front lot line or not more than five (5) feet in front of the main building.
7. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

SPECIAL REQUIREMENTS

1. Mobile home parks shall comply with the Code of Iowa, as amended; have a water supply and sanitary sewage collection and treatment system approved by the State Board of Health; have a minimum area of 3,500 square feet for each mobile home space; have a maximum density of eight (8) units per acre; provide at least five (5) parking spaces per acre plus one parking space on each mobile home site; and no mobile home shall be closer than 25 feet to any property line of the mobile home park.

C-1 HIGHWAY COMMERCIAL C-1

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. Automotive sales, service, and repair, including farm implements	1 space for every 300 square feet of sales, service or office floor area
2. Agricultural seed sales	1 space for every 300 square feet of sales, service or office floor area ***(Ord. 263 – Oct. 14 Supp).***
3. Drive-in eating or drinking	5 spaces plus 1 space for every 50 square feet of floor area
4. Night club or restaurant	1 space for every 100 square feet of floor area
5. Dance hall or skating rink	1 space for every 100 square feet of floor area
6. Bowling alley	5 spaces for each lane or alley
7. Motel or tourist camp	1 space per unit or campsite
8. Public utilities but not including equipment storage or maintenance yards and buildings	1 space per substation or one (1) per employee on the site
9. Railroads	None

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district.
3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

Subject to Section 165.34(2) and the other requirements contained herein, the Board of Adjustment may permit the following:

1. Dwelling units within a building housing a commercial use for the owner or operator, provided that an open yard area of at least 2,400 square feet is reserved and maintained for the occupants and two (2) parking spaces are provided.

MINIMUM LOT AREA AND WIDTH	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
Tourist campground: 3 acres Commercial Uses: None	Front: .....30 feet No side or rear yard, except where adjacent to an "A" or "R" District, a side yard of 10 feet and a rear yard of 20 feet shall be provided.	2 1/2 stories or 35 feet

C-1	HIGHWAY COMMERCIAL	C-1

PERMITTED SIGNS

1. Trade, business or industry identification signs provided that they:
   (a) Do not exceed twenty-five (25) feet in height.
   (b) Do not overhang the public right-of-way.
   (c) Are not within seventy-five (75) feet of a highway intersection, highway structure, residence, park, school, cemetery, public or semi-public building.
2. Advertising signs and billboards provided that they:
   (a) Do not exceed twenty-five (25) feet in height.
   (b) Are not within twenty-five (25) feet of an "A" or "R" District.
   (c) Are not within seventy-five (75) feet of another billboard.
   (d) Do not exceed one hundred (100) square feet in area.
3. No sign or billboard shall be located in, overhang, or project into a required yard.
4. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

C-2	GENERAL RETAIL	C-2
PERMITTED PRINCIPAL USES AND STRUCTURES		**MINIMUM REQUIRED OFF-STREET PARKING**
1. Apartments above a store or shop		No off-street parking is required in this district.
2. Automobile sales, service, and repair		
3. Farm implement sales, service and repair		
4. Business and professional offices and studios		
5. Medical, dental and chiropractic clinics		
6. Retail businesses		
7. Personal service and repair shops		
8. Laundry or dry cleaners		
9. Frozen food locker		
10. Clubs and lodges		
11. Public garages, storage garages and parking lots		
12. Plumbing, heating and electrical sales, service and repair shops		
13. Blacksmith or welding shop		
14. Printing shops		
15. Restaurants, cafes or taverns		
16. Commercial amusements		
17. Wholesale display and salesroom		
18. Public and community buildings		
19. Hotels and motels		
20. Public utilities, but not including equipment storage or maintenance yards or buildings		

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Storage warehouses used in conjunction with the permitted principal uses or structures of this district.
3. Temporary buildings used in conjunction with construction work, provided that such buildings are removed promptly upon completion of the construction work.

SPECIAL EXCEPTION USES AND STRUCTURES

None

C-2	GENERAL RETAIL	C-2
MINIMUM LOT AREA AND WIDTH	**MINIMUM YARD REQUIREMENTS**	**MAXIMUM HEIGHT**
Commercial Uses: None	Commercial Uses: None except where apartments are above a store or shop, a rear yard of 20 feet shall be provided and where adjacent to an "R" district, a front or side yard of 10 feet and a rear yard of 20 feet shall be provided.	4 stories or 50 feet

PERMITTED SIGNS

1. Advertising signs, billboards and trade, business or industry identification signs provided that:
   (a) Free standing signs shall not exceed twenty-five (25) feet in height.
   (b) Signs attached to a building shall not project above the height of the building or more than four (4) feet from the wall of the building.
   (c) No sign shall exceed one hundred fifty (150) square feet in area, nor shall any sign cover more than ten percent (10%) of the building face on which it is mounted.
2. No sign or billboard shall be located in, overhang or project into a required yard.
3. All signs and billboards shall be maintained in a neat and presentable condition and in the event their use shall cease, they shall be promptly removed and the surrounding area restored to a condition free from refuse and rubbish.

M-1	INDUSTRIAL	M-1

Since uses permitted in this district may be in proximity to residential districts, it is hereby declared that performance standards will be high and that all manufacturing, processing or assembly of materials and products must be carried on in a manner that is not injurious or offensive to the occupants of nearby premises by reason of the emission of odors, fumes or gases, dust, smoke, noise or vibrations, or fire hazards. Therefore, the following uses may be permitted, provided there is compliance with the performance standards established herein:

PERMITTED PRINCIPAL USES AND STRUCTURES	MINIMUM REQUIRED OFF-STREET PARKING
1. The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials, such as but not limited to bone, canvas, cellophane, cement, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, metal, paper, plastics, precious or semi-precious metals or stones, rubber, shell, textiles, tobacco, wax, wire, wood (except logging camps, sawmills, and planing mills) and yarns	1 space per employee plus 1 for each vehicle used by the industry
2. The manufacture and packaging of food and kindred products (except grain milling and processing, stockyards and slaughter houses)	All uses shall provide one (1) off-street loading space for each 5,000 square feet of floor area or fraction thereof.
3. Communication stations, centers, studios and towers	
4. Railroad switching, storage and freight yards and maintenance facilities	
5. Wholesale trade and warehouse establishments for goods such as but not limited to automotive equipment, drugs, chemicals and allied products, dry goods and apparel, groceries and related products, electrical goods, hardware, plumbing, heating equipment and supplies, machinery, equipment and supplies, tobacco and alcoholic beverages, paper and paper products, furniture and home furnishings	
6. Research, testing and experimental laboratories	
7. Vocational schools	
8. Building contractor facilities, yards, and pre-assembly yards	

M-1 INDUSTRIAL M-1

PERMITTED ACCESSORY USES AND STRUCTURES

1. Uses and structures clearly incidental and necessary to the permitted principal uses or structures of this district.
2. Temporary buildings used in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work.
3. Dwelling units for watchmen or caretakers employed on the premises, provided that an open yard of at least two thousand four hundred (2,400) square feet is reserved and maintained for use by the occupants.

