CODE OF ORDINANCES

CITY OF ATLANTIC, IOWA

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CHAPTER 1

CODE OF ORDINANCES

1.01 Title
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1.03 City Powers
1.04 Indemnity
1.05 Personal Injuries
1.06 Rules of Construction
1.07 Extension of Authority
1.08 Amendments
1.09 Catchlines and Notes
1.10 Altering Code
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1.12 Warrants
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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 Atlantic, Iowa.

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

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.

2. "City" means the City of Atlantic, Iowa.

3. "Clerk" means the city clerk of Atlantic, 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 Atlantic, Iowa.

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

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means the ordinances of the City of Atlantic, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

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

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

15. "Shall" imposes a duty.

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

17. "State" means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

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

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

building, or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny, or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least 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])

[The next page is 9]

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

CHAPTER 2

CHARTER

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

2.01 TITLE. This chapter may be cited as the charter of the City of Atlantic, Iowa.[†]

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

(Code of Iowa, Sec. 372.4)

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

2.04 NUMBER AND TERM OF COUNCIL. The Council consists of two (2) Council Members elected at large and one (1) Council Member from each of five (5) wards as established by the Code of Ordinances, elected 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. 525 adopting a charter for the City was passed and approved by the Council on July 18, 1973, and was published on July 25, 1973.

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CHAPTER 3

BOUNDARIES

3.01 DIVISION INTO WARDS. In accordance with the 2010 Federal Decennial Census and Sections 49.5 and 372.13(7) of the *Code of Iowa*, the City is divided into five (5) wards and five (5) precincts; those wards and precincts are described as follows:

(Code of Iowa, Sec. 372.4 & 372.13[7])

1. First Ward. The First Ward consists of all that portion of the City lying within the following description:

Commencing at the intersection of the north corporate limits and the east corporate limits as the point of beginning; thence along the east corporate limits to Seventh Street; thence west on Seventh Street to Plum Street; thence south on Plum Street to Eighth Street; thence west on Eighth Street to Mulberry Street; thence south on Mulberry Street to Ninth Street; thence west on Ninth Street to Elm Street; thence north on Elm Street to Sixth Street; thence west on Sixth Street to the alley between Elm Street and Walnut Street; thence north on said Alley to Second Street; thence west on Second Street to Poplar Street; thence north on Poplar Street to First Street; thence west on First Street to Locust Street; thence north on Locust Street to the northern tracks of the Iowa Interstate Railroad; thence west along the Iowa Interstate Railroad tracks to Buck Creek Road; thence north on Buck Creek Road to the north corporate limits; thence east along the north corporate limits to the point of beginning.

Precinct One has the same boundaries as First Ward.

2. Second Ward. The Second Ward consists of all that portion of the City lying within the following description:

Commencing at the intersection of the west corporate limits and Sixth Street as the point of beginning; thence east on Sixth Street to Sunnyside Lane; thence south on Sunnyside Lane to Seventh Street; thence northeasterly on Seventh Street to Palm Street; thence south on Palm Street to Ninth Street; thence east on Ninth Street to the Alley between Birch Street and Cedar Street; thence south on said Alley to Tenth Street; thence east on Tenth Street to Chestnut Street; thence south on Chestnut Street to Thirteenth Street; thence east on Thirteenth Street to Elm Street; thence north on Elm Street to Twelfth Street; thence east on Twelfth Street to Maple Street; thence north on Maple Street to Ninth Street; thence west on Ninth Street to Elm Street; thence north on Elm Street to Sixth Street, thence west on Sixth Street to the Alley between Elm Street and Walnut Street, thence north on said Alley to Second Street; thence west on Second Street to Poplar Street; thence north on Poplar Street to First Street; thence west on

First Street to Locust Street; thence north on Locust Street to the northern tracks of the Iowa Interstate Railroad; thence west along the Iowa Interstate Railroad tracks to Buck Creek Road; thence north on Buck Creek Road to the north corporate limits, thence west on the north corporate limits to the west corporate limits; thence southwesterly along the west corporate limits to Sixth Street; the point of beginning.

Precinct Two has the same boundaries as Second Ward.

3. Third Ward. The Third Ward consists of all that portion of the City lying within the following description:

Commencing at the intersection of Twelfth and Maple Streets as the point of beginning; thence south on Maple Street to Fourteenth Street; thence west on Fourteenth Street to Bryn Mawr Blvd.; thence south on Bryn Mawr Blvd. to Ridge Road; thence southwesterly on Ridge Road to Chestnut Street; thence south on Chestnut Street to the south corporate limits; thence west along the south corporate limits to the west corporate limits; thence northeasterly along the west corporate limits to Sixth Street; thence east on Sixth Street to Sunnyside Lane; thence south on Sunnyside Lane to Seventh Street; thence northeasterly on Seventh Street to Palm Street; thence south on Palm Street to Ninth Street; thence east on Ninth Street to the Alley between Birch Street and Cedar Street; thence south on said Alley to Tenth Street; thence east on Tenth Street to Chestnut Street; thence south on Chestnut Street to Thirteenth; thence east on Thirteenth Street to Elm Street; thence north on Elm Street to Twelfth Street; thence east on Twelfth Street to Maple Street, the point of beginning.

Precinct Three has the same boundaries as Third Ward.

4. Fourth Ward. The Fourth Ward consists of all the portion of the City lying within the following description:

Commencing at the intersection of Ninth and Maple Streets as the point of beginning; thence east on Ninth Street to the Alley between Olive Street and Spruce Street; thence south on said Alley to Tenth Street; thence west on Tenth Street to Olive Street; thence south on Olive Street to Fourteenth Street; thence east on Fourteenth Street to Lincoln Drive; thence southeasterly on Lincoln Drive to Seventeenth Street; thence west on Seventeenth Street to Olive Street; thence south on Olive Street to the south corporate limits; thence west along the south corporate limits to Chestnut Street; thence north on Chestnut Street to Ridge Road; thence easterly on Ridge Road to Bryn Mawr Blvd.; thence north on Bryn Mawr Blvd. to Fourteenth Street; thence east on Fourteenth Street to Maple Street; thence north on Maple Street to Ninth Street, the point of beginning.

Precinct Four has the same boundaries as Fourth Ward.

5. Fifth Ward. The Fifth Ward consists of all the portion of the City lying within the following description:

> *Commencing at the intersection Seventh and Plum Streets as the point of beginning; thence east on Seventh Street to the east corporate limits; thence along the east corporate limits to the south corporate limits; thence west along the south corporate limits to Olive Street; thence north on Olive Street to Seventeenth Street; thence east on Seventeenth Street to Lincoln Drive; thence north on Lincoln Drive to Fourteenth Street; thence west on Fourteenth Street to Olive Street; thence north on Olive Street to Tenth Street; thence east on Tenth Street to the Alley between Olive Street and Spruce Street; thence north on said Alley to Ninth Street; thence east on Ninth Street to Mulberry Street; thence north on Mulberry Street to Eighth Street; thence east on Eighth Street to Plum Street; thence north on Plum Street to Seventh Street, the point of beginning.*

Precinct Five has the same boundaries as Fifth Ward.

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CHAPTER 4

MUNICIPAL INFRACTIONS

4.01 Municipal Infraction
4.02 Environmental Violation
4.03 Penalties
4.04 Civil Citations
4.05 Alternative Relief
4.06 Alternative Penalties

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

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

4.02 ENVIRONMENTAL VIOLATION. A municipal infraction 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 are not applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

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

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

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

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

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

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

1. Standard Civil Penalties.

   A. First Offense – $250.00

   B. Second Repeat Offense – $500.00

   C. Each Additional Repeat Offense – $1,000.00

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

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

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 shall be 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 shall be punishable by a penalty of not more than one thousand dollars ($1,000.00) for each occurrence. However, an environmental violation shall not be 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.

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

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

1. The name and address of the defendant.

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

3. The location and time of the infraction.

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

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

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

8. The legal description of the affected real property, if applicable.

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

5.03 DUTIES: GENERAL. Each municipal officer shall exercise the powers and perform the duties prescribed by law and 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 the officer's 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 Iowa Code.

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stock holdings when less than five percent (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[3i])

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of fifteen hundred dollars ($1,500.00) in a fiscal year.

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

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

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

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

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

5.08 RESIGNATIONS. An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person as 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 within forty (40) days after the vacancy occurs, except that 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. 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])

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

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

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to Be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition
6.04 Preparation of Petition and Affidavit
6.05 Filing; Presumption; Withdrawals; Objections
6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

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

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

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

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

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer.

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

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund not to exceed one hundred seventy-five dollars ($175.00) for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service for which payments the finance officer shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the finance officer shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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

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

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

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

(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 and City Administrator shall be 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 the second Council meeting in January 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. The finance officer has the authority to make any transfer of appropriation from one activity to another activity within a program.

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 Clerk and Mayor following Council approval, except as provided by subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program, sub-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 except those under the control and management of the Utility Board of Trustees.

7.08 FINANCIAL REPORTS. The finance officer and City Administrator 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 first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

INDUSTRIAL PROPERTY TAX EXEMPTIONS

8.01 Purpose
8.02 Definitions
8.03 Period of Partial Exemption
8.04 Amounts Eligible for Exemption
8.05 Limitations
8.06 Applications
8.07 Approval
8.08 Exemption Repealed
8.09 Dual Exemptions Prohibited

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

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

1. "Actual value added" means the actual value added as of the first year for which the exemption is received.

2. "Distribution center" means a building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlets. Distribution center does not mean a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.

3. "New construction" means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products and the reconstruction is required for the owner of the building or structure to continue competitively to manufacture or process those products, which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Department of Economic Development.

4. "Research-service facilities" means a building or group of buildings devoted primarily to research and development activities, including, but not limited to, the design and production or manufacture of prototype products for experimental use, and corporate research services which do not have a primary purpose of providing on-site services to the public.

5. "Warehouse" means a building or structure used as a public warehouse for the storage of goods pursuant to Chapter 554, Article 7, of the *Code of Iowa*, except that it does not mean a building or structure used primarily to store raw agricultural products or from which goods are sold at retail.

8.03 PERIOD OF PARTIAL EXEMPTION. The actual value added to industrial real estate by the new construction of industrial real estate, research-service facilities, warehouses and distribution centers is eligible to receive a partial exemption from taxation for a period of five (5) years.

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

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

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

1. For the first year, seventy-five percent (75%)
2. For the second year, sixty percent (60%)
3. For the third year, forty-five percent (45%)
4. For the fourth year, thirty percent (30%)
5. For the fifth year, fifteen percent (15%)

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

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

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

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

1. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation.

2. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

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

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

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

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

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

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

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CHAPTER 9

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
693	December 19, 1984	Southwest Urban Renewal Area
694	December 19, 1984	North Urban Renewal Area
780	February 2, 1994	Southeast Urban Renewal Area
891	October 19, 2005	2005 Addition to the North Urban Renewal Area

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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, except for supervisory duties delegated to the City Administrator, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
(Code of Iowa, Sec. 372.14[1])

2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14[2])

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.
(Code of Iowa, Sec. 372.14[1])

4. Mayor's Veto. Sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. The Mayor may veto an ordinance, amendment or resolution within 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. 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 Mayor Pro Tem and shall also appoint, subject to Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. Library Board of Trustees
3. Utility Board of Trustees
4. Historic Preservation Commission
5. Cable Television Commission
6. Zoning Board of Adjustment

15.04 COMPENSATION. The salary of the Mayor is eight thousand dollars ($8,000.00) per year, payable monthly.

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties
16.03 Voting Rights
16.04 Compensation

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

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

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

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

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

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

16.04 COMPENSATION. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of 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

CITY COUNCIL

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

17.01 NUMBER AND TERM OF COUNCIL. The Council consists of two (2) Council Members elected at large and one Council Member from each of five (5) wards as established by the Code of Ordinances, elected for overlapping terms of four (4) years.

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

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

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

2. Wards. 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. 26.10)

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

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

7. Records. The Council shall require the Clerk to maintain records of its proceedings.

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

8. 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 that fails to receive sufficient votes for passage shall be considered defeated.

(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 14 days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

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

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

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

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

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

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

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

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

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

5. Compelling Attendance. Any three (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 Administrator
4. Airport Commission
5. Planning and Zoning Commission
6. Airport Zoning Board of Adjustment (two resident members)
7. Community Promotion Commission

17.06 COMPENSATION. The salary of each Council member is thirty dollars ($30.00) for each regular and/or special meeting of the Council attended. Each Council member shall receive twenty dollars ($20.00) for each committee meeting attended. Committee meetings include appointed, liaison and special committees appointed by the Mayor.

(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. At its first meeting in January following the regular city election the Council shall appoint by majority vote a City Clerk to serve for a term of two (2) years. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

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

1. Time. If notice of an election, hearing, or other official action is required by the Code of Ordinances or law, the notice must be published at least once, not less than four (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 the Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

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

18.06 AUTHENTICATION. The Clerk shall authenticate all such 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. The Clerk shall attend all regular and special Council meetings and, at the direction of the Council, the Clerk shall attend meetings of committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

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

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment **19.02 Duties of Treasurer**

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

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law and Council direction.

2. Record of Fund. Keep the record of each fund separate.

3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.

4. Record Disbursements. Keep an accurate account of all disbursements, money, or property, specifying date, to whom, and from what fund paid.

5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.

6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.

7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation
20.05 Review and Comment
20.06 Opinion on Contracts
20.07 Provide Legal Opinion
20.08 Attendance at Council Meetings
20.09 Prepare Documents
20.10 Assistant and Alternate City Attorneys

20.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Attorney to serve for a term of two (2) years. The City Attorney shall receive such compensation as agreed to by 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 and interested department heads, giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.

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

20.06 OPINION ON CONTRACTS. The City Attorney shall, at the request of the Council, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City.

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

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

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

20.08 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])

20.09 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])

20.10 ASSISTANT AND ALTERNATE CITY ATTORNEYS. An Assistant City Attorney and an Alternate City Attorney may be appointed by the Council when necessary for the proper and efficient conduct of the affairs of the City, and each shall serve until his or her services are terminated by the Council, but not longer than two (2) years after the date of appointment.

CHAPTER 21

CITY ADMINISTRATOR

21.01 Appointment and Term
21.02 Compensation
21.03 Powers and Duties

21.01 APPOINTMENT AND TERM. The Council shall appoint by majority vote a City Administrator to hold office at the pleasure of the Council. During the tenure of office the City Administrator shall reside within the City. No Council Member shall receive such appointment during the term for which the Council Member has been elected or within one year after the expiration of the Council Member's term.

21.02 COMPENSATION. The City Administrator shall receive such compensation as may be established by resolution of the Council.

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

1. Prepare the budget annually and submit it to the Council, together with a message describing the important features;

2. Prepare and submit to the Council as of the end of the fiscal year a complete report of finances and administrative activities of the City for the preceding year;

3. Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may be deemed advisable;

4. Recommend to the Council such measures as may be deemed necessary or expedient for good government and the welfare of the City;

5. Attend all meetings of the Council unless excused therefrom;

6. Investigate the affairs of any department or division of the City over which the City Administrator has authority;

7. Investigate all complaints in relation to matters concerning the administration of the government of the City and see that all franchises, permits and privileges granted by the City are faithfully observed;

8. See that all laws and ordinances pertinent to his or her duties are duly enforced;

9. Conduct the business affairs of the City except those assigned to other City officials by law or ordinance and cause accurate records to be kept;

10. Have charge and control of the police department as the Mayor may at any time delegate in writing, with approval of the Council;

11. Appoint and, when necessary, suspend or remove all officers and employees of the City except those officers and employees whose appointment, suspension or removal is otherwise provided for by law or ordinance;

12. Have the general supervision and direction of the administration of the City government and appoint, with approval of the Council, such administrative assistants as shall be deemed advisable;

13. Supervise and direct the official conduct of all officers of the City whom he or she has the power to appoint, as delegated by the Council or Mayor;

14. Issue nuisance notices, unless otherwise provided by law or ordinance, and order in writing, if necessary, the abatement of the nuisance;

15. Coordinate the work of all City departments and assist in planning and inspect work;

16. Advise the Council on insurance matters;

17. Cooperate with and advise the City Planning and Zoning Commission on future plans for City growth and development;

18. Consult with department heads and the Council to determine needs for all departments of the City, formulate the technical and financial aspects of bids to be prepared, submit contracts for municipal needs to the Council for approval and authorization, advertise for bids and enforce quality standards for goods purchased;

19. Perform the duties of Public Works Director;

20. Perform such other duties as may be required by the Council, not inconsistent with the City charter, law or ordinances.

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CHAPTER 22

LIBRARY BOARD OF TRUSTEES

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

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

22.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of nine (9) resident members. All members are to be appointed by the Mayor with the approval of the Council.

22.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of eighteen (18) years.

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

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.

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

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

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

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.

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

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

4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper

management of the Library, and fix their compensation; provided, however, 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 (2/3) vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the *Code of Iowa*.