PROHIBITED USES

1. Manufacture of explosives.
2. Stockyards and slaughter houses.
3. Disposal, reduction or dumping of dead animals or offal.
4. Fertilizer manufacturing and the manufacture of chemicals.
5. Radioactive waste storage or disposal sites.

MINIMUM LOT AREA, COVERAGE	MINIMUM YARD REQUIREMENTS	MAXIMUM HEIGHT
Not more than 60%	Front: Not less than thirty (30) feet, wherein there shall be no structure of any kind, open storage of material or equipment, or the parking of vehicles. Side: Minimum side yard of not less than fifteen (15) feet on both sides of the building or buildings, but where the property is adjacent to a residential district, there shall be a side yard of not less than twenty-five (25) feet on the side nearest to the residential lots. The parking of private automobiles may be permitted within the side yard areas, but not closer than five (5) feet to any lot zoned for residential use. Rear: Not required, except where a lot abuts upon a residential district, in which case there shall be a rear yard of not less than thirty (30) feet, and no storage of materials or equipment or the parking of automobiles shall take place within ten (10) feet closest to any residential lot or lots.	45 feet

M-1 INDUSTRIAL M-1

PERMITTED SIGNS

1. Billboards and advertising signs, provided:
   (a) They are not within 75 feet of a highway intersection, highway structure, residence, park, school, cemetery, public or semi-public building;
   (b) They are not within 150 feet of another billboard or advertising sign.
2. Trade, business or industry identification signs for the firm located on the site, provided that:
   (a) Free standing signs shall not exceed 150 square feet in area or 25 feet in height.
   (b) Signs mounted flush on the wall of a building shall not exceed 10% of the area of the wall of the building on which they are located or 200 square feet, whichever is smaller.
   (c) Overhanging signs, attached to a building shall not project above the height of the building, or more than 4 feet from the wall of the building and shall not have more than 100 square feet of area.
3. All signs shall be maintained in a neat and presentable condition and in the event that they shall become illegible or their use shall cease, they shall be removed promptly and the area occupied restored to a condition free from refuse and debris.

PERFORMANCE STANDARDS

1. New Uses: Any use established in the M-1 District after December 21, 1983, shall comply with the minimum performance standards contained herein.
2. Existing Uses: Existing commercial and industrial uses which are not in compliance with the performance standards contained in this table are exempt except where the degree of noncompliance clearly results in a nuisance. Conditions which do not comply shall not be increased in scope or magnitude. Such uses shall be permitted to be enlarged or altered provided that the addition or change conforms with the applicable performance standards.
3. Certification: The Building Official, Mayor or Council may, when they deem it necessary, require certification by a registered professional engineer or other qualified person so that the performance standards for a proposed use can be met or that an existing use is complying with the performance standards. All costs in obtaining such certification are the responsibility of the applicant for a proposed use or the owner of an existing use.
4. Requirements:
   (a) Smoke. The emission of smoke from any operation or activity shall not exceed a density or equivalent opacity permitted below. For the purpose of grading the density or equivalent opacity of smoke, the Ringelmann Chart as published by the United States Bureau of Mines shall be used. The emission of smoke darker in shade than Ringelmann No. 2 from any chimney, stack, vent, opening, or combustion process beyond zone boundary lines is prohibited except that the emission of smoke of a shade not to exceed Ringelmann No. 3 is permitted for not more than three (3) minutes total in any one eight (8) hour period when starting or cleaning a fire.

   (b) Particulate Matter. No person shall operate or cause to be operated any process or furnace or combustion device for the burning of coal or other natural or synthetic fuels without using approved equipment, methods or devices to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air exceeding a rate permitted below at the temperature of 500 degrees Fahrenheit. For the purpose of determining the adequacy of such devices, these conditions shall apply when the percentage of excess air in the stack does not exceed 50 percent at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code

M-1 INDUSTRIAL M-1

PERFORMANCE STANDARDS (continued)

for dust-separating apparatus. All other forms of dust, dirt and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The emission of particulate matter suspended in air shall not exceed 0.35 grains (.0023 ounces) per standard cubic foot (70º F. and 14.7 psia) of air during any one-hour period or a total from all vents and stacks of three (3) pounds per hour per acre of lot area during any one-hour period.

(c) Noise. Noise from any operation or activity shall not exceed the sound levels permitted in the following table. For the purpose of measuring the intensity and frequency of sound, the sound level meter, the octave band analyzer and the impact noise analyzer shall be employed. The flat network and the fast meter response of the sound level meter shall be used. Sounds of very short duration, as from forge hammers, punch presses and metal shears, which cannot be measured accurately with the sound level meter, shall be measured with the impact noise analyzer. Octave band analyzers calibrated in the Preferred Frequencies (*United States of America Standard S1 6-1967, Preferred Frequencies for Acoustical Measurements*) shall be used in the table headed "Octave Band, Preferred Frequencies." Octave band analyzers calibrated with the pre-1960 octave bands (*United States of America Standard Z24 10-1953, Octave Band Filler Set*) shall be used with the tables headed "Octave Band, Pre-1960." The following noises are exempt:

(1) Noises emanating from construction and maintenance activities between 7:00 a.m. and 7:00 p.m. Such activities are those which are non-routine operations, temporary in nature, and conducted infrequently.
(2) Occasionally used safety signals, warning devices and emergency pressure relief valves.
(3) Transient noises from vehicles other than refrigerated vehicles parked overnight.

Maximum Permitted Sound Levels, dB (Re: .002 Microbar)

Type of Analyzer			In M-1 District, Measured At:	
Octave Band Pre-1960 (Cycles/Sec.)	Octave Band Preferred Freq. (Cycles/Sec.)	Impact Noise	R Zone Boundary, Recreational Area, or School Area*	C Zone Boundary
20 – 75			72	79
75 – 150			67	74
150 – 300			59	66
300 – 600			52	59
600 – 1200			46	53
1200 – 2400			40	47
2400 – 4800			34	41
Above 4800			32	39
	31.5		76	83
	63		71	78
	125		65	72
	250		57	64
	500		50	57
	1000		45	51
	2000		39	46
	4000		34	41
	8000		32	38
		Overall Peak	80	86

*The decibel values specified shall be reduced by 5 decibels at R Zone boundary lines – between 7:00 p.m. and 7:00 a.m.; at recreational area boundary lines between 6:00 p.m. and 9:00 p.m.; and at school boundary lines between 8:00 a.m. and 4:00 p.m. Essential services such as electrical substations and safety devices are exempt from this requirement.