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

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

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

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (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.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two (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)

CHAPTER 23

PLANNING AND ZONING COMMISSION

23.01 Planning and Zoning Commission
23.02 Term of Office
23.03 Vacancies
23.04 Compensation
23.05 Powers and Duties

23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven (7) members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

23.02 TERM OF OFFICE. The term of office of the members of the Commission shall be five (5) years. Each term shall commence on the first Monday in April, and the terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

1. Selection of Officers. The Commission shall choose annually at its first regular meeting one of its members to act as Chairperson and another as Vice Chairperson, who shall perform all the duties of the Chairperson during the Chair person'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 make a report to the Mayor and Council of its proceedings, whenever, and if, requested by the Council, with a full statement of its activities and the progress of its work.

(Code of Iowa, Sec. 392.1)

CHAPTER 24

PARKS AND RECREATION BOARD

24.01 Parks and Recreation Board Created
24.02 Board Organization
24.03 Duties of the Board
24.04 Meetings of the Board
24.05 Reports
24.06 Rules

24.01 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.

24.02 BOARD ORGANIZATION. The Board shall consist of five (5) members, all residents of the City, elected from the City at large for overlapping terms of six (6) years. The Board shall choose from its membership a Chairperson and Vice Chairperson and Secretary every two years. Members shall serve without compensation, but may receive their actual expenses.

24.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for 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.

24.04 MEETINGS OF THE BOARD. Meetings of the Parks and Recreation Board shall be at such intervals of time as said Board shall determine necessary, but not less than once each month, at a time, date and place to be agreed upon by the Board.

24.05 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.

24.06 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.

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CHAPTER 25

UTILITY BOARD OF TRUSTEES

25.01 Purpose
25.02 Board Established
25.03 Appointment of Trustees
25.04 Compensation
25.05 Vacancies
25.06 Powers and Duties of the Board
25.07 Control of Funds
25.08 Accounting
25.09 Discriminatory Rates Illegal
25.10 Discontinuance of Board

25.01 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned water and electric utilities by a Board of Trustees.

25.02 BOARD ESTABLISHED. Pursuant to an election held in 1933, the management and control of the municipally owned waterworks and electric utilities were placed in the hands of a Board of Trustees.

(Code of Iowa, Sec. 388.2)

25.03 APPOINTMENT OF TRUSTEES. The Mayor shall appoint, subject to the approval of the Council, five (5) persons to serve as trustees for staggered six (6) year terms. No public officer or salaried employee of the City may serve on the utility board. Appointments shall be made effective on the first day of April of each odd-numbered year.

(Code of Iowa, Sec. 388.3)

25.04 COMPENSATION. The Council shall by resolution set the compensation of Board members.

(Code of Iowa, Sec. 388.3)

25.05 VACANCIES. An appointment to fill a vacancy on the Board of Trustees shall be made in the same manner as an original appointment except that such appointment shall be for the balance of the unexpired term.

(Code of Iowa, Sec. 388.3)

25.06 POWERS AND DUTIES OF THE BOARD. The Board of Trustees may exercise all powers of the City in relation to the combined utility system, with the following exceptions:

(Code of Iowa, Sec. 388.4)

1. Taxes, ordinances and bonds. The Board may not certify taxes to be levied, pass ordinances or amendments, or issue general obligation or special assessment bonds.

Code of Iowa, Sec. 388.4[1])

2. Property. Title to all property must be in the name of the City but the Board has full control of such property subject to limitations imposed by law.

(Code of Iowa, Sec. 388.4[2])

3. Reports to Council. The Board shall make a detailed annual report to the Council including a complete financial statement.

(Code of Iowa, Sec. 388.4[3])

4. Proceedings Published. Immediately following a regular or special meeting, the Board Secretary shall prepare and cause to be published in a newspaper of general circulation in the City a condensed statement of proceedings including a list of all claims.

(Code of Iowa, Sec. 388.4[4])

25.07 CONTROL OF FUNDS. The Board shall control tax revenues allocated to it as well as all moneys derived from operations.

(Code of Iowa, Sec. 388.5)

25.08 ACCOUNTING. Utility moneys are held in a separate utility fund, with a separate account for each utility.

(Code of Iowa, Sec. 388.5)

25.09 DISCRIMINATORY RATES ILLEGAL. The utility may not provide use or service at a discriminatory rate, except to the City or its agencies, as provided in Section 384.91, *Code of Iowa*.

(Code of Iowa, Sec. 388.6)

25.10 DISCONTINUANCE OF BOARD. A proposal, on motion of the Council or upon receipt of a valid petition, to discontinue the utility board is subject to the approval of the voters of the City, except that the Board may be discontinued by resolution of the Council when the utility it administers is disposed of or leased for a period of over five (5) years.

(Code of Iowa, Sec. 388.2)

CHAPTER 26

HISTORIC PRESERVATION COMMISSION

26.01 Purpose and Intent
26.02 Definitions
26.03 Structure of the Commission
26.04 Powers of the Commission
26.05 Appeals

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

1. Promote the educational, cultural, economic and general welfare of the public through the protection, enhancement and perpetuation of sites and districts of historical and cultural significance;

2. Safeguard the City's historic, aesthetic and cultural heritage by preserving sites and districts of historic and cultural significance;

3. Stabilize and improve property values;

4. Foster pride in the legacy of beauty and achievements of the past;

5. Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business thereby provided;

6. Strengthen the economy of the City;

7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the City.

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

1. "Commission" means the Atlantic Historic Preservation Commission, as established by this chapter.

2. "Historic district" means an area which contains a significant portion of buildings, structures or other improvements which, considered as a whole, possess integrity of location, design, setting, materials, workmanship, feeling and association, and which area as a whole:

A. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history; or

C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials or combinations thereof which is deemed to add significantly to the value and attractiveness of properties within such area; or

D. Is associated with the lives of persons significant in our past; or

E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. "Historic site" means a structure or building which:

A. Is associated with events that have made a significant contribution to the broad patterns of our history; or

B. Is associated with the lives of persons significant in our past; or

C. Embodies the distinctive characteristics of a type, period or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or

D. Has yielded, or may be likely to yield, information important in prehistory or history.

26.03 STRUCTURE OF COMMISSION.

1. The Commission consists of five (5) members who are residents of the City.

2. Members of the Commission shall be appointed by the Mayor with the advice and consent of the Council. The members shall be appointed as follows: one person who is a licensed real estate salesman or broker; one nominated by the Atlantic Area Chamber of Commerce and three at-large members. All members shall demonstrate a positive interest in or have professional qualifications evidencing expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation or conservation in general.

3. The Commission members are appointed for staggered terms of three (3) years. All terms begin January 1.

4. Members shall serve without compensation.

5. A simple majority of the Commission shall constitute a quorum for the transaction of business.

6. The Commission shall elect from its members a Chairperson who shall preside over all Commission meetings and a Secretary who shall be responsible for maintaining written records of the Commission's proceedings.

7. The Commission shall meet at least three (3) times a year.

26.04 POWERS OF THE COMMISSION.

1. The Commission may conduct studies for the identification and designation of historic districts and sites meeting the definitions established by this chapter. The Commission may proceed at its own initiative or upon petition from any person, group or association. The Commission shall maintain records of all studies and inventories for public use.

2. The Commission may make a recommendation to the State Bureau of Historic Preservation for the listing of an historic district or site in the National Register of Historic Places and may conduct a public hearing thereon.

3. Upon receiving the recommendation of the Commission, the Council shall conduct a public hearing on the establishment of the proposed Historical Preservation

District. The Council may approve, disapprove or may refer the historic district or site designation to the Commission for modification and/or recommendations.

4. In addition to those duties and powers specified above, the Commission may, with Council approval,

A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;

B. Acquire, by purchase, bequest or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;

C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Commission;

D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;

E. Contract with State or Federal government or other organizations;

F. Cooperate with Federal, State and local governments in the pursuance of the objectives of historic preservation;

G. Participate in the conduct of land use, urban renewal and other planning undertaken by the City;

H. Recommend ordinances or otherwise provide information for the purpose of historic preservation to the Council;

I. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction; and

J. Enter, only in performance of its official duties and only at reasonable times, upon private lands with the consent of the owner and/or tenant, for examination or survey of the lands.

26.05 APPEALS. Appeals from decisions or actions of the Commission shall first be taken to the Council.

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CHAPTER 27

CABLE TELEVISION COMMISSION

27.01 Commission Created
27.02 Organization
27.03 Duties
27.04 Reports
27.05 Annual Report

27.01 COMMISSION CREATED. A Cable Television Commission is hereby created to advise the Council and other City officials on any matters pertaining to cable television in general and specifically any cable television franchises granted by the City.

27.02 ORGANIZATION. The Commission consists of five (5) members, all residents of the City and 18 years of age or older, appointed by the Mayor with the approval of the Council for overlapping three-year terms. The Commission shall choose its Chairperson and Vice Chairperson every year. Members shall serve without compensation, but may receive their actual expenses incurred in performance of duties. Vacancies shall be filled in the same manner as original appointments.

27.03 DUTIES. In addition to its duty to advise and counsel City officials concerning cable television, the Commission has the following duties:

1. Oversee and monitor the performance of any cable television franchisee and exercise the regulatory authority given to the City in any cable franchise, except that authority specifically reserved to the Council;

2. The Commission shall advise the Mayor and the Council on matters relating to the operation of the television station including, but not limited to:

   A. Operation in general, including policies and procedures.

   B. Programming.

   C. Maintenance and upkeep.

   D. Financial expenditures including, but not limited to:

      (1) Equipment

      (2) Personnel: Volunteer workers or contract workers only, unless approved by the City Council.

      (3) Programming needs

      (4) Other costs associated with operation of a television station.

   E. Fundraising to underwrite the cost of operation.

   F. Identifying, recruiting, training and including volunteers.

   G. Legal precedents regarding broadcasting.

3. Recommend changes in any cable franchise;

4. Hold public hearings as required or permitted by Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission concerning Cable

Television Rate Regulation, 47 C.F.R. Section 76.900 et seq. as they currently read and hereafter may be amended, and make recommendations to the Council as to what action the Council should take on the issues requiring or permitting the public hearing.

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

27.05 ANNUAL REPORT. The Commission shall prepare and send to the Council annually, a report that shall include an accounting of all monies received and expended, the progress of community access, a summary of all activities and any recommendations or suggestions it may have for the City Council.

CHAPTER 28

AIRPORT COMMISSION

28.01 Airport Commission
28.02 Appointment and Term
28.03 Vacancies
28.04 Compensation
28.05 Bond
28.06 Officers
28.07 Powers and Duties
28.08 Annual Report

28.01 AIRPORT COMMISSION. There shall be an Airport Commission consisting of five (5) resident voters of the City.

(Code of Iowa, Sec. 330.20)

28.02 APPOINTMENT AND TERM. Commissioners shall be appointed by the Council for staggered terms of six (6) years. All terms shall expire the first Wednesday of November; however, members shall hold office until their successors are appointed.

(Code of Iowa, Sec. 330.20)

28.03 VACANCIES. Vacancies shall be filled by appointment of the Council to fill out the unexpired term for which the appointment was made.

(Code of Iowa, Sec. 330.20)

28.04 COMPENSATION. Members of the Commission shall serve without compensation.

(Code of Iowa, Sec. 330.20)

28.05 BOND. Each Commissioner shall execute and furnish a bond in an amount fixed by the Council, which bond shall be filed with the City Clerk.

(Code of Iowa, Sec. 330.20)

28.06 OFFICERS. The Commission shall elect from its own members a chairperson and secretary who shall serve for such term as the Commission shall determine.

(Code of Iowa, Sec. 330.20)

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

1. General. The Commission has all the powers in relation to airports granted to cities under State law except powers to sell the airport.

(Code of Iowa, Sec. 330.21)

2. Budget. The Commission shall annually certify the amount of tax to be levied for airport purposes, and upon such certification the Council may include all or a portion of said amount in its budget.

(Code of Iowa, Sec. 330.21)

3. Funds. All funds derived from taxation or otherwise for airport purposes shall be under the full and absolute control of the Commission for the purposes prescribed by law, and shall be deposited with the Treasurer or City Clerk to the credit of the airport Commission, and shall be disbursed only on the written orders of the airport Commission, including the payment of all indebtedness arising from the

acquisition and construction of airports and the maintenance, operation, and extension thereof.

(Code of Iowa, Sec. 330.21)

28.08 ANNUAL REPORT. The Commission shall immediately after the close of each municipal fiscal year file with the Clerk a detailed and audited written report of all money received and disbursed by the Commission during said fiscal year, and shall publish a summary thereof in an official newspaper.

(Code of Iowa, Sec. 330.22)

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CHAPTER 29

COMMUNITY PROMOTION COMMISSION

29.01 Community Promotion Commission
29.02 Number of Members and Terms
29.03 Qualifications
29.04 Organization of the Commission
29.05 Vacancies
29.06 Compensation
29.07 Powers and Duties
29.08 Meetings of Members
29.09 Reports

29.01 COMMUNITY PROMOTION COMMISSION. There is hereby established a Community Promotion Commission.

29.02 NUMBER OF MEMBERS AND TERMS. The Mayor shall appoint, subject to Council approval by a majority vote, five members for staggered terms of three years, except to fill vacancies. Regular terms commence July 1. Members may succeed themselves on the Commission.

29.03 QUALIFICATIONS. All members of the Commission shall be bona fide citizens and residents of the City and over the age of 21 years.

29.04 ORGANIZATION OF THE COMMISSION. The members shall choose the Commission Chairperson and Vice Chairperson, who shall serve as such for one year.

29.05 VACANCIES. The position of any Commission member shall be vacant if he or she moves permanently from the City, or if he or she is absent from three (3) consecutive regular meetings of the Commission or a total of five (5) regular meetings through the fiscal year. Vacancies on the Commission shall be filled by appointment of the Council, and the new member shall fill out the unexpired term for which the appointment is made.

29.06 COMPENSATION. Commission members shall receive no compensation for their services, except their actual expenses, which shall be subject to the approval of the Council.

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

1. Prepare a strategic plan for the external advertisement of the community in order to promote retail and industrial growth, tourism and population growth in the community and to revise this plan as required.

2. Oversee and monitor the execution of the strategic plan. When formulating and executing the strategic plan, the Commission shall work closely with the Chamber of Commerce, Development Corporation and City Administration.

3. Spend money and enter into contracts subject to the limitation of expenditures set forth in the annual budget provided by the Council for community promotion. Payment will be made by check written by the Clerk for invoices submitted and approved by the Commission.

4. Keep a record of its proceedings.

29.08 MEETINGS OF MEMBERS. Meetings of the Commission shall be at such intervals of time as the Commission shall determine necessary, but not less than once each month, at a time, date and place to be agreed upon by the members.

29.09 REPORTS. The Commission shall make written or oral reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its 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 Commission in the Clerk's report to the Council.

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CHAPTER 35

POLICE DEPARTMENT

35.01 Department Established
35.02 Organization
35.03 Peace Officer Qualifications
35.04 Required Training
35.05 Compensation
35.06 Peace Officers Appointed
35.07 Police Chief: Duties
35.08 Departmental Rules
35.09 Summoning Aid
35.10 Taking Weapons

35.01 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.

35.02 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.

35.03 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)

35.04 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)

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

35.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Mayor shall also select, subject to the approval of Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

35.07 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 or marshal 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.

35.08 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.

35.09 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, 804.17)

35.10 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, 804.18)

CHAPTER 36

RESERVE POLICE UNIT

36.01 Establishment of Force
36.02 Membership
36.03 Oath of Office
36.04 Training
36.05 Status of Reserve Officers
36.06 Carrying Weapons
36.07 Supplementary Capacity
36.08 Supervision of Officers
36.09 No Reduction of Regular Force
36.10 Compensation
36.11 Benefits When Injured
36.12 Insurance
36.13 No Participation in Pension Fund or Retirement System

36.01 ESTABLISHMENT OF FORCE. The Mayor, acting through the Police Chief, is hereby authorized to organize a Reserve Police Unit of not to exceed twenty-five (25) members for the purpose of assisting the Police Chief and other members of the Police Department. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department's representative, and will participate on a regular basis in the agency's activities, including those of crime prevention and control, preservation of the peace and enforcement of the law.

36.02 MEMBERSHIP. Each member recruited for said unit shall be a minimum of 18 years of age; a high school graduate; physically fit; in good health and of good moral character. If the Director of the law enforcement academy for the State establishes minimum standards for members, those standards shall also be adopted. All members shall be approved and appointed by the Mayor and Police Chief.

36.03 OATH OF OFFICE. Members shall take an oath of office, administered by the Mayor, as reserve peace officers in the same manner as regular police officers.

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

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

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

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

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

36.09 NO REDUCTION OF REGULAR FORCE. The Council shall not reduce the authorized size of the regular police department because of the establishment or utilization of reserve peace officers.

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

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

36.12 INSURANCE. Liability and false arrest insurance shall be provided to members of the reserve force while performing official duties in the same manner as for regular peace officers.

36.13 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM. Members are not eligible for participation in a pension fund or retirement system created by the laws of the State of which regular peace officers may become members.

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CHAPTER 37

FIRE DEPARTMENT

37.01 Establishment and Purpose
37.02 Organization
37.03 Approved by Council
37.04 Training
37.05 Compensation
37.06 Election of Officers
37.07 Fire Chief: Duties
37.08 Obedience to Fire Chief
37.09 Constitution
37.10 Accidental Injury Insurance
37.11 Liability Insurance
37.12 Calls Outside Fire District
37.13 Mutual Aid
37.14 Authority to Cite Violations
37.15 Fes for Services

37.01 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)

37.02 ORGANIZATION. The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council, not to exceed forty (40) members.

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

37.03 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.

37.04 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])

37.05 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])

37.06 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.

37.07 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 firefighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars ($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 fires causing an estimated damage of fifty dollars ($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.

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

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

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

37.09 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.

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

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

37.11 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)

37.12 CALLS OUTSIDE FIRE DISTRICT. The department shall answer calls to fires and other emergencies outside the City's fire district if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the fire district.

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

37.13 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])

37.14 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)

37.15 FEES FOR SERVICES. The Fire Department shall charge such fees to cover the cost of materials and supplies and for use of extrication equipment for response to any emergency, fire, hazardous material cleanup, or similar service.

1. Fee for Consumable Materials and Supplies. The fees for consumable materials and supplies (including equipment damaged during a response) are as follows:

A. Fires..... $100.00 up to $1,000.00

B. Hazardous Material Response..... $100.00 up to $10,000.00

2. Fee for Use of Equipment.

A. Jaws of Life; Extrication Equipment $500.00

3. Billing and Collection. With a reasonable time following service calls, the Fire Chief shall prepare and deliver a statement to the City Clerk that contains the following information:

A. The date(s) of use of chargeable supplies and/or chargeable use of equipment, with the corresponding fees for the same as determined by the Fire Chief and in accord with subsection 1 of this section;

B. The name and address of the person, business, or entity responsible for payment. For purposes of billing, the party responsible for payment is the person, business, or entity whose conduct precipitated the service call, or the person, business, or entity who owned the property and who benefited by the service call.

Within a reasonable time thereafter, the Clerk shall compose an invoice containing the information provided by the Fire Chief and issue the same by First Class U.S. mail to the responsible party. The invoice shall contain the statement that if the responsible party fails to pay to the City of Atlantic the invoiced charges within 30 days following the date on the invoice, then in such event the City may assess the costs against the responsible party for collection in the same manner as is provided by law for the collection of property taxes.

4. Use of Fees. The fees collected in the manner prescribed by this section shall be deposited into the City's General Fund and recorded under a separate revenue line item so that revenues collected can be easily tracked.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another 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. **[See also Section 41.02]**
(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.

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 that causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

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

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

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

(Code of Iowa, Sec. 723.5)

40.04 UNLAWFUL ASSEMBLY. It is unlawful for three (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)

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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 Providing False Identification Information
41.04 Refusing to Assist Officer
41.05 Harassment of Public Officers and Employees
41.06 Interference with Official Acts
41.07 Abandoned or Unattended Refrigerators
41.08 Antenna and Radio Wires
41.09 Barbed Wire and Electric Fences
41.10 Discharging Weapons
41.11 Throwing and Shooting
41.12 Urinating and Defecating
41.13 Fireworks
41.14 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 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

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

(Code of Iowa, Sec. 719.2)

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

(Code of Iowa, Sec. 718.4)

41.06 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, 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, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and "obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

41.07 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)

41.08 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])

41.09 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.

41.10 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.

41.11 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])

41.12 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.

41.13 FIREWORKS. The sale, use and exploding of fireworks within the City are subject to the following:

(Code of Iowa, Sec. 727.2)

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

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

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

B. Property Damage: $50,000

C. Total Exposure:.....$1,000,000

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

41.14 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)

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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.

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

(Code of Iowa Sec. 716.8)

2. Definitions. For purposes of this section:

(Code of Iowa Sec. 716.7[1])

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

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

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

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

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

F. "Trespass" means one or more of the following acts:

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

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

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

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

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

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

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

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

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

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

42.02 CRIMINAL MISCHIEF. It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter or destroy property.
(Code of Iowa, Sec. 716.1)

42.03 DEFACING PROCLAMATIONS OR NOTICES. It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.
(Code of Iowa, Sec. 716.1)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Containers in Motor Vehicles

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

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

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

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

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

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 in a public place.

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

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

(Code of Iowa, Sec. 123.46)

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

CHAPTER 46

MINORS

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

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

1. Definitions. For use in this section, the following terms are defined:

A. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

B. "Knowingly" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

C. "Minor" means any unemancipated person under the age of eighteen (18) years.

D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited

commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

F. "Responsible adult" means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 12:00 midnight and 5:00 p.m. of any day.

3. Exceptions. The following are exceptions to the curfew:

A. The minor is accompanied by a responsible adult.

B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.

C. The minor is present at or is traveling between home and one of the following:

(1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, after the end or before the beginning of work;

(2) Minor's place of religious activity or, if traveling, after the end or before the beginning of the religious activity;

(3) Governmental or political activity or, if traveling, after the end or before the beginning of the activity;

(4) School activity or, if traveling, after the end or before the beginning of the activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, after the end or before the beginning of the activity.

D. The minor is on an emergency errand for a responsible adult;

E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's

license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

D. Minor Without Adult Supervision. If a law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail or personal delivery, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a municipal infraction.

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the law enforcement officer's discretion, may issue the minor a citation for a first violation.

D. Minor's Second Violation. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a municipal infraction.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products 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* and lawfully offers for sale or sells cigarettes or tobacco products.

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

46.03 CONTRIBUTING TO DELINQUENCY. It is unlawful for any per-son 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 BILLIARD ROOMS. It is unlawful for any person who keeps a billiard hall where beer, liquor or wine is sold, or the agent, clerk or employee of any such person, or any person having charge or control of any such hall, to permit any minor to remain in such hall or to take part in any of the games known as billiards or pool.

CHAPTER 47

PARK REGULATIONS

47.01 Applicability
47.02 Definitions
47.03 Compliance Required
47.04 Park Hours and Exclusive Use of Parks
47.05 Campground Visiting Hours; Quiet Time
47.06 Liability
47.07 Traffic
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47.01 APPLICABILITY. The rules and regulations set out in this chapter apply to all parks and City recreational areas and facilities.

1. Inclusion. In addition to the regulations in this chapter, all criminal and traffic codes as listed in Chapters 321 and 700 of the *Code of Iowa* will be applied.

2. Authority. The Director may, upon approval of the Park Board, post various regulations from time to time as required by circumstances or events, or to maintain the safe and orderly use of the parks. These regulations shall be published and shall then be considered to have the weight of law, and violators will be subject to municipal citations and fined accordingly.

47.02 DEFINITIONS. The following words and phrases are defined for use in this chapter.

1. "Additional temporary shelter" means a tent or other fabric shelter designed for use as overnight accommodation and measuring 8 feet by 10 feet or less in floor area.

2. "Alcoholic beverage" means, but is not limited to, distilled spirits as defined in Chapter 123 of the *Code of Iowa*. It does not include beer or wine as therein defined in containers of 32 ounces or less.

3. "Amplified music" means music projected and transmitted by electronic equipment including amplifiers, the total output of which amplifiers, including the sum wattage output of each channel, exceeds twenty-five (25) watts.

4. "Amplified speech" means speech projected and transmitted by electronic equipment, including amplifiers, the total output of which, including the sum of the wattage output of each channel, exceeds twenty-five (25) watts.

5. "Board" means the Parks and Recreation Board.

6. "Campground" means any area or areas designated for the sole purpose of camping and signed as such by the Director under direction of the Park Board.

7. "Campsite" means a numbered space, named site area, or other limited tract designated for the overnight camping accommodation by a single-family camping unit.

8. "Controlled substance" means a drug, substance or immediate precursor as defined in Chapter 124 of the *Code of Iowa*.

9. "Director" means the head of Parks and Recreation or a designated representative.

10. "Family camping" means a motor home, camper, tent, or other shelter accommodation occupied by a party of no more than 5 members with a parent or parents accompanied by their child or children, or with no more than two minor children of another family as guests of the primary family. All camping units with minors present must have a parent or legal guardian of the family present at the site at all time.

11. "Group campsite" means an area or tract designated by the Director for overnight accommodation of groups of more than six persons who are members or participants in a camping activity sponsored by an established organization such as a church, youth group, school, scouting group, etc.

12. "Intoxicated" means intoxicated or public intoxication as defined in Chapter 123 of the *Code of Iowa*.

13. "Motor vehicle" means every vehicle which is self propelled.

14. "Parks" includes all recreational areas and facilities, parks and park facilities owned or operated by the City.

15. "Permit" means a permit for exclusive use of parks or portions thereof or buildings or portions thereof as provided for and defined in this chapter.

16. "Vehicle" means every motor vehicle or device in, upon or by which any person or property is or may be transported or drawn upon a highway or path. (EXCEPTION – Personal electric wheelchairs and mobility devices operated by persons with disabilities shall be allowed both on and off road in compliance with ADA guidelines.)

47.03 COMPLIANCE REQUIRED. No person shall enter, be in or remain in any park or park facility unless said person complies with all of the regulations set forth in this chapter, applicable to such park or facility. Persons remaining in, or returning to, a park facility after being ordered to leave by the Director or any law enforcement officer will be guilty of a charge of criminal trespass.

47.04 PARK HOURS AND EXCLUSIVE USE OF PARKS. Regular park hours for non-campground areas are sunrise until sunset. Parks and park facilities may be made available for extended hours or for the exclusive use of persons and groups, subject to the issuance of a permit by the Director. Any person applying for a park permit hereunder shall file an application for such permit with the Director either in writing, in person or by telephone. Applications for exclusive use or extended hours of use of any park facilities must be signed or co-signed by an adult, who shall agree to be responsible for said exclusive use. No exclusive use or extended hours permit will be granted if, prior to the time the application was

filed, the City has scheduled a City-sponsored event at the same time and place as the activity proposed in the application.

47.05 CAMPGROUND VISITING HOURS; QUIET TIME. The campgrounds will be closed to visitors from the hours of 9:30 p.m. until 6:00 a.m. This period shall also be observed as a "quiet time" during which all camping persons must be in their respective camp sites and no loud or raucous noise or music is allowed. Any noise level which results in complaint by a fellow camper will not be allowed.

46.06 LIABILITY. Any person, firm, corporation, organization or group shall be liable to the City for any and all damages to parks, facilities and buildings owned by the City which result from the activity of the permittee or is caused by any participant in said activity. Intentional damage shall be charged under Chapter 716 of the *Code of Iowa*. Legal parent(s) or supervising adults at campsites are liable for damage of property and conduct of minor children assigned to their campsite.

47.07 TRAFFIC. The following traffic regulations apply:

1. Vehicles. In parks where motor vehicle traffic is permitted, all motor vehicles shall be driven on the graveled or hard surfaced portions of the roads.

2. Speed Limits. All park roads are to be considered as City streets and posted speed limits enforced. The speed limit in unposted areas shall be 10 miles per hour.

3. Horses. Horses or ponies are not allowed in parks except on gravel or hard surfaced roads used for motor vehicle traffic or in areas that may be designated for such use in future park developments.

4. Parking. No person shall park any motor vehicle in any park except upon areas designated for such use. Motor vehicles left in the park area will be considered abandoned and towed.

47.08 AMPLIFIED SOUND. The use of any system for amplifying sounds, as herein defined, whether for speech or music, or otherwise, is prohibited in any park unless a permit is first obtained from the Park Director for an organized gathering.

47.09 LITTER. No person shall leave in any park any garbage, trash, cans, bottles, papers or other refuse other than in the receptacles provided therefor.

47.10 INTERFERENCE. No person within any park or building shall use or attempt to use or interfere with the use of any table, space or facility or building which at the time is reserved for any other person or group which has received a permit from the Director therefor. Should the actual use of tables, space, area, building or facility referred to in any such permit remain unoccupied one hour after the permit period has commenced and the area remains unused, such permit shall thereupon be void and all rights under such permit shall be canceled.

47.11 REMOVING PLANTS. No person other than a duly authorized City employee in the performance of duties or persons participating in City-sponsored activities shall dig, remove, destroy, disfigure, injure, mutilate or cut any tree, plant, shrub, bloom or flower or any portion thereof in any park.

47.12 BIRDS AND ANIMALS. No person in a park shall hunt, trap, shoot or throw missiles at any animal, reptile or bird, nor shall anyone remove or have in his or her possession the young of any wild animal or the eggs or nest or young of any reptile or bird. Exception may be granted by the City Council in order to provide for predation of certain over-populated species within the limits of Iowa law.

47.13 REMOVAL OF TURF OR SOIL. No person other than a duly authorized City employee in the performance of duties shall remove any wood, turf, grass, soil, rock, sand or gravel from any park or make any excavation by any tool, equipment, blasting or any other means.

47.14 PROHIBITED ACTIONS. No person other than a duly authorized City employee in the performance of duties shall:

1. Damage Equipment. Cut, break, injure, deface, disfigure or disturb any rock, building, bridge, cage, pen, monuments, fireplace, sign, fence, bench, railing, structure, apparatus, equipment or property in a park.

2. Mark. Mark or place thereon any mark, writing or printing.

3. Post Bills. Attach thereto any sign, card, display or other similar device, except as authorized by permit.

4. Wires. Erect or maintain any overhead wires through any park, without prior written permission.

5. Construct Building. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on written permit issued.

47.15 FIRES. No person shall light or maintain any fire in any park unless such fire is maintained only in a stove or fire circle or other place provided therefor, and such fire shall be extinguished when the site is vacated unless it is immediately used by some other party. Exception – Privately owned grills/smokers may be used in accordance with manufacturer's instructions.

47.16 SOLICITATION. No person shall solicit in any manner or for any purpose or sell or offer for sale any goods, wares, merchandise in any park, except as authorized by permit.

47.17 SANITATION AND HEALTH.

1. Pollute Waters. No person in a park shall throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of such waters.

2. Deposit Garbage or Refuse. It is unlawful to have brought in, or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, refuse or trash or place any of the same in any water in or contiguous to any park or leave the same anywhere on the grounds thereof except in the proper receptacles where they are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

3. Septic and Wastewater. Waste and sewage from sanitary camping systems will be discharged at the site provided adjacent to the campground. Unauthorized disposal of sewage or septic waste at the campsite by persons other than registered campers shall be unlawful under Section 97.04 of this Code of Ordinances.

47.18 ALCOHOL AND CONTROLLED SUBSTANCES. No person shall bring alcoholic beverages and/or controlled substances into a park, consume or be under the influence of any alcoholic beverages and/or controlled substances at any time in any park. (Note – Beer and wine are allowed in containers of 32 ounces or less. Public intoxication laws of the State of Iowa and City of Atlantic apply to all parks and campgrounds.)

47.19 KEG PERMIT. A permit to bring beer kegs or other containers in excess of 32 ounces may be obtained from the Park Director. The Park Director may refuse to issue a keg permit at his or her sole discretion.

47.20 OFFENSIVE ACTIONS. No person shall sleep on the seats or benches or engage in loud, boisterous, threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to breach the public peace.

47.21 PRIVATELY OWNED ANIMALS. No privately owned animal shall be allowed to run at large in any park unless in an area designated as a "Dog Park." Every such animal shall be deemed as running at large unless it is currently licensed by the City, and the owner or the person having custody of said animal carries it or leads it by a leash or chain not exceeding ten (10) feet in length or keeps it confined in or attached to a vehicle. If attached to a vehicle, the leash length shall be such that the animal is confined to the immediate space used by the owner. The owner or person having the custody of said animal shall be responsible for any damage or harm caused in any event by such animal, even if on a leash.

47.22 CLOSING SECTIONS OF PARK. Any section or parts of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

47.23 UNAUTHORIZED CAMPING. No person shall camp in any park not designated as a camping area, unless first authorized in writing by the Director and then only in the prescribed or designated areas.

47.24 PENALTIES. Persons found to be willfully engaged in violating the provisions of this chapter, or any posted park regulation, will be guilty of a simple misdemeanor and may be cited by criminal or civil citation of any law enforcement officer. Civil municipal citations may be issued by the Park Director.

47.25 BANISHMENT. Repeated offenses of the regulations set forth in this chapter or flagrant violations resulting in harm or destruction of property will be cause for the loss of rights and privileges to the use of any or all City parks. In this event the Parks Director shall issue legal written notice to the offender and said notice shall be served by personal service or certified mail. Banished individuals found upon the ground of any City park or in a motor vehicle within the boundaries of any City park shall be guilty of trespass.

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CHAPTER 48

DRUG PARAPHERNALIA

48.01 Purpose
48.02 Controlled Substance Defined
48.03 Drug Paraphernalia Defined
48.04 Determining Factors
48.05 Possession of Drug Paraphernalia
48.06 Manufacture, Delivery or Offering For Sale

48.01 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.

48.02 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.

48.03 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.

48.04 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.

48.05 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*.

48.06 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 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited
50.05 Nuisance Abatement
50.06 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

2. Filth or Noisome Substance. Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.

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

4. Water Pollution. Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

5. Blocking Public and Private Ways. Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

6. Billboards. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**

7. Storing of Flammable Junk. Depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the City, unless in a building of fireproof construction. **(See also Chapter 52)**

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

9. Weeds, Grass and Other Dense Growth.

A. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard;

B. Noxious weeds as defined in the *Code of Iowa*; and

C. Grass and other similar growth which exceeds twelve (12) inches in height.

Subsections A and C above do not apply to purposefully planted vegetable gardens or purposefully planted flower gardens, so long as they are maintained free of weeds.