M-1 **INDUSTRIAL** **M-1**

PERFORMANCE STANDARDS (continued)

(d) Toxic Matter. The release of airborne toxic matter from any operation or activity shall not exceed the fractional quantities permitted below of the Threshold Limit Values adopted by the American Conference of Governmental Industrial Hygienists. If a toxic substance is not listed, verification that the proposed level of toxic matter will be safe and not detrimental to the public health or injurious to plant and animal life will be required. The measurement of toxic matter shall be on the average of any 24-hour sampling period. The release of airborne toxic matter shall not exceed 1/8 of the Threshold Limit Values beyond zone boundary lines.

(e) Odor. The emission of offensive odorous matter from any operation or activity shall not exceed the odor threshold concentration defined in the American Society for Testing and Materials Method D1391-57 *Standard Method for Measurement of Odor in Atmospheres (Dilution Method)* as the level which will just evoke a response in the human olfactory system when measured as set forth below. Odorous matter shall not exceed the odor threshold concentration beyond zone boundary lines at ground level or habitable elevation.

(f) Vibration. Earthborne vibrations from any operation or activity shall not exceed the displacement values below. Vibration displacements shall be measured with an instrument capable of simultaneously measuring in three mutually perpendicular directions. The maximum vector resultant shall be less than the vibration displacement permitted. The maximum permitted displacements shall be determined by the following formula:

$$D = \frac{K}{f}$$

where D = displacement in inches;
K = a constant given in table below;
f = the frequency of the vibration transmitted through the ground in cycles per second

Constant K by Type of Variation

Zone and Place of Measurement	Continuous	Impulsive (at least one second rest between pulses which do not exceed one second duration)	Less than 8 Pulses per 24-hour Period
M-1 Zone:			
a. at zone boundary lines	0.030	0.060	0.150
b. at R Zone, recreational area or school boundary lines	0.003	0.006	0.015

(g) Glare. Glare or light from any operation and all lighting for parking areas or for the external illumination of buildings or grounds shall be directed or located in a manner such that direct or indirect illumination from the source of light shall not exceed one and one-half (1½) foot-candles in any R zone.

M-1 **INDUSTRIAL** **M-1**

PERFORMANCE STANDARDS (continued)

(h) Sewage Wastes. The following standards shall apply to sewage wastes at the point of discharge into the public sewer:
(1) Acidity or alkalinity shall be neutralized within pH range from six (6.0) to ten and one-half (10½)
(2) Wastes shall contain no cyanides; no chlorinated solvents in excess of one-tenth (.1) ppm; no sulfur dioxide or nitrates in excess of 10 ppm; no chromates in excess of 25 ppm; no chlorine demand greater than 15 ppm; no phenols in excess of five one-hundredths (.05) ppm. There shall be no more than 25 ppm of petroleum oil, nonbiodegradable cutting oils or products of mineral oil origin or any combination thereof. There shall be no oil and grease of animal or vegetable origin in excess of 300 ppm. No waste listed in this section shall contain any insoluble substances exceeding a daily average of 500 ppm (if exceeded, the City may apply a cost surcharge) or failing to pass a No. 8 standard sieve or having a dimension greater than one-half (½) inch.

(i) Storage. The open storage of materials and equipment shall be permitted provided that the requirements below are met.
(1) Storage of materials and equipment shall be completely screened from view as required in subsection (j) below.
(2) All combustible material shall be stored in such a way as to include, where necessary, access drives to permit free access of fire fighting equipment.
(3) The bulk storage of flammable liquids and chemicals, when stored either in underground or above-ground tanks, shall occur no closer to the lot line or any principal building than the distance indicated by the following table:

Bulk Storage of Flammable Liquids and Chemicals

	Minimum Separation Distances	
Water Capacity Per Container	Underground Containers	Above-Ground Containers
Less than 125 gallons	10 feet	None
125 to 250 gallons	10 feet	10 feet
251 to 500 gallons	10 feet	10 feet
501 to 2,000 gallons	25 feet	25 feet
2,001 to 30,000 gallons	50 feet	50 feet
30,001 to 70,000 gallons	50 feet	75 feet
70,001 to 90,000 gallons	50 feet	100 feet

The distance may be reduced to not less than 10 feet for a single container of 1,200 gallons water capacity or less, provided such a container is at least 25 feet from any other container of more than 125 gallons water capacity.

(j) Screening. Where a lot occupied by an industrial use abuts or is across a street, highway, alley or railroad right-of-way from an "R" zone, a school, or a recreational area including a park or playground, screening shall be preserved, planted or constructed and maintained in accordance with the following:

INDUSTRIAL **M-1**

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PERFORMANCE STANDARDS (continued)

(1) Location.
   a. A continuous screen shall be provided along lot lines in a manner sufficient to effectively obscure the industrial use from view within the lot lines of an abutting "R" zone, a school, or a recreational area.
   b. Within 100 feet opposite of an "R" zone, a school or a recreational area, screening shall be provided in a location and manner sufficient to effectively obscure all off-street parking and loading, storage, or other such areas of activity from view within the lot lines of the "R" Zone, the school, or the recreational area.

(2) Materials.
   a. A planting screen of pyramidal arbor vitae, the plantings being at least three (3) feet high when planted and spaced four (4) feet apart, may be used. Other evergreen varieties may be used if approved by and spaced according to the Building Official. The planting bed shall have a minimum dimension of five (5) feet, be free of any impervious surface, and be protected from salt water runoff from streets, drives and parking areas.
   b. Where a planting screen cannot be expected to thrive because of intense shade, soil or other conditions, a solid fence of durable construction, an earthen berm covered with grass or low shrubs and/or other acceptable materials which provide maximum opacity to a height of six (6) feet may be used if approved by the Building Official.

(3) Time of Installation.
   a. If a lot proposed for an industrial use is located adjacent to or opposite an existing residential use or subdivision in an "R" Zone, a school, or a recreational area, screening as required herein shall be installed prior to occupancy or commencement of a use. The Building Official may grant a delay to the seasonal calendar dates of June 1 or November 1, whichever comes first.
   b. If a lot occupied by an industrial use is located adjacent to or opposite an existing residential use or subdivision in an "R" Zone, a school or a recreational area, the owner of the industrial use shall provide screening, as required herein, within three (3) years after the effective date of Ordinance No. 123 (12-21-83).
   c. If "b" above is not the case, screening need not be provided until within six (6) months after a building permit is issued for a residential use or a school, a final plat of a residential subdivision is approved, or a recreational area is available for use on adjacent or opposite land.

(4) Exceptions.
   a. Where a proposed or existing industrial use is or will be located adjacent to or opposite a City recreational area, screening may be waived for the following reasons:
      1. If adequate existing or proposed landscaping within the recreational area is or will be provided.
      2. If the nature of a use and the building(s) occupied by the use are not objectionable to the purpose of the recreational area.
   b. Screening may be waived by the Building Official where the view is blocked by a change in grade or by the natural or manmade features as determined by the Building Official.

(5) Maintenance. All screening materials shall be properly maintained and kept free of trash and litter and all plant materials shall be pruned as to provide effective obscurity from the ground to a height of at least six (6) feet.

165.10 SUPPLEMENTARY DISTRICT REGULATIONS. Subject to Section 165.09, the following provisions, regulations or exceptions shall apply equally to all districts except as hereinafter provided.

1. Visibility at Intersection. On a comer lot in any district, except in the C-2, General Retail District, no fence, wall, hedge, or other planting or structure that will obstruct vision between a height of two (2) feet and ten (10) feet above the centerline grades of the intersecting streets shall be erected, placed or maintained within the triangular area formed by connecting the right-of-way lines at points which are twenty-five (25) feet distant from the intersection of the right-of-way lines, and measured along the right-of-way lines.

2. Accessory Buildings. No accessory building shall be erected in any required front or side yard and no separate accessory buildings shall be erected within five (5) feet of any main building or within five (5) feet of a rear lot line.

3. More Than One Principal Structure on a Lot. In any district, more than one (1) principal structure housing a permitted principal use may be erected on a single lot provided that the area, yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.

4. Height Regulation Exception. The height limitations contained in the Schedules of District Regulations do not apply to grain storage bins, grain elevators, feed mills, or to spires, belfries, cupolas, chimneys, antennas, water tanks, ventilators, elevator housings or other structures placed above the roof level and not intended for human occupancy.

5. Use of Public Right-of-way. No portion of the public road, street or alley rights-of-way shall be used or occupied by any abutting use of land or structures for storage or display purposes, or to provide any parking or loading space required by this chapter, or for any other purpose that would obstruct the use or maintenance of the public right-of-way.

6. Proposed Use Not Covered in Chapter. Any proposed use not covered in this chapter as a permitted use or special exception shall be referred to the Commission for a recommendation as to the proper district in which such use should be permitted and the chapter amended as provided in Section 165.38 before a permit is issued for such proposed use.

7. Buildings to Have Access. Every building hereafter erected or structurally altered shall be on a lot or parcel having a frontage on a public street or road.

8. Travel Trailers. Occupied travel trailers and camping trailers shall be located only in an approved tourist or trailer campground.

9. Hedges and Fences. Fences or hedges shall not exceed four (4) feet in height in any required front yard and shall not exceed six (6) feet in height in any required side or rear yard, subject to the further restriction of subsection 1.

10. Agricultural Uses. Any vacant parcel of land regardless of size in any district may be used for agricultural purposes, the raising of feed and grain crops, fruit or vegetables, provided, however, that no livestock, poultry or other animals other than customary household pets shall be kept on land or in confinement within three hundred (300) feet of any dwelling unit other than that of the owner.

165.11 APPLICATION OF DISTRICT REGULATIONS. Subject to Section 165.09, the regulations and restrictions of this chapter shall apply as follows:

1. Regulations To Be Uniformly Applied. The regulations set by this chapter shall apply uniformly to each class or kind of structure or land, and particularly within each district, except as hereinafter provided.

2. All Uses and Structures to Conform. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

3. Height, Density or Yards Shall Not Be Violated. No building or other structure shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required or in any other manner contrary to the provisions of this chapter.

4. Separate Yards, Open Space and Off-street Parking Required. No part of a yard, other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

5. Minimum Yards and Lot Areas May Not Be Reduced. No yard or lot existing at the time of passage of this zoning ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this zoning ordinance shall meet at least the minimum requirements established by this chapter.

6. New Areas. All territory which may hereafter become a part of the incorporated area of the City through annexation shall be classified in the A-1 Agricultural District until otherwise classified, provided that the Commission may recommend the appropriate district classification prior to such territory becoming a part of the City and upon holding a public hearing and approval by the Council the territory upon becoming part of the community may immediately be so classified.

165.12 NONCONFORMING USES. Within the districts established by this chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before the zoning ordinance was passed or amended but which would be prohibited, regulated or restricted under the terms of this chapter or future amendment. Subject to Section 165.09, it is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

165.13 NONCONFORMITIES MAY NOT BE ENLARGED. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after the effective date of this zoning ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this zoning ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

165.14 NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this zoning ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width of the lot, or both, shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustment. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this zoning ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established herein, the land involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot width or area below the requirements stated in this chapter.

165.15 NONCONFORMING USES OF LAND. Where, at the effective date of adoption or amendment of this zoning ordinance, lawful use of land exists that is made no longer permissible under the terms of this zoning ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.

3. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

165.16 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this zoning ordinance that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its

location on the lot, such structure may be continued for as long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way which increases its nonconformity.

2. Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

165.17 NONCONFORMING USES OF STRUCTURES. If a lawful use of a structure or of structure and premises in combination exists at the effective date of adoption or amendment of this zoning ordinance that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.

3. If no structural alterations are made, any nonconforming use of a structure or structure and premises in combination may be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require appropriate conditions and safeguards in accord with the provisions of this chapter.

4. Any structure or structure and land in combination in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

5. When a nonconforming use of a structure or structure and premises in combination is discontinued for six (6) consecutive months or for eighteen months during any three-year period, the structure thereafter shall not be used except in conformance with the regulations of the district in which it is located.

6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

165.18 REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment to this zoning ordinance shall not be increased. Nothing in this chapter shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

165.19 USES UNDER SPECIAL EXCEPTION PROVISIONS. Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

165.20 ADMINISTRATION AND ENFORCEMENT. An administrative officer designated by the Council shall administer and enforce this chapter and may be provided with the assistance of such other persons as the Council may direct. If the administrative officer finds that any of the provisions of this chapter are being violated, the administrative officer shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The administrative officer shall order discontinuance of illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

165.21 APPEALS FROM DECISION OF ADMINISTRATIVE OFFICER. Appeals from any decision of the administrative officer may be made to the Board of Adjustment as provided in Section 165.31.