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

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.

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.

13. Abandoned Appliances. Any discarded, abandoned, unattended or unused refrigerator, ice box, oven or similar container equipped with an air-tight door or lid, snap lock or other locking device which cannot be released from the inside, in a location accessible to children, outside any building or dwelling or within an unoccupied or abandoned building or dwelling, or other structure, under the control of any person without the door, lid, snap lock or other locking device removed therefrom. **(See also Section 41.07)**

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

1. Junk and Junk Vehicles **(See Chapter 51 and 52)**

2. Dangerous Buildings **(See Chapter 145)**

3. Storage and Disposal of Solid Waste **(See Chapter 105)**

4. Trees **(See Chapter 151)**

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether

to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

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

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

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †

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

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

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

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

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

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

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

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

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

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

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† **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.

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

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

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

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

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

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

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

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CHAPTER 51

JUNK VEHICLES

51.01 Definitions
51.02 Junk Vehicles Prohibited
51.03 Junk Vehicles a Nuisance
51.04 Exceptions
51.05 Enforcement

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

1. "Junk vehicle" means any vehicle legally placed in storage with the County Treasurer or 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. 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 fifteen (15) days or more.

E. 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.

F. Any vehicle not currently licensed for operation. Mere licensing of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

2. "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 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 vehicle for more than fifteen (15) days.

51.03 JUNK VEHICLES A NUISANCE. It is hereby declared that any 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 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 shall not apply to any junk vehicle stored within a garage or other enclosed structure so long as the vehicle is not visible to the general public or abutting property owners while being stored therein.

51.05 ENFORCEMENT. The provisions of this chapter shall be enforced as municipal infractions in compliance with and as authorized by Chapter 4 of this Code of Ordinances. Review and appeal shall be to the courts of Iowa with no further hearing or review by the City Council or its administrative bodies.

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CHAPTER 52

JUNK

52.01 Definition
52.02 Junk Prohibited
52.03 Junk a Nuisance
52.04 Notice to Abate

52.01 DEFINITION. For use in this chapter, the word "junk" means all scrap copper, brass, lead, or any other non-ferrous metal; 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 scrap ferrous materials; discarded glass, tin ware, plastic or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

52.02 JUNK 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 as defined above. The provisions of this section do not apply to any junk stored within a garage or other enclosed structure.

52.03 JUNK A NUISANCE. It is hereby declared that any junk located upon private property, unless excepted above, 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 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])

52.04 NOTICE TO ABATE. Upon discovery of any junk located upon private property in violation of Section 52.03, 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])

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect and Abandonment
55.03 Livestock
55.04 Owner's Responsibilities to Others
55.05 Confinement, Care and Number of Animals
55.06 At Large Prohibited
55.07 Rabid Dogs and Animals
55.08 Vicious Dogs
55.09 Dangerous Animals
55.10 Seizure, Impoundment, and Disposition of Vicious Dogs and Dangerous Animals
55.11 Impounding Fees
55.12 Pet Awards

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

1. "Abandon" means to give up with the intent of never again claiming a right or interest in.

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

3. "Allow" or "permit" means to either intentionally or unintentionally allow or fail to take adequate precautions to prevent.

4. "Animal" means a nonhuman vertebrate.

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

5. "At heel" means, with reference to a dog, within ten (10) feet of a person and subject to that person's strict obedience command.

6. "At large" means any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.

7. "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.

8. "Department" means the City of Atlantic Police Department or the City of Atlantic Animal Control Department, or designees consisting of the Police Chief and such other law enforcement officers, personnel, or peace officers, whether full or part-time, or the animal control officer, as may be authorized by the Council.

9. "Dog" means and includes both male and female animals of the canine species six (6) months of age or older.

10. "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.

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

12. "Kennel" means a house or pen for a dog or cat.

13. "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)

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

15. "Pet" means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

16. "Propensity" means a natural inclination or tendency.

17. "Property" means any privately owned or leased real property or property where one or more persons reside within the City limits.

18. "Shelter" means the City of Atlantic Animal Shelter, which is the premises established and maintained by the City under the supervision, direction, and control of the Council.

19. "Without provocation" means aggressive conduct which is initiated by any animal or aggressive conduct that is not in self-defense or in response to aggressive conduct by any other animal or person.

55.02 ANIMAL NEGLECT AND ABANDONMENT.

1. 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 that causes unjustified pain, distress or suffering.

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

2. Abandonment of Cats and Dogs. It is unlawful for a person who has ownership or custody of a cat or dog to 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)

3. Search Warrant. If an owner who is suspected of being in violation of subsection 1 or 2 of this section refuses to allow the department to enter upon the owner's property to investigate the suspected violation, then the department may request a search warrant from a magistrate. Such request shall detail the reasons why the warrant is necessary and why the department has reason to believe a violation has occurred.

4. Impoundment of Neglected or Abandoned Animals. The department shall seize and impound an animal that is alleged to be neglected or abandoned. If the owner is found guilty or convicted of subsection 1 or 2 of this section, the seized animal(s) shall not be returned to the owner. If the owner is found not guilty of said subsections, the animal(s) involved shall be returned to the owner. An owner who is found guilty or is convicted of said subsections shall be responsible for the costs incurred by the department and the animal shelter for the seizure, confinement, care, and disposal of the affected animal(s).

55.03 LIVESTOCK.

1. Keeping of 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.

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

(Code of Iowa, Sec. 717.2)

3. Search Warrant. If an owner who is suspected of being in violation of subsection 1 or 2 of this section refuses to allow the department to enter upon the owner's property to investigate the suspected violation, then the department may request a search warrant from a magistrate. Such request shall detail the reasons why the warrant is necessary and why the department has reason to believe a violation has occurred.

4. Impoundment of Livestock. The department shall seize and impound livestock that is alleged to be illegally kept or neglected. If the owner is found guilty or convicted of subsection 1 or 2 of this section, the seized livestock shall not be returned to the owner. If the owner is found not guilty of said subsections, the livestock involved shall be returned to the owner. An owner who is found guilty or is convicted of said subsections shall be responsible for the costs incurred by the department and the animal shelter for the seizure, confinement, care, and disposal of the affected livestock.

55.04 OWNER'S RESPONSIBILITIES TO OTHERS.

1. 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.

2. Annoyance or Disturbance. It is unlawful for the owner of a dog to allow or permit such dog to cause serious annoyance or disturbance to any person by frequent

and habitual howling, yelping, barking, or otherwise, or by running after or chasing persons, bicycles, automobiles or other vehicles.

3. Animal Waste. It is unlawful for any owner or person in charge of a dog or other animal to fail to clean up and/or remove, as soon as possible, any excrement or droppings deposited by said dog or other animal on any public property, park property, public right-of-way, or property of another.

4. Exception. The provisions of this section do not apply to dogs used to guide the visually impaired, dogs used by law enforcement, or other dogs used to aid persons with disabilities while such dogs are acting in this capacity.

55.05 CONFINEMENT, CARE AND NUMBER OF ANIMALS.

1. Unhealthful or Unsanitary Conditions. An owner shall keep all structures, pens, coops, or yards wherein animals are confined clean, devoid of vermin and free of odors arising from feces.

2. Tethering of Animals. An owner shall not stake or otherwise tie or fasten an animal in a way that permits the animal to pass onto, over, or across any public sidewalk, street or alley, or private property of another.

3. Female Dogs or Cats in Heat. The owner of any female dog or cat in heat shall confine said animal inside the house or kennel on the owner's premises during the heat period. The owner may remove the animal in heat from the owner's premises for purposes of breeding and/or exercise, provided the animal is on a leash, cord, chain, or similar restraint not more than six (6) feet in length and is under the control of the owner. No female dog in heat shall be allowed at heel.

4. Number of Animals. No person shall harbor or maintain such number of dogs or cats, or a combination thereof, to create unhealthful or unsanitary conditions for the humans or animals occupying the premises, or create any other conditions constituting a nuisance. If such conditions exist, the department is authorized to make an investigation and after notice and hearing to the person harboring or maintaining the animals, the department may order such number of animals to be moved from the residence or premises to remedy or correct the unhealthful, unsanitary, or other conditions constituting a nuisance. Upon the failure of the person to follow the orders issued by the department, appropriate action may be pursued in the courts either to enforce the order of the department and/or to correct the conditions and/or to abate the nuisance.

55.06 AT LARGE PROHIBITED.

1. Prohibited. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.

2. Impoundment. The department shall seize and impound an animal found at large in violation of this subsection 1 of this section.

3. Disposition. The department shall provide written notice to the owner if the department can reasonably determine the owner's name and current address by accessing a tag or other devise that is on or a part of the animal. The notice shall be sent within two (2) days after the animal has been impounded. The notice shall provide that if the owner does not redeem the animal within seven (7) days from the

date that the notice is delivered, the animal may be humanely destroyed or otherwise disposed of in accordance with law. For purposes of this section, notice is delivered when the department mails the notice which may be by regular mail.

4. Redemption. An owner may redeem an animal by having it immediately vaccinated, if necessary, and paying the costs incurred by the department and animal shelter for the seizure, confinement, care, licensing, and reasonable veterinary expenses of the affected animal. If the owner of the impounded animal fails to redeem the animal within seven (7) days from the date of the delivery of the notice to the animal's owner as provided in this section, the animal becomes property of the City and the City will deal with the animal as it sees fit, including but not limited to adoption or euthanasia. If the animal is destroyed, it must be destroyed by euthanasia as defined in Section 162.2 of the *Code of Iowa*.

5. Destruction of Animals At Large. The department may destroy, if necessary, any animal found at large which cannot be captured. If the owner's name and address is reasonably ascertainable, the department shall provide written notification to said owner of the destruction of the affected animal within three (3) days of the animal's destruction.

55.07 RABID DOGS AND ANIMALS.

1. Rabies Vaccination. Every owner of a dog shall obtain a rabies vaccination for such animal. It is unlawful for any person to own or have a dog in said person's possession, six months of age or over, which has not been vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

2. Owner's Duty. It is the duty of the owner of any dog, cat, or other animal that has bitten or attacked a person or any person having knowledge of such bite or attack to report this act to the department. 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, without delay.

(Code of Iowa, Sec. 351.38)

3. Confinement. If the department receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the department 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 the department, and after ten (10) days the department may humanely destroy or otherwise legally dispose of the animal. This subsection 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)

4. Redemption. The confinement order may be terminated or the owner may redeem an animal from impoundment under this section by paying the costs incurred by the department and animal shelter for the seizure, confinement, care, and reasonable veterinary expenses of the affected animal, and by licensing the animal if not yet licensed, and by satisfying any one of the following three conditions: (i) having the dog immediately vaccinated; (ii) presenting a valid rabies vaccination tag; or (iii) presenting a rabies vaccination certificate.

5. Disposition. If, upon examination by a licensed veterinarian, any animal shall prove infected with rabies or otherwise toxic, such dog or animal shall be disposed of and it shall be the duty of said veterinarian to notify the local board of health of any positive rabies case found, without delay. If a dog or any other animal is destroyed or disposed of, it shall be destroyed by euthanasia as defined in Section 162.2 of the *Code of Iowa*. The owner of the affected animal shall be assessed the costs, if any, incurred by the department or animal shelter in employing a licensed veterinarian to inspect and/or destroy the affected animal.

55.08 VICIOUS DOGS.

1. Definition. A dog shall be deemed vicious under any of the following criteria:

A. If said dog has attacked or bitten any person or domestic animal without provocation, or when the propensity to attack or bite a person exists and is known or ought reasonably to be known by the owner;

B. If said dog has a history, tendency, or disposition to attack, to cause injury, intimidate, or to otherwise endanger the safety of human beings or domestic animals;

C. If said dog has been trained for dog fighting, animal fighting, or animal baiting, or is owned or kept for such purposes;

D. If said dog has been trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the direct control of the Police Department or Sheriff's Department, any law enforcement agency of the State of Iowa or United States, or a branch of the armed forces of the United States, or dogs owned by and under the direct control of a professionally certified guard dog trainer.

2. Permit. It is unlawful for any person to harbor or keep a vicious or trained attack dog within the corporate limits of the City without first obtaining a vicious dog permit in accordance with this section.

3. Application and Permit Requirements. The Department may issue a permit to the owner of a vicious or trained attack dog if all of the following requirements are satisfied:

A. An owner must be at least 18 years old and reside in the City limits to apply for and to be issued a permit to harbor or keep a vicious or trained attack dog in the City.

B. An owner of any dog permitted under this section shall comply with Chapter 56 of this Code of Ordinances prior to the issuance of a permit.

C. No owner shall be issued a permit unless the dog has been either neutered or spayed, evidence of which must be presented to the department.

D. An owner wishing to receive a permit to harbor or keep a vicious or trained attack dog must present a certificate or proof of insurance issued by an insurance company licensed to do business in the State of Iowa, providing liability insurance coverage as in a homeowner's policy, with a minimum amount of $500,000.00 for the injury or death of any person for damage to

the property of others and for acts of negligence by the owner or his or her agents, in the owning, keeping, or harboring of such vicious or trained attack dog. The owner must provide proof of such insurance prior to the issuance of a permit for a vicious or trained attack dog. Proof of coverage shall be required each time the dog license is renewed in accordance with Chapter 56 of this Code of Ordinances. Any cancellation of insurance shall be an automatic violation of this section and shall be an automatic revocation of the permit. If any owner is found to be intentionally canceling insurance or taking any other steps to intentionally circumvent the permit requirements, he or she shall be banned from harboring or keeping a vicious or trained attack dog within the City for a minimum period of five (5) years.

E. Before receiving a permit, and if a dog is formally trained to attack or otherwise deemed vicious, it shall be stamped, written, or otherwise noted in a conspicuous manner on the dog license with the City.

F. A dog or animal that in the opinion of the Department attacks without provocation, a human or another dog in such a manner as to cause serious or life threatening injury, or permanently maim or scar a person, or causes multiple bite wounds, shall not be eligible for a permit. These animals may be destroyed by the Department upon agreement by the Chief of Police and the Animal Control Facility Manager.

G. The owner of any vicious or trained attack dog kept in a secure outdoor pen will mark all sides of the pen area with signs lettered in at least two-inch tall lettering indicating the animal is vicious, and shall provide further structure preventing children from physically coming in contact with the pen area.

H. The owner of a dog shall be liable to an injured party for all damages done by the dog, when the dog is caught in the action of worrying, maiming, or killing a domestic animal, or the dog is attacking or attempting to bite a person, except when the party damaged is doing an unlawful act, directly contributing to the injury. This section does not apply to damage done by a dog affected with hydrophobia unless the owner of the dog had reasonable grounds to know that the dog was afflicted with hydrophobia and by reasonable effort might have prevented the injury.

I. Animals that repeatedly offend the provisions of this section are also ineligible for a permit and may be destroyed, or adopted to an out-of-town owner by the animal control department.

J. Issuance of a permit will be made only upon agreement by both the Animal Control Facility Manager and the Chief of Police. These two authorities may at their own discretion deny a permit based upon their judgment of the animal's threat to others, or upon repeated offenses of aggressive behavior, or by experience of noncompliance to this chapter by the owner of the animal.

4. Confinement. All vicious and trained attack dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided herein.

A. Such pen, kennel, or structure must have secure sides and a secure top attached to the sides, or in lieu of a top, walls at least six (6) feet in height and at least six (6) feet taller than any internal structure.

B. All pens or other structures designed, constructed, or used to confine vicious and trained attack must be locked with a key or combination lock when such animals are within the structure.

C. Such structure must have a secure bottom, floor, or foundation attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet so as to prevent digging under the walls by the confined dog.

D. All pens must have a sign with minimum two-inch lettering saying "Beware of Vicious Dog."

E. The department is empowered to inspect such pens at least once per year.

F. All structures erected to house vicious and trained attack dogs must comply with all zoning and building regulations of the City.

G. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

H. No vicious or trained attack dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition.

I. No person shall permit a vicious or trained attack dog to go outside its kennel or pen unless such dog is muzzled and securely leashed with a leash no longer than six (6) feet in length and that is capable of securing an animal weighing 200 pounds or more.

J. No person shall permit a vicious or trained attack dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless both dog and leash are under the actual physical control of a person eighteen (18) years of age or older.

K. Such dogs shall not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

5. Vicious Dogs at Large. The provisions of subsections 2, 3, 4 and 5 of Section 55.06 apply with equal force and validity to any vicious or trained attack dog found running at large within the corporate limits of the City. Further, a vicious or trained attack dog that is found more than twice in any calendar year not to be confined as required by this section shall be required to be permanently removed from the City or destroyed. An animal that is returned to the City after removal under this section shall be destroyed.

55.09 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose or in any capacity within the City.

2. Definition. As used in this section a "dangerous animal" means the following animals:[†]:

A. Badgers, wolverines, weasels, skunk and mink;

B. Raccoons;

C. Scorpions.

3. Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:

A. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

B. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit, or show.