165.22 INTERPRETATION OF PROVISIONS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion and protection of the public health, safety and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinance, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

165.23 VIOLATIONS. Any person who violates or fails to comply with the provisions of this chapter shall be guilty of a simple misdemeanor and shall pay all costs and expenses involved in the prosecution of the violation. Each day such violation continues shall constitute a separate offense.

165.24 SEPARATE OFFENSES MAY BE CHARGED. The owners or tenants of any building, structure, land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be charged with a separate offense.

165.25 INJUNCTION; MANDAMUS. If any building or structure is erected, constructed, reconstructed, altered or repaired, or land is used in violation of this chapter, the City may, in addition to other remedies, institute injunction, mandamus or other appropriate lawful action necessary to prevent, correct or abate such violation.

165.26 CONSTRUCTION COMPLIANCE CERTIFICATE. A construction compliance certificate shall be obtained from the administrative officer before any building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height or floor area, or remodeled to increase the number of dwelling units or accommodate a change in use of the building and/or premises or part thereof. The construction compliance certificate shall state that the proposed construction complies with all provisions of this chapter, and no subsequent modifications shall be made to plans or to actual construction that would be in violation of this chapter.

165.27 OCCUPANCY COMPLIANCE CERTIFICATE. No change in the use or occupancy of land or change in use or occupancy in an existing building, other than for single-family dwelling purposes, shall be made, nor shall any new building be occupied for any purpose other than a single-family dwelling until an occupancy compliance certificate has been issued by the administrative officer. Every occupancy compliance certificate shall state that the new occupancy complies with all provisions of this chapter, and no subsequent modification shall be made to the occupancy, use or method of operation that would be in violation of this chapter.

165.28 FEES. The administrative officer is directed to issue a construction compliance certificate and/or an occupancy compliance certificate as required by this chapter for proposed construction, reconstruction or alteration which complies with all provisions contained herein and to charge a fee of five dollars ($5.00) for each construction compliance certificate or occupancy compliance certificate issued separately. Only one $5.00 fee shall be charged for a construction compliance certificate and occupancy compliance certificate issued jointly. There shall be no fees charged to the United States Government,

the State of Iowa, or any political subdivision thereof. All fees shall be paid to the administrative officer, who shall keep a complete and accurate record of fees received and shall forthwith deposit them to the credit of the General Fund of the City.

165.29 BOARD OF ADJUSTMENT CREATED. A Board of Adjustment is hereby established. The board shall consist of five (5) members to be appointed by the Council for overlapping terms of five (5) years. Members of the Board of Adjustment may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member.

165.30 PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson, or in the absence of the Chairperson, the acting Chairperson may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be immediately filed in the office of the Board.

165.31 HEARINGS, APPEALS AND NOTICE. Appeals to the Board of Adjustment concerning interpretation or administration of this chapter may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by a decision of the administrative officer. Such appeals shall be taken within a reasonable time not to exceed sixty (60) days by filing with the administrative officer and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative officer shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or attorney.

165.32 APPEAL FEE. A fee of twenty-five dollars ($25.00) shall be paid to the administrative officer at the time the notice of appeal is filed, which the administrative officer shall forthwith pay over to the credit of the General Fund of the City.

165.33 STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative officer from

whom the appeal is taken certifies to the Board after the notice of appeal is filed with the administrative officer, that by reason of facts stated in the certificate, a stay would in the opinion of the administrative officer cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the administrative officer from whom the appeal is taken and on due cause shown.

165.34 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the administrative officer in the enforcement of this chapter.

2. Special Exceptions – Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the board unless and until:

A. A written application for a special exception has been submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. Notice shall have been given at least fifteen (15) days in advance of the public hearing by publication in a newspaper of general circulation in the City.

C. The public hearing shall be held, at which time any party may appear in person or by agent or attorney.

D. The Board shall have made a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest.

In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of

this chapter. The Board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.

3. Variances – Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the board unless and until:

A. A written application for a variance shall have been submitted demonstrating that:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same district.

(2) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(3) The special conditions and circumstances do not result from the actions of the applicant.

(4) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall have been given as in subsection 2(B) of this section.

C. The public hearing shall be held, at which time any party may appear in person, or by agent or by attorney.

D. The Board shall have made findings that the requirements of subsection 3(A) of this section have been met by the applicant for a variance.

E. The Board shall further have made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will

make possible the reasonable use of the land, building or structure.

F. The Board shall further have made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

165.35 CONDITIONS OF VARIANCE. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

165.36 DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above-mentioned powers, the Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made and to that end shall have the powers of the administrative officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

165.37 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review of such decision of the Board by a court of record in the manner provided by the laws of the state and particularly by Chapter 414, Code of Iowa.

165.38 CHANGES AND AMENDMENTS. The regulations imposed and the districts created by this chapter may be amended from time to time by the Council, but no such amendment shall be made without public hearing before said Council and without a report made upon the amendment by the Planning and Zoning Commission. Notice of the time and place of such hearing shall be published in a newspaper having general circulation in the City at least once, not less than seven (7) days nor more than twenty (20) days before the public hearing and in no case shall the public hearing be held earlier than the next regularly scheduled Council meeting following the published notice. In case the Commission does not approve the change, or in the case of a protest filed

with the Council against a change in district boundaries signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those immediately adjacent thereto and within two hundred (200) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three-fourths (¾) of all the members of the Council.

165.39 APPLICATION FOR CHANGE OF ZONING DISTRICT BOUNDARIES. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning map. Such application shall be filed with the administrative officer accompanied by a fee of twenty-five dollars ($25.00) and shall contain the following information.

1. The legal description and local address of the property.

2. The present zoning classification and the zoning classification requested for the property.

3. The existing use and proposed use of the property.

4. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.

5. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

6. A plat showing the locations, dimensions and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys and other physical features.