55.10 SEIZURE, IMPOUNDMENT, AND DISPOSITION OF VICIOUS DOGS AND DANGEROUS ANIMALS.

1. Upon the receipt of a complaint alleging that a particular animal is a vicious dog or dangerous animal as defined herein, the department in its discretion may initiate proceedings to declare said animal an "offending animal." If the owner contests said designation, a hearing on the matter shall be conducted by the City Administrator. The person owning, keeping, sheltering, or harboring the offending animal in question shall be given not less than 72 hours' written notice of the time and place of said hearing. Said notice shall set forth the description of the offending animal in question and the basis for the allegation of viciousness. The notice shall also set forth that if the offending animal is determined to be vicious or dangerous, the owner may be required to obtain a vicious dog permit, confine the animal, or dispose of the animal as required by this chapter. The notice shall be served upon any adult residing at the premises where the animal is located, or may be posted on those premises if no adult is present to accept service.

2. If the City Administrator, following the hearing, determines an animal is an offending animal held in violation of this chapter, the City Administrator shall order the person owning, sheltering, harboring, or keeping the animal to obtain a vicious dog permit and confine the animal as required by this chapter or remove the animal from the City. The order shall immediately be served upon the person against whom issued in the same manner as the notice of hearing. If the order is not complied with within three (3) days of its issuance, the City Administrator is authorized to direct the department to seize and impound the animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the person against whom the order of the City Administrator was issued has not complied with the order, the City Administrator shall cause the animal to be destroyed. Failure to comply with an order of the City Administrator issued pursuant

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

hereto and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

3. Any animal which is alleged to be an offending animal and which is under impoundment at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment shall be paid by the owner if the dog is determined to be vicious or the animal is found to be an offending animal. If the dog is not determined to be vicious or the animal is found not to be offending, all costs shall be paid by the City, except costs attributable to the initial confinement prior to notice which shall nonetheless be paid by the owner.

55.11 IMPOUNDING FEES. The following fees apply for every animal claimed and redeemed from the animal shelter:

FEE	First Time	Second Time	Third Time
Redemption Fee (Unlicensed Animals)	$45.00	N/A	N/A
Redemption Fee (Licensed Animals)	$25.00	$50.00	$100.00
Boarding Fee per Day	$15.00	$15.00	$15.00

All animals must be currently licensed prior to release from the shelter.

55.12 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

A. A prize for participating in a game.

B. A prize for participating in a fair.

C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

D. An inducement or condition for executing a contract that includes provisions unrelated to the ownership, care or disposition of the pet.

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

A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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CHAPTER 56

DOG LICENSE REQUIRED

56.01 Annual License Required
56.02 License Fees
56.03 Delinquency
56.04 Exceptions
56.05 Application
56.06 License Tags
56.07 Transfers of Licensed Dogs
56.08 Duplicate Tags
56.09 Display of License

56.01 ANNUAL LICENSE REQUIRED. Every dog which is over six (6) months of age shall be licensed by its owner. The license shall be purchased from the City Animal Shelter on or before January 1 of each calendar year and shall expire on December 31 of the same year. In those cases where, by reason of residence outside the City, age, or ownership, the dog is not subject to licensing on January 1 of any calendar year, the owner is required to purchase a dog license from the City Animal Shelter within thirty (30) days after the dog becomes subject to the terms of this chapter. If the license is not purchased within thirty (30) days, the owner shall pay the same license fee in addition to the delinquency fee set out in Section 56.03.

56.02 LICENSE FEES. The annual license fee shall be as follows:

1. For neutered or spayed dogs ..... $ 5.00
2. For unneutered/unspayed dogs ..... $ 25.00

56.03 DELINQUENCY. In addition to the City license fee, an owner who does not purchase a dog license before April 1 shall pay a delinquent fee of $10.00 for each dog.

56.04 EXCEPTIONS. Notwithstanding the above, the following owners are not required to purchase a City dog license:

1. Any owner who is a nonresident of the City, temporarily residing within. Temporary residence shall be residence for less than thirty (30) continuous days;
2. Any veterinary hospital or pet shop;
3. Any owner of a kennel dog kept or raised in a kennel and kept under constant restraint;
4. Any owner bringing a dog into the City for the purpose of participation in a dog show;
5. Any owner of a dog less than six months old.

56.05 APPLICATION. At the time of application for a City license, the owner shall furnish to the appropriate agent or employee of the City the following:

1. A certificate showing the animal has been vaccinated against rabies and vaccination has not expired.
2. A brief description of the animal, including name, age and predominant breed.

3. A certificate or statement from a veterinarian stating the animal is neutered or spayed and the date of the neutering or spaying if known.

56.06 LICENSE TAGS. Upon receipt of the application and fee, the Animal Shelter shall deliver to the owner a license in the form of a metal tag stamped with the serial number of the license and the year for which it is issued.

56.07 TRANSFERS OF LICENSED DOGS. When the permanent ownership of a dog is transferred, the new owner shall, within ten (10) days after the date ownership is assumed, make application for a new license. The owner shall pay a fee of five dollars ($5.00) to cover costs of changing the record at the Animal Shelter.

56.08 DUPLICATE TAGS. The owner of any dog whose license has been lost or destroyed shall apply for a duplicate license. A fee of $5.00 shall be charged for the issuance of a duplicate.

56.09 DISPLAY OF LICENSE. The license obtained shall be attached to a substantial collar and worn by the animal during the term of the license. It shall not be transferred to any other animal. The owner shall display the license to the Animal Control Officer upon demand.

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CHAPTER 57

URBAN DEER CONTROL

57.01 Purpose
57.02 Definitions
57.03 Qualifications
57.04 Hunting Locations
57.05 General Rules
57.06 Permits
57.07 Violation
57.08 Restriction

57.01 PURPOSE. The purpose of this chapter is to enhance public safety by allowing the hunting of antlerless deer within the boundaries of the City of Atlantic.

57.02 DEFINITIONS.

1. "Arrow" is limited as to the arrows allowed under the laws of the State of Iowa and the regulations of the Iowa Department of Natural Resources (DNR).

2. "Bow" is limited as to the bows allowed under the laws of the State of Iowa and the regulations of the Iowa Department of Natural Resources (DNR).

3. "Antlerless deer" means any fawn, either female or male, or any doe, without a pair of visible hard, bony, deciduous growths on the head, when viewed from a reasonable hunting position.

(Ord. 947 – Sep. 13 Supp.)

4. "Elevated stand" means a minimum height of at least ten vertical feet off the ground in a non-permanent and portable artificially erected or natural growth stand.

5. "Holder" means the possessor of a fee interest, a tenant, lessee, occupant, or person in control of the premises; provided, however, holder does not mean the State of Iowa, its political subdivisions, or any public body or any agencies, departments, boards, or commissions thereof.

6. "Hunter" means a person who has been issued a permit pursuant to this chapter.

7. "Hunt" or "hunting" means the method of killing deer by bow from an elevated stand.

8. "Land" means private land located in the City, including land used for agricultural purposes, marshlands, timber, grasslands, privately owned roads, water, water courses, private ways, and buildings, structures, and machinery or equipment appurtenant thereto.

9. "Permit" means a document issued by the City that allows for a qualified hunter to hunt deer pursuant to this chapter.

57.03 QUALIFICATIONS. A hunter may be issued a permit at no cost if the following qualifications are satisfied:

1. The hunter is eighteen years of age or older.

2. The hunter has a State of Iowa hunting license.

3. The hunter has a deer tag or tags issued by the DNR.

4. The hunter shows proof of successful completion of a bow hunting proficiency and safety course administered by the DNR.

5. The hunter successfully completes a proficiency test administered by the Atlantic Police Department with the bow that will be used to hunt in the City. Standards for this test, and the frequency thereof, shall be established and promulgated by the Chief of Police and approved by the Community Protection Committee. Standards will at no time circumvent or lessen requirements of the Iowa DNR or the laws of Iowa.

(Ord. 947 – Sep. 13 Supp.)

6. The hunter shows proof of permission or consent from a holder of land that the hunter can hunt on the land.

57.04 HUNTING LOCATIONS. Hunting shall occur on land that the holder has given signature authorization and permission for hunting to occur thereon and which has been approved of by the Chief of the Atlantic Police Department and the City Council.

57.05 GENERAL RULES. The conditions under which hunting shall be conducted are meant to minimize the risk of injury to persons and property and are as follows:

1. All shots must be made toward a deer that is not more than 30 yards from the hunter's location.

2. A hunter must first take an antlerless deer and once it has been verified by a member of the Atlantic Police Department or an official from the Iowa Department of Natural Resources that it was taken within the Atlantic City limits, the hunter shall be authorized to take an any-sex deer (with or without antlers) within the Atlantic City limits.

(Ord. 947 – Sep. 13 Supp.)

3. Unless otherwise waived in writing by the holder and the holder(s) of land adjoining and adjacent to the authorized locations, elevated stands must be located at least 150 feet from an occupied building, or 75 feet from an unoccupied building.

4. When hunting, the hunter shall at all times have in his or her possession the permit issued pursuant to this chapter and the proof of consent and any applicable waivers by the holder of the land upon which the hunter is hunting on.

5. A hunter must immediately remove himself or herself from any harassment situation and report the same to the Atlantic Police Department.

6. A hunter must report any violators of this chapter and the rules promulgated thereunder to the Atlantic Police Department.

57.06 PERMITS. Permits will be issued in the sole discretion of the Chief of the Atlantic Police Department based upon the qualifications contained in this chapter and upon any other relevant factor as determined by the Chief. Permits issued under this chapter shall continue to remain in effect in subsequent years so long as the qualifications set forth in Section 57.03 continue to be met by the permit holder.

(Ord. 947 – Sep. 13 Supp.)

57.07 VIOLATION. Hunters in violation of this chapter shall have their permit revoked indefinitely.

57.08 RESTRICTION. This chapter and the rules promulgated thereunder shall not be construed by the hunter to be any less restrictive than the laws of the State of Iowa and the regulations established by the DNR.

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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 "Atlantic 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 chapter 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 & 321.274)

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. Definition. "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 Mayor or 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 Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the fire department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes
61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS. The Police Chief is hereby authorized 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 or Curbs
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Engine Brakes and Compression Brakes

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

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

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

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

24. Section 321.218 – Operating without valid driver's license or when disqualified.

25. Section 321.219 – Permitting unauthorized minor to drive.

26. Section 321.220 – Permitting unauthorized person to drive.

27. Section 321.221 – Employing unlicensed chauffeur.

28. Section 321.222 – Renting motor vehicle to another.

29. Section 321.223 – License inspected.

30. Section 321.224 – Record kept.

31. Section 321.232 – Speed detection jamming devices; penalty.

32. Section 321.234A – All-terrain vehicles.

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

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

35. Section 321.257 – Official traffic control signal.

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

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

38. Section 321.262 – Damage to vehicle.

39. Section 321.263 – Information and aid.

40. Section 321.264 – Striking unattended vehicle.

41. Section 321.265 – Striking fixtures upon a highway.

42. Section 321.266 – Reporting accidents.

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

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

45. Section 321.277 – Reckless driving.

46. Section 321.277A – Careless driving.

47. Section 321.278 – Drag racing prohibited.

48. Section 321.281 – Actions against bicyclists.

49. Section 321.284 – Open container; drivers.

50. Section 321.284A – Open container; passengers.

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

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

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

54. Section 321.298 – Meeting and turning to right.

55. Section 321.299 – Overtaking a vehicle.

56. Section 321.302 – Overtaking and passing.

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

58. Section 321.304 – Prohibited passing.

59. Section 321.306 – Roadways laned for traffic.

60. Section 321.307 – Following too closely.

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

62. Section 321.309 – Towing; convoys; drawbars.

63. Section 321.310 – Towing four-wheel trailers.

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

65. Section 321.313 – Starting parked vehicle.

66. Section 321.314 – When signal required.

67. Section 321.315 – Signal continuous.

68. Section 321.316 – Stopping.

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

70. Section 321.318 – Method of giving hand and arm signals.

71. Section 321.319 – Entering intersections from different highways.

72. Section 321.320 – Left turns; yielding.

73. Section 321.321 – Entering through highways.

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

75. Section 321.323 – Moving vehicle backward on highway.

76. Section 321.323A – Approaching certain stationary vehicles.

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

78. Section 321.324A – Funeral processions.

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

80. Section 321.330 – Use of crosswalks.

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

82. Section 321.333 – Duty of drivers approaching blind persons.

83. Section 321.340 – Driving through safety zone.

84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.

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

86. Section 321.343 – Certain vehicles must stop.

87. Section 321.344 – Heavy equipment at crossing.

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

89. Section 321.354 – Stopping on traveled way.

90. Section 321.359 – Moving other vehicle.

91. Section 321.362 – Unattended motor vehicle.

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

93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.

94. Section 321.365 – Coasting prohibited.

95. Section 321.367 – Following fire apparatus.

96. Section 321.368 – Crossing fire hose.

97. Section 321.369 – Putting debris on highway.

98. Section 321.370 – Removing injurious material.

99. Section 321.371 – Clearing up wrecks.

100. Section 321.372 – School buses.

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

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

103. Section 321.382 – Upgrade pulls; minimum speed.

104. Section 321.383 – Exceptions; slow vehicles identified.

105. Section 321.384 – When lighted lamps required.

106. Section 321.385 – Head lamps on motor vehicles.

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

108. Section 321.387 – Rear lamps.

109. Section 321.388 – Illuminating plates.

110. Section 321.389 – Reflector requirement.

111. Section 321.390 – Reflector requirements.

112. Section 321.392 – Clearance and identification lights.

113. Section 321.393 – Color and mounting.

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

115. Section 321.395 – Lamps on parked vehicles.

116. Section 321.398 – Lamps on other vehicles and equipment.

117. Section 321.402 – Spot lamps.

118. Section 321.403 – Auxiliary driving lamps.

119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.
122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.449A – Rail crew transport drivers.
149. Section 321.450 – Hazardous materials transportation.
150. Section 321.454 – Width of vehicles.
151. Section 321.455 – Projecting loads on passenger vehicles.
152. Section 321.456 – Height of vehicles; permits.

153. Section 321.457 – Maximum length.

154. Section 321.458 – Loading beyond front.

155. Section 321.460 – Spilling loads on highways.

156. Section 321.461 – Trailers and towed vehicles.

157. Section 321.462 – Drawbars and safety chains.

158. Section 321.463 – Maximum gross weight.

159. Section 321.465 – Weighing vehicles and removal of excess.

160. Section 321.466 – Increased loading capacity; reregistration.

62.02 PLAY STREETS DESIGNATED. The Police Chief shall have authority to declare any street or part thereof a play street and cause to be placed appropriate signs or devices in the roadway indicating and helping to protect the same. Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, Sec. 321.255)

62.03 VEHICLES ON SIDEWALKS OR CURBS. The driver of a vehicle shall not drive upon or cross over any sidewalk area or curb 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 and said vehicle is equipped with proper seats and seatbelts. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, in-line skates, skateboard, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

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

62.06 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction shall be 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. (**See also Zoning Code, Article 21, Signs.)**

62.07 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the City any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle. Violations of this section will be considered a non-moving violation.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of 300 feet from the motor vehicle shall constitute evidence of a prima facie violation of this section.

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Cemeteries and Parking Lots
63.04 Special Speed Restrictions
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – 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 CEMETERIES AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

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

(Code of Iowa, Sec. 321.290)

1. Special 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. On Olive Street from 7th Street (Highway 6) to 17th Street.

   B. On Palm Street from 22nd Street to 29th Street.

   C. On Sunnyside Lane from 10th Street to a point 2,000 feet south of 10th Street.

   D. On 14th Street between Plum Street and Redwood Drive.

2. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Chestnut Street between 7th Street (Highway 6) and Ridge Road.

3. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On 2nd Street from Poplar Street to Buck Creek Road.

B. On 7th Street (Highway 6) from Hospital Drive to West 10th Street.

C. On 14th Street from Redwood Drive to Highway 71 (Whitney Street).

D. On 29th Street from Chestnut Street to Palm Street.

E. On Olive Street from 7th Street (Highway 6) north to Commerce Street.

F. On Olive Street from 17th Street to south corporate limits.

G. On Sunnyside Lane from 2nd Street (Highway 83) to 7th Street (Highway 6).

H. On Commerce Street from Olive Street to Chestnut Street.

I. On Chestnut Street between Ridge Road and the south corporate limits.

J. On West 6th Street, from 500 feet west of Palm Street west to the west City limits.

K. On East 22nd Street from Olive Street to Whitney Street (Highway 71).

4. Special 40 MPH Speed Zones. A speed in excess of forty (40) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On 7th Street (Highway 6) from Whitney Street (Highway 71) to Hospital Drive.

5. 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. On 2nd Street (Highway 83) from Buck Creek Road to west corporate limits.

B. On SW 7th Street (Highway 6) from 10th Street to 22nd Street.

C. On W 22nd Street from Chestnut Street to SW 7th Street (Highway 6).

D. On Olive Street from the intersection of Commerce Street and Olive Street north to the City limits (except when a flashing yellow light on a traffic control device is illuminated and indicates the maximum speed to be 35 miles per hour).

6. Special 50 MPH Speed Zones. A speed in excess of fifty (50) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On 29th Street from Palm Street to SW 7th Street (Highway 6).

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-Turns
64.03 Right Turn on Red Signal Prohibited
64.04 Left Turn for Parking

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. As used in this section "U-turn" means maneuvering a vehicle in any manner so as to effectively change the direction of travel by more than 90 degrees. It is unlawful for a driver to make a U-turn except at an intersection of two streets, except at the following intersections and locations.

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

1. At the intersection of 11th Street and Olive Street.

2. At the intersection of Linn Street and 11th Street.

3. Intersections within the downtown business district.

4. Any intersection controlled by a traffic light as a control device.

5. Any intersection with a street or highway of three lanes or greater.

6. Any intersection that has less than 500 feet of vision in any direction to any hillcrest.

U-turns may only be made when the maneuver can be safely executed.

64.03 RIGHT TURN ON RED SIGNAL PROHIBITED. Vehicular traffic facing a steady red signal shall not proceed or make a right turn at the following locations when appropriate signs are in place.

(Code of Iowa, Sec. 321.257 [2])

– NONE –

64.04 LEFT TURN FOR PARKING. No person shall make a left hand turn, crossing the centerline of the street, for the purpose of parking on said street.

CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Required
65.02 Yield Required
65.03 School Stops
65.04 Stop Before Crossing Sidewalk
65.05 Stop When Traffic Is Obstructed
65.06 Yield to Pedestrians in Crosswalks
65.07 Official Traffic Controls

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

(Code of Iowa, Sec. 321.345)

1. 1st Street. Vehicles traveling west on 1st Street shall stop at Birch Street.

2. 1st Street. Vehicles traveling on 1st Street shall stop at Locust Street and Cedar Street.

3. 2nd Street. Vehicles traveling on 2nd Street shall stop at Walnut Street and Linn Street.

4. 3rd Street. Vehicles traveling east on 3rd Street shall stop at Locust Street.

5. 3rd Street. Vehicles traveling west on 3rd Street shall stop at Poplar Street.

6. 3rd Street. Vehicles traveling on 3rd Street shall stop at Pine Street, Olive Street, Walnut Street and Cedar Street.

7. 4th Street. Vehicles traveling east on 4th Street shall stop at Mulberry Street.

8. 4th Street. Vehicles traveling on 4th Street shall stop at Pine Street, Spruce Street, Olive Street, Hazel Street, Oak Street, Linn Street, Maple Street, Elm Street, Walnut Street, Poplar Street, Locust Street, Cedar Street and Hickory Street.

9. 5th Street. Vehicles traveling on 5th Street shall stop at Olive Street, Walnut Street, Poplar Street and Laurel Street.

10. 5th Street. Vehicles traveling west on 5th Street shall stop at Mulberry Street.

11. 6th Street. Vehicles traveling on 6th Street shall stop at Pine Street, Spruce Street, Olive Street, Hazel Street, Oak Street, Linn Street, Maple Street, Elm Street, Walnut Street, Poplar Street and Sunnyside Lane.

12. 6th Street. Vehicles traveling east on 6th Street shall stop at Mulberry Street.

13. 8th Street. Vehicles traveling on 8th Street shall stop at Plum Street, Cherry Street, Mulberry Street, Pine Street, Spruce Street, Olive Street, Hazel Street, Oak Street, Linn Street, Maple Street, Elm Street, Walnut Street, Chestnut Street, Poplar Street, Locust Street, Cedar Street, Birch Street, Hickory Street, Laurel Street and Palm Street.

14. 9th Street. Vehicles traveling on 9th Street shall stop at Plum Street, Cherry Street, Mulberry Street, Pine Street, Spruce Street, Olive Street, Hazel Street, Oak Street, Linn Street, Maple Street, Elm Street, Walnut Street, Chestnut Street, Poplar

Street, Locust Street, Cedar Street, Birch Street, Hickory Street, Laurel Street and Palm Street.

15. 9th Street. Vehicles traveling west on 9th Street shall stop at East Mahogany Drive.

16. 10th Street. Vehicles traveling on 10th Street shall stop at Olive Street, Chestnut Street, East Mahogany Street and Linn Street.

17. 10th Street. Vehicles traveling east on 10th Street shall stop at Hospital Drive and East Side Drive.

18. 10th Street. Vehicles traveling west on 10th Street shall stop at W. 7th Street.

19. 11th Street. Vehicles traveling on 11th Street shall stop at Elm Street, Chestnut Street, Poplar Street, Locust Street and Cedar Street.

20. 11th Street. Vehicles traveling east on 11th Street shall stop at Maple Street, Olive Street and Plum Street.

21. 11th Street. Vehicles traveling west on 11th Street shall stop at Roosevelt Drive.

22. 12th Street. Vehicles traveling on 12th Street shall stop at Plum Street and Elm Street.

23. 12th Street. Vehicles traveling east on 12th Street shall stop at Maple Street.

24. 12th Street. Vehicles traveling west on 12th Street shall stop at Chestnut Street.

25. 13th Street. Vehicles traveling on 13th Street shall stop at Plum Street.

26. 13th Street. Vehicles traveling west on 13th Street shall stop at Roosevelt Drive, Chestnut Street and Birch Street.

27. 13th Street. Vehicles traveling east on 13th Street shall stop at Elm Street and Locust Street.

28. 14th Street. Vehicles traveling on 14th Street shall stop at Plum Street, Olive Street, Locust Street, Birch Street and Linn Street.

29. 14th Street. Vehicles traveling west on 14th Street shall stop at Sunnyside Lane and East Side Drive.

30. 14th Street. Vehicles traveling east on 14th Street shall stop at W. 7th Street, Chestnut Street and Whitney Street.

31. 15th Street. Vehicles traveling west on 15th Street shall stop at Teresa Drive.

32. 15th Street. Vehicles traveling east on 15th Street shall stop at Hazel Street.

33. 15th Street. Vehicles traveling 15th Street shall stop at W. 7th Street.

34. 16th Street. Vehicles traveling west on 16th Street shall stop at Linn Street.

35. 16th Street. Vehicles traveling on 16th Street shall stop at Oak Street.

36. 16th Street. Vehicles traveling east on 16th Street shall stop at Olive Street.

37. 17th Street. Vehicles traveling on 17th Street shall stop at Olive Street.

38. 17th Street. Vehicles traveling east on 17th Street shall stop at W. 7th Street.

39. 17th Street. Vehicles traveling on 17th Street shall stop at Redwood Drive.

40. 18th Street. Vehicles traveling west on 18th Street shall stop at Chestnut Street and Redwood Drive.

41. 18th Street. Vehicles traveling east on 18th Street shall stop at Olive Street.

42. 18th Street. Vehicles traveling on 18th Street shall stop at Oak Street.

43. 19th Street. Vehicles traveling west on 19th Street shall stop at Hillcrest Drive.

44. 19th Street. Vehicles traveling east on 19th Street shall stop at Olive Street and Redwood Drive.

45. 20th Street. Vehicles traveling west on 20th Street shall stop at Hillcrest Drive.

46. 20th Street. Vehicles traveling east on 20th Street shall stop at Olive Street.

47. 21st Street. Vehicles traveling on 21st Street shall stop at Hillcrest Drive and Oak Street.

48. 21st Street. Vehicles traveling east on 21st Street shall stop at Olive Street.

49. 22nd Street. Vehicles traveling on 22nd Street shall stop at Olive Street and Chestnut Street.

50. 22nd Street. Vehicles traveling west on 22nd Street shall stop at W. 7th Street.

51. 22nd Street. Vehicles traveling east on 22nd Street shall stop at Whitney Street.

52. 29th Street. Vehicles traveling on 29th Street shall stop at W. 7th Street.

53. 29th Street. Vehicles traveling east on 29th Street shall stop at Chestnut Street.

54. 32nd Street. Vehicles traveling west on 32nd Street shall stop at Chestnut Street.

55. Ash Street. Vehicles traveling south on Ash Street shall stop at 7th Street.

56. Ash Street. Vehicles traveling north on Ash Street shall stop at 14th Street.

57. Aspen Drive. Vehicles traveling west on Aspen Drive shall stop at Redwood Drive.

58. Baker Street. Vehicles traveling south on Baker Street shall stop at 16th Street.

59. Birch Street. Vehicles traveling on Birch Street shall stop at 2nd Street, 3rd Street, 4th Street, 5th Street, 6th Street, 7th Street and 10th Street.

60. Birch Street. Vehicles traveling south on Birch Street shall stop at 14th Street.

61. Brookridge Circle. Vehicles traveling west on Brookridge Circle shall stop at Roosevelt Drive.

62. Bryn Mawr Blvd. Vehicles traveling north on Bryn Mawr Blvd. shall stop at 14th Street.

63. Cass Avenue. Vehicles traveling west on Cass Avenue shall stop at Chestnut Street.

64. Cedar Street. Vehicles traveling on Cedar Street shall stop at 2nd Street, 5th Street, 6th Street, 7th Street and 10th Street.

65. Cedar Street. Vehicles traveling south on Cedar Street shall stop at 13th Street.

66. Cherry Street. Vehicles traveling north on Cherry Street shall stop at 7th Street.

67. Cherry Street. Vehicles traveling south on Cherry Street shall stop at 10th Street and 14th Street.

68. Chestnut Street. Vehicles traveling on Chestnut Street shall stop at 10th Street.

69. Chestnut Street. Vehicles traveling south on Chestnut Street shall stop at State Street.

70. Clark Street. Vehicles traveling north on Clark Street shall stop at Iowa Avenue.

71. Clark Street. Vehicles traveling south on Clark Street shall stop at State Street.

72. Commerce Street. Vehicles traveling east on Commerce Street shall stop at Olive Street.

73. Country Club Drive. Vehicles traveling south on Country Club Drive shall stop at 29th Street.

74. Country Oaks Drive. Vehicles traveling east on Country Oaks Drive shall stop at Palm Street.

75. Crombie Place. Vehicles traveling east on Crombie Place shall stop at Oak Street and Linn Street.

76. Cyprus. Vehicles traveling east on Cyprus shall stop at West Mahogany Drive.

77. Cyprus. Vehicles traveling west on Cyprus shall stop at Sunnyside Lane.

78. East Mahogany Drive. Vehicles traveling south on East Mahogany Drive shall stop at 10th Street.

79. East Side Drive. Vehicles traveling north on East Side Drive shall stop at Sunnyside Drive and 10th Street.

80. Elm Street. Vehicles traveling north on Elm Street shall stop at 2nd Street.

81. Elm Street. Vehicles traveling on Elm Street shall stop at 3rd Street, 5th Street, 7th Street, 10th Street and 11th Street.

82. Fair Ridge Circle. Vehicles traveling east on Fair Ridge Circle shall stop at Oak Street.

83. Hazel Street. Vehicles traveling north on Hazel Street shall stop at 14th Street.

84. Hazel Street. Vehicles traveling on Hazel Street shall stop at 3rd Street, 5th Street and 7th Street.

85. Hazel Street. Vehicles traveling south on Hazel Street shall stop at 10th Street and 16th Street.

86. Hemlock Avenue. Vehicles traveling north on Hemlock Avenue shall stop at 18th Street.

87. Hickory Street. Vehicles traveling on Hickory Street shall stop at 5th Street, 6th Street, 7th Street and 10th Street.

88. Hillcrest Drive. Vehicles traveling north on Hillcrest Drive shall stop at 18th Street.

89. Hillcrest Drive. Vehicles traveling south on Hillcrest Drive shall stop at 22nd Street.

90. Indian Trail Drive. Vehicles traveling on Indian Trail Drive shall stop at Sunnyside Drive.

91. Iowa Avenue. Vehicles traveling west on Iowa Avenue shall stop at Buck Creek Road.

92. Laurel Street. Vehicles traveling on Laurel Street shall stop at 6th Street, 7th Street and 10th Street.

93. Lincoln Drive. Vehicles traveling north on Lincoln Drive shall stop at 14th Street.

94. Linda Drive. Vehicles traveling on Linda Drive shall stop at Lincoln Drive.

95. Linda Drive. Vehicles traveling west on Linda Drive shall stop at Roosevelt Drive.

96. Linn Street. Vehicles traveling north on Linn Street shall stop at Commerce Street.

97. Linn Street. Vehicles traveling south on Linn Street shall stop at 11th Street.

98. Linn Street. Vehicles traveling on Linn Street shall stop at 3rd Street, 5th Street, 7th Street and 10th Street.

99. Locust Street. Vehicles traveling north on Locust Street shall stop at State Street.

100. Locust Street. Vehicles traveling on Locust Street shall stop at 2nd Street, 5th Street, 6th Street, 7th Street and 10th Street.

101. Locust Street. Vehicles traveling south on Locust Street shall stop at 14th Street.

102. Lois Circle. Vehicles traveling south on Lois Circle shall stop at 17th Street.

103. Lomas Circle. Vehicles traveling south on Lomas Circle shall stop at 17th Street.

104. Lomas Circle. Vehicles traveling west on Lomas Circle shall stop at Roosevelt Drive.

105. Maple Street. Vehicles traveling north on Maple Street shall stop at 2nd Street and 21st Street.

106. Maple Street. Vehicles traveling on Maple Street shall stop at 3rd Street, 5th Street, 7th Street, 10th Street and 11th Street.

107. Maple Street. Vehicles traveling south on Maple Street shall stop at 14th Street and 22nd Street.

108. Mulberry Street. Vehicles traveling north on Mulberry Street shall stop at 14th Street.

109. Mulberry Street. Vehicles traveling on Mulberry Street shall stop at 5th Street and 7th Street.

110. Mulberry Street. Vehicles traveling south on Mulberry Street shall stop at 10th Street and Lincoln Drive.

111. Oak Street. Vehicles traveling on Oak Street shall stop at 3rd Street, 5th Street and 7th Street.

112. Oak Street. Vehicles traveling south on Oak Street shall stop at 10th Street and 22nd Street.

113. Olive Street. Vehicles traveling on Olive Street shall stop at 10th Street and 14th Street.

114. Owner Avenue. Vehicles traveling north on Owner Avenue shall stop at 14th Street.

115. Owner Avenue. Vehicles traveling on Owner Avenue shall stop at 15th Street.

116. Owner Avenue. Vehicles traveling south on Owner Avenue shall stop at 17th Street.

117. Palm Street. Vehicles traveling north on Palm Street shall stop at 6th Street and 22nd Street.

118. Palm Street. Vehicles traveling on Palm Street shall stop at 7th Street, 10th Street and 29th Street.

119. Pine Street. Vehicles traveling on Pine Street shall stop at 5th Street and 7th Street.

120. Pine Street. Vehicles traveling south on Pine Street shall stop at 10th Street.

121. Plum Street. Vehicles traveling on Plum Street shall stop at 10th Street and 14th Street.

122. Poplar Street. Vehicles traveling on Poplar Street shall stop at 10th Street and 2nd Street.

123. Poplar Street. Vehicles traveling south on Poplar Street shall stop at 14th Street.

124. Redwood Drive. Vehicles traveling north on Redwood Drive shall stop at 14th Street.

125. Redwood Drive. Vehicles traveling on Redwood Drive shall stop at 17th Street.

126. Redwood Drive. Vehicles traveling south on Redwood Drive shall stop at 22nd Street.

127. Ridge Road. Vehicles traveling on Ridge Road shall stop at Linn Street.

128. Ridge Road. Vehicles traveling west on Ridge Road shall stop at Chestnut Street.

129. Roosevelt Drive. Vehicles traveling on Roosevelt Drive shall stop at 14th Street.

130. Roosevelt Drive. Vehicles traveling south on Roosevelt Drive shall stop at 17th Street.

131. Roosevelt Drive. Vehicles traveling west on Roosevelt Drive shall stop at Olive Street.

132. Sandler Road. Vehicles traveling south on Sandler Road shall stop at 14th Street.

133. Spruce Street. Vehicles traveling on Spruce Street shall stop at 3rd Street, 5th Street and 7th Street.

134. Spruce Street. Vehicles traveling south on Spruce Street shall stop at 10th Street.

135. Sunnyside Drive. Vehicles traveling east on Sunnyside Drive shall stop at East Side Drive.

136. Sunnyside Drive. Vehicles traveling on Sunnyside Drive shall stop at Indian Trail Drive.

137. Sunnyside Lane. Vehicles traveling north on Sunnyside Lane shall stop at 2nd Street.

138. Sunnyside Lane. Vehicles traveling on Sunnyside Lane shall stop at 6th Street, 10th Street, 22nd Street and 29th Street.

139. Sunnyside Lane. Vehicles traveling south on Sunnyside Lane shall stop at 7th Street.

140. Sycamore Avenue. Vehicles traveling north on Sycamore Avenue shall stop at 18th Street.

141. Sycamore Avenue. Vehicles traveling south on Sycamore Avenue shall stop at 21st Street.

142. Teresa Drive. Vehicles traveling north on Teresa Drive shall stop at 14th Street.

143. Walnut Street. Vehicles traveling on Walnut Street shall stop at 3rd Street, 4th Street, 5th Street, and 10th Street.