All fees shall be deposited to the General Revenue Fund of the City. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 165.06 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED
97	August 23, 1977		
98	September 12, 1977		
101	August 28, 1978		
102	August 14, 1978		
103	December 11, 1978		
140	March 9, 1992		
146	July 26, 1993		
155	June 12, 1995		
158	September 23, 1996		
165	August 10, 1998		
175	March 27, 2002		
191	August 9, 2004		
202	November 14, 2005		
219	April 14, 2008		
236	June 8, 2010		
243	October 11, 2010		
244	January 10, 2011		

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CHAPTER 166

SUBDIVISION REGULATIONS

166.01 Definitions
166.02 Procedure
166.03 Design Standards
166.04 Required Improvements
166.05 Plats and Data
166.06 Variances
166.07 Penalties

166.01 DEFINITIONS. For the purpose of this chapter (which shall be known as and may be cited as "City of Mechanicsville Subdivision Regulations") certain words used herein are defined as follows:

1. Subdivision. The term "subdivision" means the division of a parcel of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land, provided that a division of land for agricultural purposes into lots or parcels of five (5) acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

2. Streets and Alleys. The term "street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

A. Arterial streets and highways are those which are used primarily for fast or heavy traffic.

B. Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

C. Minor streets are those which are used primarily for access to the abutting properties.

D. Marginal access streets are minor streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

E. Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

166.02 PROCEDURE. Chapter 354.9 of the Code of Iowa as it relates to Subdivisions is hereby specifically incorporated into Mechanicsville's Subdivision chapter as to unincorporated land within two miles of the corporate limits of the City. For the purpose of this chapter, the following procedures shall be followed:

1. Pre-application Procedure.

   A. Previous to the filing of an application for conditional approval of the preliminary plat, the subdivider shall submit to the City's Planning and Zoning Commission (referred to herein as "the Commission") plans and data as specified in Section 166.05. This step does not require formal application, fee or filing of plat with the Commission.

   B. Within fifteen (15) days the Commission shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the Commission finds the plans and data do not meet the objectives of these regulations, it shall express its reasons therefor.

2. Procedure for Conditional Approval of Preliminary Plat.

   A. On reaching conclusions informally, as recommended in subsection (1)(A) above, regarding general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with improvement plans and other supplementary material as specified in Section 166.05.

   B. Two (2) copies of the preliminary plat and supplementary material specified shall be submitted to the Commission with written application for conditional approval at least seven (7) days prior to the meeting at which it is to be considered.

   C. Following (i) review of the preliminary plat and other material submitted for conformity thereof to these regulations and (ii) negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the Commission shall, within thirty (30) days, act thereon as submitted, or modified, and if approved, the Commission shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefor.

D. The action of the Commission shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other retained by the Commission.

E. Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather it shall be deemed as an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat which will be submitted for approval of the Commission and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any.

3. Procedure for Approval of Final Plat:

A. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approval preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of the regulations.

B. Application for approval of the final plat shall be submitted in writing to the Commission at least seven (7) days prior to the meeting at which it is to be considered.

C. Two (2) copies of the final plat and other exhibits required for approval shall be prepared as specified in Section 166.05, and shall be submitted to the Commission within twelve (12) months after approval of the preliminary plat; otherwise such approval shall become null and void, unless an extension of time is applied for and granted by the Commission.

166.03 DESIGN STANDARDS. The following design standards apply to this chapter:

1. Streets.

A. The arrangement, character, extent, width, grade and location of all streets shall conform to the general community comprehensive plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed used of the land to be served by such streets.

B. Where such is not shown in the general community comprehensive plan, the arrangement of streets in a subdivision shall either:

(1) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas or

(2) Conform to a plan for the neighborhood approved or adopted by the Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

C. Minor streets shall be so laid out that their use by through traffic will be discouraged.

D. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

E. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

F. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the City under conditions approved by the Commission.

G. Street jogs with centerline offsets of less than 125 feet shall be avoided.

H. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

I. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 100 feet for minor and collector streets and of such greater radii as the Commission shall determine for special cases.

J. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 100 degrees.

K. Property lines at street intersections shall be rounded with a radius of ten feet or of a greater radius where the Commission may deem it necessary. The Commission may permit comparable cut-offs or chords in place of rounded corners.

L. Street right-of-way widths shall be not less than as follows:

Street Type	Right-of-way (Feet)
Arterial	80
Collector	60
Minor, for row houses and apartments	60
Minor, for other residences	50
Marginal access	40

M. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

N. Dead-end streets, designed to be so permanently, shall not be longer than 500 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet.

O. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission.

P. Street grades, wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves:

Street Type	Grade Percent
Arterial	6%
Collector	6%
Minor	8%
Marginal access	8%

Q. No street grade shall be less than four percent (4%).

2. Alleys.

A. Alleys shall be provided in commercial and industrial districts, except that the Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

B. The width of an alley shall be 20 feet.

C. Alley intersections and sharp changes in corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Commission.

3. Easements.

A. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least twelve (12) feet wide.

B. Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

4. Blocks.

A. The lengths, widths and shapes of blocks shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

(2) Zoning requirements as to lot sizes and dimensions.

(3) Needs for convenient access, circulation, control and safety of street traffic.

(4) Limitations and opportunities of topography.

B. Block lengths shall not exceed 1800 feet, or be less than 300 feet.

C. Pedestrian crosswalks, not less than 10 feet wide, shall be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

5. Lots.

A. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B. Lot dimensions shall conform to the requirements of the zoning ordinance, and

(1) Residential lots where not served by public sewer shall not be less than 125 feet wide or less than 20,000 square feet in area.

(2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

C. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.

D. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

E. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

F. Side lots lines shall be substantially at right angles or radial to street lines.

6. Public Sites and Open Spaces.

A. Where a proposed park, playground, school or other public use shown in a general community comprehensive plan is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision in those cases in which the Commission deems such requirements to be reasonable.

B. Where deemed essential by the Commission, upon consideration of a particular type of development proposed in the subdivision and especially in large-scale neighborhood unit developments not anticipated in the general community comprehensive plan, the Commission may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such development for schools, parks and other neighborhood purposes.

166.04 REQUIRED IMPROVEMENTS. The following improvements are required for subdivision development:

1. Monuments. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shall be required by the City Engineer. The monuments shall be of such material, size and length as may be approved by the City Engineer.

2. Utility and Street Improvements. Utility and street improvements shall be provided in each new subdivision in accordance with the standards and requirements described as follows:

A. Water mains shall be installed by the subdivider at the subdivider's expense in accordance with State regulations and stubbed into each lot line with a shut-off valve installed at the end of the stub. Construction must be under the supervision of the City Engineer and approved by the City Engineer to the Council in writing. Plans for water mains shall be prepared by a licensed engineer and shall be approved by the Council. In-place plans must be filed with the Clerk before final approval is given.

B. Sanitary sewer mains shall be installed at the subdivider's expense in accordance with City and State regulations and shall be stubbed into each lot at the time of installation of the sewer mains. Sanitary sewer will be installed in the center of the street as near as practical with manholes at each intersection, but in no case shall manholes be more than 400 feet apart. Plans and specifications for sanitary sewer shall be prepared by a licensed engineer and shall be approved by the Council.