144. Walnut Street. Vehicles traveling south on Walnut Street shall stop at 2nd Street and 11th Street.

145. West Mahogany Drive. Vehicles traveling south on West Mahogany Drive shall stop at 10th Street.

146. Willow Street. Vehicles traveling north on Willow Street shall stop at 29th Street.

147. Park Drive. Vehicles traveling north on Park Drive shall stop at 7th Street.

148. Pine Ridge Drive. Vehicles traveling south on Pine Ridge Drive shall stop at 22nd Street.

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

(Code of Iowa, Sec. 321.345)

1. Indian Trail Drive. Vehicles traveling east on Indian Trail Drive shall yield at East Side Drive.

2. Park Drive. Vehicles traveling east on Park Drive shall yield at East Side Drive.

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

(Code of Iowa, Sec. 321.249)

1. On U.S. Highway 6, one hundred eighteen (118) feet west of the centerline of Linn Street.

2. Intersection of 14th Street and Linn Street.

3. Intersection of 14th Street and Olive Street.

4. Intersection of 10th Street and Linn Street.

5. Intersection of 10th Street and Olive Street.

6. Intersection of 7th Street and Olive Street.

7. Intersection of 7th Street and Chestnut Street.

65.04 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)

65.05 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.

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

(Code of Iowa, Sec. 321.327)

65.07 OFFICIAL TRAFFIC CONTROLS. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

(Code of Iowa, Sec. 321.256)

1. Intersection of 7th Street (Highway 6) and Olive Street.
2. Intersection of 7th Street (Highway 6) and Whitney Street (Highway 71).
3. Intersection of 7th Street (Highway 6) and Hospital Drive.
4. Intersection of 7th Street (Highway 6) and Plum Street.
5. Intersection of 7th Street (Highway 6) and Walnut Street.
6. Intersection of 7th Street (Highway 6) and Chestnut Street.
7. Intersection of 7th Street (Highway 6) and Poplar Street.
8. Intersection of Chestnut Street and 6th Street.
9. Intersection of Chestnut Street and 5th Street.
10. Intersection of Chestnut Street and 4th Street.
11. Intersection of Chestnut Street and 3rd Street.
12. Intersection of Chestnut Street and 2nd Street.

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits on Bridges

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 Street Superintendent or law enforcement officer 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 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. 321.473)

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CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing

67.01 WALKING IN STREET. Pedestrians shall at all times, when walking on or along a street, walk on the left side of the street.

(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, Sec. 321.328)

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

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

1. Eleventh (11th) Street is eastbound only from Linn Street to Olive Street.

2. The alley located between Cedar Street and Locust Street is southbound only from 3rd Street to 2nd Street.

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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 All Night Parking Prohibited
69.10 Truck and Large Vehicle Parking Prohibited
69.11 Truck Parking Permitted
69.12 Parking Limited to Five Minutes
69.13 Parking Limited to Two Hours
69.14 Parking Limited to Twenty-Four Hours
69.15 Prohibited Parking during Snow Emergency
69.16 Snow Routes
69.17 Controlled Access Facilities
69.18 Special Parking Permits
69.19 Parking for Personal Vehicles

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. Chestnut Street from 8th Street to 1st Street.

2. Poplar Street, on the west side, from 8th Street to 7th Street.

3. 8th Street, on the north side, from Chestnut Street to Poplar Street.

4. 6th Street, on the north side, from Chestnut Street to the alley between Chestnut Street and Poplar Street.

5. Walnut Street, on the east side, from 3rd Street to 5th Street.

6. Oak Street, on the east side, from 5th Street to 6th Street.

7. Walnut Street, on the west side, from 3rd Street to 4th Street.

8. Walnut Street, on the west side, south 125 feet between 4th Street and 5th Street.

9. Walnut Street, on the west side, from 4th Street to 5th Street, the south 100 feet.

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

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

1. Sale. Displaying such vehicle for sale;

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

3. Advertising. Displaying advertising;

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

69.06 PARKING PROHIBITED. No one shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. Crosswalk. On a crosswalk.

(Code of Iowa, Sec. 321.358[5])

2. Center Parkway. On the center parkway or dividing area of any divided street.

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

3. Mailboxes. Within 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 Police Chief 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 fifteen (15) 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 Sidewalk. 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 Street or Roadway. On the traveled portion of any street or roadway.

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. 2nd Street, on both sides, from Poplar Street to the west corporate limit.

2. 3rd Street, on the south side, from Elm Street to Olive Street.

3. 3rd Street, on the south side, from Locust Street to Hickory Street.

4. 4th Street, on the south side, from Elm Street to Spruce Street.

5. 4th Street, on the north side, from Poplar Street to Locust Street.

6. 5th Street, on the north side, from Maple Street to Mulberry Street.

7. 5th Street, on the south side, from Locust Street west to the alley between Cedar Street and Birch Street.

8. 6th Street, on the south side, from Elm Street to Mulberry Street.

9. 6th Street, on the south side, from Locust Street to the west corporate limit.

10. 8th Street, on the north side, from Poplar Street to Locust Street.

11. 8th Street, on the south side, from Chestnut Street to Maple Street.

12. 8th Street, on the north side, from Maple Street to Pine Street.

13. 8th Street, on the south side, from Pine Street to Plum Street.

14. 8th Street, on the south side, from Locust Street to Palm Street.

15. East 8th Street, on the north side, from Plum Street to the end of East 8th Street.

16. East 8th Street, on the south side, from the east end of East 8th Street west for a distance of 140 feet.

17. 9th Street, on the north side, from Chestnut Street to Cedar Street.

18. 9th Street, on the south side, from East Mahogany Drive to Cedar Street.

19. 9th Street, on the south side, from Chestnut Street to Plum Street.

20. 10th Street, on the south side, from East Mahogany Drive to Plum Street.

21. 10th Street, on both sides, from Plum Street to Hospital Drive.

22. 10th Street, on both sides, from SE 7th Street to Sunnyside Lane.

23. 11th Street, on the south side, from Chestnut Street to Olive Street.

24. 11th Street, on the north side, from Chestnut Street to the dead end of 11th Street, west end.

25. 12th Street, on the north side, from Plum Street to the golf course.

26. 12th Street, on the south side, from Chestnut Street to Maple Street.

27. 13th Street, on the south side, from Chestnut Street to Elm Street.

28. 14th Street, on the north side, from Chestnut Street to Sunnyside Park.

29. 14th Street, on the north side, from Elm Street to Linn Street.

30. 14th Street, on the south side, from Linn Street to Olive Street.

31. 14th Street, on the north side, from Olive Street to Plum Street.

32. 14th Street, on both sides, from Plum Street to Highway 71 (Whitney Street).

33. 16th Street, on the south side, from Linn Street to Oak Street.

34. 17th Street, west of Redwood Drive to the end of 17th Street and east of Redwood Drive to the end of 17th Street, north side.

35. 18th Street, on the south side, from Chestnut Street to Bryn Mawr Circle.

36. l9th Street, on the north side, from Bryn Mawr Circle to Hemlock.

37. Aspen Drive, on the north side.

38. Birch Street, on the east side, from 5th Street to 14th Street.

39. Bryn Mawr Circle, on the inside.

40. Bryn Mawr Boulevard, on the east side, from 14th Street to Ridge Road.

41. Bryn Mawr Boulevard, on the west side, from Ridge Road to 18th Street.

42. Cass Avenue, on the north side, from Chestnut Street to Bryn Mawr Boulevard.

43. Cedar Street, on the east side, from 5th Street to 13th Street.

44. Cherry Street, on the west side, from 7th Street to 10th Street.

45. Chestnut Street, on the east side, from Ridge Road to 22nd Street.

46. Chestnut Street, on the west side, from 22nd Street to the south corporate limit.

47. Chestnut Street, on the west side, from Cass Avenue to 8th Street.

48. Chestnut Street, on the east side, from the south right-of-way line of 7th Street south for a distance of 125 feet.

49. Crombie Street, on the north side, from Oak Street to Linn Street.

50. Crombie Street, on the north side, from Linn Street to Bryn Mawr Circle.

51. Cypress Street, on the northeast side, from west Mahogany Drive to Sunnyside Drive.

52. Cypress Street, on the southwest side, from Sunnyside Drive for 80 feet.

53. Elm Street, on the west side, from 2nd Street to 5th Street.

54. Elm Street, on the west side, from 7th Street to 12th Street.

55. Hazel Street, on the west side, from 3rd Street to 10th Street.

56. Hemlock Avenue, on the east side, from 18th Street to l9th Street.

57. Hemlock Avenue, on the west side, from 18th Street to a point 15 feet south of 18th Street.

58. Hickory Street, on the east side, from 5th Street to 10th Street.

59. Hospital Drive, on both sides, from 7th Street to 10th Street.

60. Laurel Street, on the east side, from 4th Street to 10th Street

61. Linn Street, on the west side, from 3rd Street to 11th Street.

62. Linn Street, on the east side, from Crombie Street to Ridge Road.

63. Locust Street, on the west side, from 2nd Street to 14th Street.

64. Lois Circle, west side.

65. East Mahogany Drive, on the west and northwest sides.

66. West Mahogany Drive, on the east and southeast sides.

67. Maple Street, on the east side, from 7th Street to 10th Street.

68. Maple Street, on the west side, from 2nd Street to 7th Street.

69. Maple Street, on the west side, from 10th Street to 14th Street.

70. Mulberry Street, on the west side, from 5th Street to 10th Street.

71. Oak Street, on the east side, from 7th Street to 9th Street.

72. Oak Street, on the west side, from 3rd Street to 5th Street.

73. Oak Street, on the west side, from 6th Street to 7th Street.

74. Oak Street, on the west side, from Crombie Street to Ridge Road.

75. Olive Street, on both sides, from 6th Street to 8th Street.

76. Olive Street, on the west side, from 10th Street to 14th Street.

77. Palm Street, on the west side, from 6th Street to 7th Street.

78. Pine Street, on the west side, from 7th Street to 10th Street.

79. Plum Street, on the west side, from 7th Street to 14th Street.

79A. Plum Street, on the east side from the south right-of-way line of 7th Street south for a distance of 80 feet.

80. Poplar Street, on the west side, from 8th Street to 14th Street.

81. Poplar Street, on both sides, from 6th Street to 7th Street.

82. Poplar Street, on the east side, from the south right-of-way line of 7th Street south for a distance of 125 feet.

83. Redwood Drive, west side.

84. Ridge Road, on the north side, from Linn Street to Oak Street.

85. Ridge Road, on the south side, from Chestnut Street to Linn Street.

86. Spruce Street, on the east side, from 7th Street to 10th Street.

87. Spruce Street, on the west side, from 4th Street to 7th Street.

88. Sunnyside Lane, on the east side, from 10th Street to a point 1,785 feet south of 10th Street.

89. Sunnyside Lane, on the west side, from 10th Street to a point 1,000 feet south of 10th Street.

90. Sunnyside Lane, on both sides, from 2nd Street to 7th Street.

91. Sunnyside Lane, on both sides, from Cypress Street for 285 feet.

92. Sycamore Avenue, on the west side, from 18th Street to 21st Street.

93. Waddell Drive, on the east side, from Ridge Road to Cass Avenue.

94. Walnut Street, on both sides, from 6th Street to 8th Street.

95. Walnut Street, on the west side, from 10th Street to 11th Street.

96. 22nd Street, on the south side, from Chestnut Street to Olive Street.

97. 22nd Street, on the north side, from Chestnut Street to Hillcrest Drive.

98. Third Street Place, on the south side.

99. Sky Jack Avenue, on both sides, from 14th Street to 17th Street.

100. From the center of the intersection of East 14th Street and Hazel Street west on East 14th Street a distance of 300 feet (when signs are erecting giving notice thereof, from 7:30 a.m. to 8:30 a.m., Monday through Friday, both days inclusive).

101. Hazel Street, on the west side, from 14th Street to 16th Street from 8:00 a.m. to 4:00 p.m., Monday through Friday.

102. The north side of 19th Street from Redwood Drive West to the end of the street.

103. Linn Street, on the east side, from 8th Street north 100 feet, from 7:45 a.m. to 3:15 p.m., when school is in session.

104. 7th Street SW (Highway 6), on the west side, from Sunnyside Lane south 400 feet.

(Ord. 948 – Sep. 13 Supp.)

69.09 ALL NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any of the following named streets for a period of time longer than thirty (30) minutes between the hours of 2:00 a.m. and 6:00 a.m. of any day without a written permit from the Police Chief.

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

1. 2nd Street from Walnut Street to Poplar Street.
2. 3rd Street from Walnut Street to Poplar Street.
3. 4th Street from Walnut Street to Poplar Street.
4. 5th Street from Walnut Street to Poplar Street.
5. 6th Street from Walnut Street to Poplar Street.
6. Chestnut Street from 7th Street to the railroad right-of-way.
7. Walnut Street from 7th Street to 2nd Street.

69.10 TRUCK AND LARGE VEHICLE PARKING PROHIBITED. No person shall park a motor truck, semi-truck, semi-trailer, motor home, recreational vehicle or trailer, boat, boat trailer, farm machinery or equipment, or other motor vehicle with trailer attached or detached on any street, alley or public thoroughfare within the City, excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo. When actually receiving or delivering merchandise or cargo, such vehicle shall be stopped or parked in a manner which will not interfere with other traffic. The provisions of this section do not apply to pickup, light delivery or panel delivery trucks. **(See also Zoning Code, Sec. 17.070, Storage of Commercial Vehicles and 17.080, Location of Boats, Boat Trailers, Campers and Travel Trailers.)**

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

69.11 TRUCK PARKING PERMITTED. All motor trucks, semi-trailers, semi-trailer tractors or any other motor vehicle with trailer attached may park, without charge, at the "truck/truck trailer parking area" located on Lots 31, 32, 33 and 34 in Walker's Addition to the City of Atlantic with an address of 110 State Street.

69.12 PARKING LIMITED TO FIVE MINUTES. It is unlawful to park any vehicle for a continuous period of more than five (5) minutes upon the following designated street from the hours 8:30 a.m. to 3:30 p.m.

1. Maple Street on the east side, from the intersection of Maple Street and 11th Street south to 12th Street.

69.13 PARKING LIMITED TO TWO HOURS. It is unlawful to park any vehicle for a continuous period of more than two (2) hours upon the following designated streets or portions of streets:

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

1. 2nd Street, on both sides, from Chestnut Street east to the alley between Walnut Street and Elm Street.

2. 3rd Street, on both sides, from the alley between Chestnut Street and Poplar Street, east to Walnut Street.

3. 4th Street, on both sides, from Poplar Street east to Walnut Street.

4. 5th Street, on both sides, from Poplar Street east to the alley between Walnut Street and Elm Street.

5. 5th Street, on the north side, from Poplar Street west to the alley between Poplar Street and Locust Street.

6. 6th Street, on the south side, from Chestnut Street east to the alley between Walnut Street and Chestnut Street.

7. Chestnut Street, on both sides, from the railroad right-of-way south to 7th Street.

8. Walnut Street, on both sides, from 2nd Street to 6th Street.

9. Poplar Street, on both sides, from 4th Street to 5th Street.

10. Poplar Street, on the east side, from 5th Street to 6th Street.

69.14 PARKING LIMITED TO TWENTY-FOUR HOURS. No person shall park any vehicle for a continuous period of more than twenty-four (24) hours in any parking space in the following municipal parking lots:

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

1. Lot No. 1. Municipal Parking Lot No. 1, located at the corner of 5th Street and Walnut Street.

2. Lot No. 2. Municipal Parking Lot No. 2, located at the corner of 3rd Street and Walnut Street.

3. Lot No 3. Municipal Parking Lot No. 3, located on Poplar Street between 3rd Street and 4th Street.

4. Lot No. 4. Municipal Parking Lot No. 4, located at the corner of 4th Street and Poplar Street.

5. Lot No. 6. Municipal Parking Lot No. 6, located on Walnut Street between 4th Street and 5th Street.

69.15 PROHIBITED PARKING DURING SNOW EMERGENCY.

1. No person shall park, abandon or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during a 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 through the duration of the snow or

ice storm and the 48-hour period after cessation of such, except as above provided upon any street, alley or City-owned off-street parking area which has been fully plowed.

2. Such a ban shall be of uniform application and the Police Chief is directed to publicize widely the requirements, using all available news media. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation. Such emergency may be extended or shortened when conditions warrant.

3. The parking prohibition provided above shall be modified as follows:

A. On streets where parking is permitted on both sides, all motor vehicles must be removed from the street or parked on the side of the street with even building numbers. After one-half of the street has been cleaned to the curb, but no later than twelve (12) hours after the declaration of the snow emergency, all motor vehicles shall be moved to the side of the street with odd building numbers until the full width of the street has been cleaned.

B. On streets where parking is prohibited on one side at all times, motor vehicles shall be parked on the permitted side until one-half of the street has been cleaned. After the first half of the street has been cleaned, but not more than twelve (12) hours after the declaration of the snow emergency, motor vehicles shall then be parked on the "prohibited" side of the street until the full width of the street has been cleaned.

C. Parking of motor vehicles is not permitted on streets where no parking on both sides of the street exists at all times or during specified hours.