C. Arterial streets shall be approved by the Council.

D. Collector streets shall be a minimum of 41 foot roadway.

E. Minor streets shall be a minimum of 37 foot roadway.

F. Curb and gutter shall be installed at the subdivider's expense according to plans and specifications prepared by a licensed engineer and approved by the Council.

G. All streets shall be constructed to grade and surfaced with crushed rock and asphalt or concrete at the subdivider's expense.

H. Alleys shall be constructed to grade and surfaced full width with three (3) inches of crushed rock at the subdivider's expense in accordance with plans and specifications prepared by a licensed engineer and approved by the Council.

I. Sidewalks, when installed, shall meet City specifications.

J. Street trees may be planted in parking according to City specifications.

166.05 PLATS AND DATA. The following plat and data regulations shall apply:

1. Pre-application Plans and Data:

A. General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information may include data on existing covenants, land characteristics, and available community facilities and utilities; and information describing the subdivision proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas and other public areas, proposed protective covenants and proposed utilities and street improvements.

B. Location map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it, and shall include development name and location, main traffic arteries, public transportation lines, shopping centers, elementary and high schools, parks and playgrounds, principal places of employment, other community features such as railroad stations, airports, hospitals and churches, and shall also show title, scale, north arrow and date.

C. Sketch plan on topographic survey shall show in simple sketch form the proposed layout of streets, lots and other features

in relation to existing conditions. The sketch plan may be a free-hand pencil sketch made directly on a print of the topographic survey. In any event, the sketch plan shall include either the existing topographic data listed in subsection (2)(A) below, or such of these data as the Commission determines necessary for its consideration of the proposed sketch plan.

2. Plats and Data for Conditional Approval.

A. Topographic data required as a basis for the preliminary plat, in subsection B below, shall include existing conditions as follows except when otherwise specified by the Commission:

(1) Boundary lines: bearings and distances.

(2) Easements: location, width and purpose.

(3) Streets on and adjacent to the tract: name and right-of-way width and location; type, width and elevation of surfacing, any legally established centerline elevations; walks, curbs, gutters, culverts, etc.

(4) Utilities on and adjacent to the tract: location, size and invert elevation of sanitary, storm and combined sewers, location and size of water mains, location of gas lines, fire hydrants, electric and telephone poles, and street lights; if water mains and sewers are not on or adjacent to the tract, an indication of the direction and distance to and size of nearest ones, showing invert elevation of sewers.

(5) Ground elevations on the tract, based on a datum plane approved by the City Engineer: for land that slopes less than approximately two percent (2%), spot elevations shall be shown at all breaks in grade, along all drainage channels or swales and at selected points not more than 100 feet apart in all directions; for land that slopes more than approximately 2%, either contours with an interval of not more than five (5) feet (if ground slope is regular and such information is sufficient for planning purposes) or contours with an interval of not more than two (2) feet shall be shown if necessary because of irregular land or need for more detailed data for preparing plans and construction drawings.

(6) Subsurface conditions on the tract, if required by the Commission: location and results of tests made to ascertain subsurface soil, rock and ground water conditions; depth to ground water unless test pits are dry at a depth of five (5)

feet; location and results of soil percolation test if individual sewage disposal systems are proposed.

(7) Other conditions on the tract: water courses, marshes, rock outcrop, wooded areas, isolated preservable trees one foot or more in diameter, houses, barns, shacks and other significant features.

(8) Other conditions on adjacent land: approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers, and other nearby nonresidential land uses or adverse influences; owners of adjacent unplatted land; for adjacent platted land, reference to subdivision plat by name, recordation date and number and approximate percent built-up, typical lot size and dwelling type.

(9) Photographs, if required by the Commission: camera locations, directions of views and key numbers.

(10) Zoning on and adjacent to the tract.

(11) Proposed public improvements: highways or other major improvements planned by public authorities for future construction on or near the tract.

(12) Key plan showing location of the tract.

(13) Title and certificates: present tract designation according to official records in office of appropriate recorder; title under which proposed subdivision is to be recorded, with names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or surveyor, date of survey.

B. Preliminary plat shall be at a scale of two hundred (200) feet to one (1) inch or larger. It shall show all existing conditions required in subsection A above (topographic data) and shall show all proposals including the following:

(1) Streets: names, right-of-way and roadway widths, approximate grades and gradients, and similar data for alleys, if any.

(2) Other rights-of-way or easements: location, width and purpose.

(3) Location of utilities, if not shown on other exhibits.

(4) Lot lines, lot numbers and block numbers.

(5) Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.

(6) Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings.

(7) Minimum building setback lines.

(8) Site data, including number of residential lots, typical lot size, and acres in park, etc.

(9) Title, scale, north arrow and date.

C. When required by the Commission, the preliminary plat shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross sections of the proposed grading, roadway and sidewalk; and preliminary plan of proposed sanitary and storm water sewers with grades and sizes indicated. All elevations shall be based on a datum plan approved by the City Engineer.

D. Draft of protection covenants whereby the subdivider proposes to regulate the land use in the subdivision and otherwise protect the proposed development.

3. Plats and Data for Final Approval:

A. Final plat shall be drawn in ink and shall be at a scale of one hundred (100) feet to one (1) inch or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Commission. The final plat shall show the following:

(1) Primary control points, approved by the City Engineer, or description and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.

(2) Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions,

bearings or deflection angles and radii, arcs and central angles of all curves.

(3) Name and right-of-way width of each street or other right-of-way.

(4) Location, dimensions and purpose of any easements.

(5) Number to identify each lot or site.

(6) Purpose for which sites, other than residential lots, are dedicated or reserved.

(7) Minimum building setback line on all lots and other sites.

(8) Location and description of monuments.

(9) Names of record owners of adjoining unplatted land.

(10) Reference to recorded subdivision plats of adjoining platted land by record name, date and number.

(11) Certification by surveyor or engineer certifying to accuracy of survey and plat.

(12) Certification of title showing that applicant is the land owner.

(13) Statement by owner dedicating streets, right-of-way and any sites for public uses.

(14) Title, scale, north arrow and date.

B. Cross sections and profiles of streets showing grades approved by the City Engineer. The profiles shall be drawn to City standard scales and elevations and shall be based on a datum plane approved by the City Engineer.

C. A certificate by the City Engineer certifying that the subdivider has complied with one of the following alternatives:

(1) All improvements have been installed in accord with the requirements of these regulations and with the action of the Commission giving conditional approval of the preliminary plat or

(2) A bond or certified check has been posted, which is available to the City, and in sufficient amount to assure such completion of all required improvements.

D. Protective covenants in form for recording.

E. Other certificates, affidavits, endorsements or deductions as may be required by Chapter 354 of the Code of Iowa or by the Commission in the enforcement of these regulations.

166.06 VARIANCES. The following variances may be allowed according to the specifications:

1. Hardship. Where the Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest served, provided that such variation will not have the effect of nullifying the intent and purpose of the general community comprehensive plan or these regulations.

2. Large Scale Development. The standards and requirements of these regulations may be modified by the Commission in the case of a plan and program for a new town, a complete community or a neighborhood unit which in the judgment of the Commission provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants and other legal provisions as will assure conformity to and achievement of the plan.

3. Conditions. In granting variances and modifications, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements so varied or modified.

166.07 PENALTIES. Whoever, being the owner or agent of the owner of any land located within and adjacent to the City, knowingly or with intent to defraud, transfers or sells by reference to an exhibition of or by other use of a plat of subdivision of such land before the final plat has been approved by the Commission, shall forfeit and pay the penalty of not more than one hundred dollars ($100.00) for each lot so transferred or sold or agreed or negotiated to be sold and a description by metes and bounds shall not exempt the transaction from such penalties. Each day that a violation is permitted to exist constitutes a separate offense.

EDITOR'S NOTE

A number of maps and design specifications which apply to and clarify this chapter are available from the Clerk.

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[The next page is 925]

CHAPTER 167

FLOODPLAIN MANAGEMENT

167.01 Statutory Authority, Findings of Fact and Purpose
167.02 General Provisions
167.03 Establishment of Floodplain (Overlay) District
167.04 Standards for Floodplain (Overlay) District
167.05 Administration
167.06 Nonconforming Uses
167.07 Penalties for Violation
167.08 Amendments
167.09 Definitions

167.01 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City of Mechanicsville 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 of Mechanicsville and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 167.01(2)(A) of this chapter 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.

167.02 GENERAL PROVISIONS.

1. Lands to Which Chapter Apply. The provisions of this chapter shall apply to all lands within the jurisdiction of the City of Mechanicsville which are located within the boundaries of the Floodplain (Overlay) District as established in Section 167.03.

2. Rules for Interpretation of Floodplain (Overlay) District. The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the 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 provision 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 Floodplain (Overlay) District areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City of Mechanicsville or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

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.

167.03 ESTABLISHMENT OF FLOODPLAIN (OVERLAY) DISTRICT. The areas within the jurisdiction of the City of Mechanicsville having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District (as well as those for the underlying zoning district). The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Cedar County and Incorporated Areas, City of Mechanicsville, Panels 19031C0025C, 0050C, dated August 19, 2013.

167.04 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood elevations and floodway data have not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All Development Within the Floodplain (Overlay) District shall:

A. Be consistent with the need to minimize flood damage.

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 Buildings - All new or substantially improved residential structures shall have the lowest floor, including basement,

elevated a minimum of one (1) foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Non-residential Buildings - All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, 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 100-year flood; and that the structure, below the 100-year flood level 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 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.

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 must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes:

A. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

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 (1) foot above the 100-year 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 (1) foot above the 100-year 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 that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. 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 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 (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 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

11. Accessory Structures:

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the 100-year flood level.

B. Exemption from the 100-year 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 (factory-built homes) 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 (factory-built homes) of this section regarding anchoring and elevation of factory-built homes.

13. 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.

167.05 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of City Clerk.

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 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 the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the Floodplain (Overlay) District.

(4) Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been floodproofed.

(5) 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.

(6) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration 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 man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, 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 (i.e., lot, block, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Indication of the use or occupancy for which the proposed work is intended.

(4) Elevation of the 100-year flood.

(5) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(6) For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

(7) 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, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans - Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered

in the State of Iowa, that the finished fill, building 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.

3. Variance.

A. 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.

(1) 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.

(2) Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(3) In cases where the variance involves a lower level of flood protection for buildings 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 for $100 of insurance coverage and (ii) such construction increases risks to life and property.

B. Factors Upon Which the Decision of the City Council Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this chapter and:

(1) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(2) The danger that materials may be swept on to other land or downstream to the injury of others.

(3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

(4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(5) The importance of the services provided by the proposed facility to the City.

(6) The requirements of the facility for a floodplain location.

(7) The availability of alternative locations not subject to flooding for the proposed use.

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(9) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

(12) 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.

(13) Such other factors which are relevant to the purpose of this chapter.

C. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

(1) Modification of waste disposal and water supply facilities.

(2) Limitation of periods of use and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) 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.

(5) Floodproofing measures.

167.06 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of 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 (6) 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 fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this 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.

167.07 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 five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevents the City of Mechanicsville from taking such other lawful action as is necessary to prevent or remedy violation.

167.08 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.

167.09 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. Base Flood - The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

2. Basement - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

3. Development - Any man-made change to improved or unimproved real estate, including but not limited to building 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, grading.

4. Existing Construction - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

5. Existing Factory-Built Home Park or Subdivision - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

6. Expansion of Existing Factory-Built Home Park or Subdivision - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. Factory-Built Home - Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. Factory-Built Home Park - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. Flood - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. Flood Elevation - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

11. Flood Insurance Rate Map (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. Floodplain - Any land area susceptible to being inundated by water as a result of a flood.

13. Floodplain Management - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

14. Floodproofing - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

15. Floodway - The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

16. Floodway Fringe - Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. Historic Structure - Any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

18. Lowest Floor - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 167.04(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 (1) foot above the 100-year flood level, and

D. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria A, B, C, and D above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. Minor Projects - Small development activities (except for filling, grading and excavating) valued at less than $500.

20. New Construction - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

21. New Factory-Built Home Park or Subdivision - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of

streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the community.

22. One Hundred (100) Year Flood - A flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

23. Recreational Vehicle - A vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

24. Routine Maintenance of Existing Buildings and Facilities – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;

B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;

C. Basement sealing;

D. Repairing or replacing damaged or broken window panes;

E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

25. Special Flood Hazard Area - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

26. Start of Construction - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent

construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

27. Structure - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.

28. Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

29. Substantial Improvement - Any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the improvement , or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the 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.

30. Variance - A grant of relief by a community from the terms of the floodplain management regulations.

31. Violation - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

(Ch. 167 - Ord. 259 – Oct. 14 Supp.)

CODE OF ORDINANCES

CITY OF MECHANICSVILLE, IOWA

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