D. On City owned off-street parking areas (parking lots) all motor vehicles must be removed from the off-street parking area or be parked on the south side of the parking area. After the north side of the parking area has been cleared but no later than twelve (12) hours after the declaration of the snow emergency, all motor vehicles shall be moved to the north side of the off-street parking area until the full width of the lot has been cleaned.

69.16 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])

69.17 CONTROLLED ACCESS FACILITIES. Parking restrictions on controlled access facilities are as specified in Chapter 140 of this Code of Ordinances.

69.18 SPECIAL PARKING PERMITS. Notwithstanding anything in this chapter to the contrary, a special Downtown Resident Parking Permit may be obtained from the Clerk upon proof of residence in the Downtown District.

1. The special parking permit is valid for a 12-month period and then must be renewed. It is a stick-on permit to be placed in the rear window of the vehicle.

2. The special parking permit will allow parking on certain public streets in the Downtown District from 5:00 p.m. to 8:00 a.m., with the following exceptions:

A. On Thursday nights, permitted parking begins at 9:00 p.m. rather than 5:00 p.m.

B. For purposes of street sweeping, parking is prohibited on the first Wednesday evening of each month from 5:00 p.m. until the following Thursday morning at 8:00 a.m.

C. For purposes of snow removal, parking is prohibited after the cessation of any snow accumulation of one inch or more for a period of 48 hours for the City to clear the streets of snow from curb to curb. During declared snow emergencies, there will be no parking on City street in the Downtown District except in compliance with the Snow Emergency Ordinance.

3. The special Downtown Resident Parking Permit shall be issued, upon request, by the Clerk and the annual fee is ten dollars ($10.00), paid at the time the permit is issued.

4. The following streets and portions thereof may be used by those persons having a special Downtown Resident Parking Permit.

A. 2nd Street, on both sides, from Chestnut Street east to the alley between Walnut Street and Elm Street.

B. 3rd Street, on both sides, from the alley between Chestnut Street and Poplar Street east to Walnut Street.

C. 4th Street, on both sides, from Poplar Street east to Walnut Street.

D. 5th Street, on both sides, from Poplar Street east to the alley between Walnut Street and Elm Street.

E. 5th Street, on the north side, from Poplar Street west to the alley between Poplar Street and Locust Street.

F. 6th Street, on the south side, from Chestnut Street east to the alley between Walnut Street and Chestnut Street.

G. Chestnut Street, on both sides, from railroad right-of-way south to 7th Street.

H. Walnut Street, on both sides, from 2nd Street south to 6th Street.

I. Poplar Street, on both sides, from 4th Street to 5th Street.

J. Poplar Street, on east side, from 5th Street to 6th Street.

5. If the owner of any vehicle is guilty of three (3) or more violations of this special parking permit during any 12-month period, the special parking permit will be automatically revoked by the City for a period of 12 months, during which time the violator will not be issued another permit.

69.19 PARKING FOR PERSONAL VEHICLES. Personal vehicles include passenger cars, vans, sport utility vehicles, pickup trucks, boats and boat trailers. Maximum height of any personal vehicle may not exceed eight (8) feet from grade.

1. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.

2. Parking is permitted on an all-weather driveway (defined as either paved, gravel or stone) within the front yard setback, but shall in no case encroach upon the public right-of-way. Personal vehicles may not be parked on the grass.

3. Parking may occur in the rear yard or side yard setback if on an all-weather parking space which is connected by an all-weather driveway to a dedicated public right-of-way and/or alley.

(See also Zoning Code, Sec. 17.070, Storage of Commercial Vehicles, and 17.080, Location of Boats, Boat Trailers, Campers and Travel Trailers.)

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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 ten dollars ($10.00) for all violations except snow route parking violations and 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 snow route parking violations[†] is twenty-five dollars ($25.00), and the simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00).

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

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

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

[†] **EDITOR'S NOTE:** A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. (See Section 69.16.)

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. A good faith effort will be made to locate the owner and allow a reasonable amount of time for the owner to remove the vehicle.

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 Operation of All-Terrain Vehicles
75.06 Negligence
75.07 Accident Reports

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

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

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

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

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but that 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 is limited in engine displacement to less than 1,500 cubic centimeters and in total dry weight to not more than 2,000 pounds and 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. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

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

4. "Snowmobile" means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 48 inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the

Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

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

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

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on the following streets, upon the traveled portion thereof and on the right-hand side thereof and as close to the curb line as possible for the sole purpose of reaching the corporate limits or returning therefrom and for no other purpose:

A. Olive Street from the north City limits to the south City limits.

B. 10th Street from Sunnyside Lane to Olive Street.

C. Sunnyside Lane from Highway 83 (2nd Street) to 7th Street (Highway 6) and from 10th Street to the south City limits.

D. Highway 83 from Buck Creek Road to Sunnyside Lane.

E. Buck Creek Road north to City limits.

F. 14th Street from City park to Chestnut Street.

G. Chestnut Street from 14th Street south to City limits.

H. Chestnut Street from Iowa Avenue to Commerce Street.

I. Commerce Street from Chestnut Street to Olive Street.

Snowmobiles may be operated on any other street by the utilization of the shortest most direct route from a point of origin to one of the streets set forth in subsections A through I above or from one of the such streets to a point of destination. This includes the shortest route to the nearest service station for needed fuel.

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 that constitutes an immediate hazard; and

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

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

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

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

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

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

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

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

75.05 OPERATION OF 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.

(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."

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

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

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

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

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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 Single File or Two Abreast Limit
76.05 Speed
76.06 Emerging from Alley or Driveway
76.07 Carrying Articles
76.08 Riding on Sidewalks
76.09 Towing
76.10 Improper Riding
76.11 Parking
76.12 Equipment Requirements
76.13 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 that by their nature can have no application. Whenever such person dismounts from a bicycle, the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

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

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

76.04 SINGLE FILE OR TWO ABREAST LIMIT. Persons riding bicycles upon 7th Street and Chestnut Street shall ride in single file; on other roadways, bicyclists shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

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

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

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

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

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

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

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

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

1. Business District. No person shall ride a bicycle upon a sidewalk within the C-3 zoned Business District, except a uniformed City police officer or a reserve police officer while on duty as a police officer. (Police officers on bicycles are known as the Police Cyclist Corps.)

(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, except a member of the Police Cyclist Corps in the performance of that person's police duties.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.397)

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

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

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

GOLF CARTS

77.01 Purpose
77.02 Traffic Code Applies
77.03 Riding on Golf Carts
77.04 Operation Permitted
77.05 Prohibited Streets
77.06 Driver's License Required
77.07 Equipment
77.08 Hours of Operation
77.09 Registration

77.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on certain streets in the City, as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter applies whenever a golf cart is operated on any street or alley, subject to those exceptions stated herein.

77.02 TRAFFIC CODE APPLIES. Every person operating a golf cart upon a street or alley shall be granted all of the rights and privileges and shall be subject to all the duties and obligations applicable to the driver of a vehicle and to the laws of the State declaring the rules of the road applicable to the driver of the vehicle, except as to those provisions which by their nature can have no application.

77.03 RIDING ON GOLF CARTS. A person operating a golf cart shall not ride other than on a permanent regular seat attached thereto. No golf cart shall be used to carry more persons at one time than the number for which it is designed and equipped.

77.04 OPERATION PERMITTED. Golf carts may be operated on certain streets only for the purpose of traveling from a point of origin to and from either golf course located in the City. In so doing, the shortest and most direct street route to and from the point of origin to the golf course shall be used. Golf carts shall be operated only on the roadway or traveled portion of the street and shall not be operated on any sidewalk.

77.05 PROHIBITED STREETS.

1. Golf carts shall not be operated upon any City street which is a primary road extension through the City, to wit, Highway No. 6 (Seventh Street), Highway No. 71 and Highway No. 83; however, golf carts may cross such primary road extensions and shall do so at an angle of approximately 90 degrees to the direction of said primary road or street.

2. Golf carts shall not be operated upon Third Street, West Sixth Street, Tenth Street, Olive Street north of Tenth Street, Chestnut Street north of Fourteenth Street and in the Central Business District. Anyone who resides on a prohibited street may operate a golf cart on such prohibited street, but only to get to the nearest street upon which golf carts are permitted.

77.06 DRIVER'S LICENSE REQUIRED. Any person operating a golf cart upon any City street shall possess a valid motor vehicle license issued by the State.

77.07 EQUIPMENT. Golf carts operated upon any street shall be equipped with a slow-moving vehicle sign and a bicycle safety flag at all times during operation, and shall have adequate brakes.

77.08 HOURS OF OPERATION. Golf carts may be operated on City streets only from sunrise to sunset.

77.09 REGISTRATION. Golf carts operated on City streets are not required to be registered under Chapter 321 of the *Code of Iowa*; however, the operator of a golf cart is subject to the financial responsibility provisions of Chapter 321A of the *Code of Iowa*.

CHAPTER 78

SKATES AND SKATEBOARDS

78.01 Use Prohibited in Central Business District
78.02 Pedestrians
78.03 Penalty

78.01 USE PROHIBITED IN CENTRAL BUSINESS DISTRICT. The use of skateboards, roller skates and in-line skates is prohibited upon the sidewalks and the traveled portion of streets in the C-3 Central Business District, as designated on the official zoning map of the City.

78.02 PEDESTRIANS. Pedestrians upon the sidewalks shall have the right-of-way at all times over persons using skateboards, roller skates or in-line skates upon any sidewalk not prohibited in this chapter. Any person using or operating a skateboard, roller skates or in-line skates on any sidewalk shall turn off the sidewalk at all times when meeting or passing pedestrians.

78.03 PENALTY. The skateboard, roller skates or in-line skates of any person violating the provisions of this chapter may be impounded by the Police Chief for not less than five (5) days for a first offense, ten (10) days for a second offense and thirty (30) days for each additional offense thereafter. As used in this section, "impound" means that the Police Chief or any officer of the police department shall seize the skateboard, roller skates or in-line skates and hold the same in legal custody for the term required for a violation of this chapter.

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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] & Sec. 321.90)

1. "Abandoned vehicle" means any of the following:

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than 24 hours.

C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of 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. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.

4. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned

vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within 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.

(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 all towing and storage fees as established by the storage facility, whereupon the vehicle shall be released.

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

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

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

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

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

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

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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 [29])

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 Board of Trustees **90.02 Private Wells**

90.01 BOARD OF TRUSTEES. The management of the City's Waterworks Utility is the responsibility of the Utility Board of Trustees established and operated as described in Chapter 25 of this Code of Ordinances.

90.02 PRIVATE WELLS. No person shall install a private drinking or non-drinking water well, as defined in 567 Iowa Administrative Code 135.2, within City limits, unless a determination has been made by the City Administrator that it is a closed loop system or the well location is greater than 1,000 feet from where an area of contamination requiring corrective action under Iowa law has been determined to exist. In addition, drinking water wells outside the 1,000-foot restricted area shall not be installed if the building to be served is within 250 feet from an accessible water distribution main owned and controlled by the City.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties
95.10 Hookup for Sanitary Sewer and Water in Atlantic Eastside Water and Sewer Extension Project 2004

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 five (5) feet (1.5 meters) 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 four or fewer dwelling units or other facilities 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 Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.

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

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

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewers 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 Sewers 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 five hundred (500) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12[3f])
(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the

Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 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 Sewers 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 Sewers chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

95.10 HOOKUP FOR SANITARY SEWER AND WATER IN ATLANTIC EASTSIDE WATER AND SEWER EXTENSION PROJECT 2004.

1. Property owners in Eastside Water and Sewer Extension Project 2004 need not hook up to the City sanitary sewer and water immediately upon being annexed to the City. However, if a property owner wishes to hook up to the new sewer line, the hookup fee for the first six months following completion of the line will be $1,000.00. After the six-month period, the hookup fee will be whatever the regular City hookup fee is at the time of application for sewer services.

2. The water hookup fee will be the usual fee for a tap as set out in the rules of the Atlantic Municipal Utilities.

3. Another alternate hookup possibility is that within five years after the sewer and water systems are available, each property owner shall connect to the sewer and municipal water systems as provided in Section 95.05 of this Code of Ordinances.

4. Any construction that requires a building permit under this Code of Ordinances must hook up to sewer and water at time of construction.

5. These alternate methods of hookup apply only to the Atlantic Eastside Water and Sewer Extension Project 2004.

6. Nothing in this section will prevent property owners from hooking to the sewer and water lines at any time such lines are available.

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CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Connection Charge
96.03 Plumber Required
96.04 Excavations
96.05 Connection Requirements
96.06 Interceptors Required
96.07 Sewer Tap
96.08 Restoration of Public Property and Inspection
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 sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. The person who makes the application shall pay a connection charge in the amount of five cents (5¢) per square foot of real property owned by any applicant, with a minimum charge of $350.00 and a maximum charge of $1,000.00, to reimburse the City for costs borne by the City in making sewer service available to the property served.

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

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

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

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

4. Water Lines. When possible, building sewers should be laid at least 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 and at a uniform grade of not less than the following:

A. Four-inch lines: one-eighth (1/8) inch per foot.

B. Six-inch lines: one-eighth (1/8) inch per foot.

C. Minimum velocity: 2.50 feet per second with the sewer half full.

D. Deviations: any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with properly curved pipe and 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 Division 4 of the State Building 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. Cast and ductile iron water pipe - A.S.T.M. A-377.

D. P.V.C. - DWV - A.S.T.M. D-2665.

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 commensurate with the type of pipe used, subject to the approval of the Superintendent.

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

96.08 RESTORATION OF PUBLIC PROPERTY AND INSPECTION. Streets, sidewalks, alleys and other public property disturbed in the course of work shall be restored to the condition of the property prior to the commencement of work or in a manner satisfactory to the City, at the expense of the permit holder/property owner. The following specifications shall be met:

1. The street surface shall be restored with the same material that was removed.

2. All pipe embedment will be completed in accordance with the pipe embedment details referenced in the *Urban Standard Specifications for Public Improvements Manual*.

3. All excavation and patching shall comply with the full depth PCC patching specifications found in the *Urban Standard Specifications for Public Improvements Manual*.

4. In accordance with the *Urban Standard Specifications for Public Improvements Manual*, any and all concrete and asphalt streets shall have edges sawed by the contractor or property owner before repairing the excavation.

5. All connections with the sanitary sewer system shall be subject to Waste Water Treatment Plant inspection as soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done. The Sanitary Sewer Superintendent or their designee, shall be notified and the Superintendent or their designee, may inspect and test the work as to workmanship and material. No sewer pipe shall be covered or trenches filled until after the Supervisor has approved the work or has indicated an intent not to inspect the property. If the Superintendent has rejected the work, the plumber or owner must proceed immediately to correct the work. A $50.00 inspection fee will be charged for each time the property is inspected by the Superintendent.

6. The contractor and/or owner is responsible for any and all concrete work done in complying with the Patching Standards for patches requiring concrete resurfaces. The contractor and/or owner shall also be responsible for the application of concrete underlying asphalt resurfacing as required by the referenced Patching Standards. The City shall resurface asphalt, as required, after the above requirements are met and the surface properly saw cut, with expenses for such resurfacing being charged to the owner of the property. Concrete work completed by the contractor and/or owner shall be caulked and sealed upon completion of the project in compliance with the above-referenced standards. Street resurfacing, curb work and sidewalk restoration shall be completed within 15 days of approval of the contractor's and/or owner's workmanship by the City. Resurfacing completed by the City shall be completed at the discretion of the Public Works Department.

7. The owner of the property and/or contractor shall warranty their workmanship for the period of one year. Any workmanship found to be defective shall be immediately repaired according to the standards outlined above. The owner shall indemnify the City from any lawsuits or damage that may directly or indirectly be occasioned by defective workmanship.

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
97.09 Septic Disposal

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.

A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more than 350 parts per million by weight of suspended solids; or (iii) having an average daily flow greater than two percent of the average sewage flow of the City, shall be subject to the review of the Superintendent.

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

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

1. High Temperature. Any liquid or vapor having a temperature higher than 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 premise 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).

97.09 SEPTIC DISPOSAL. The City may accept septic waste from individuals and/or businesses when approved by the Superintendent. The location for discharge, procedures, times, and acceptable waste accepted into the City system will be designated by the Superintendent and posted at City Hall and the Wastewater Treatment Facility. Individuals or companies desiring to discharge septic waste into the City collection system must first obtain a discharge permit. Permits are available at City Hall between 8:00 a.m. and 5:00 p.m. A discharge fee associated with the permit must be paid at time of application based upon the estimated volume of the discharge. If the amount appears to be more, as determined by the wastewater employee at the time of discharge, the difference in cost will have to be paid to City Hall after the discharge. Persons receiving permits will receive a copy of the current fee schedules and guidelines for discharge at the time of application.

1. Fee Schedule. Fees will be established by resolution of the Council. Fees will not be less than the actual amount of handling and treating septic sludge.

2. Persons found to be discharging septic or other waste into the City system in violation of the posted guidelines or without a proper permit will be cited by law enforcement authorities and will be charged a civil penalty. If found to be in violation, persons or companies shall be prohibited from obtaining permits and/or discharging into the City system for a period of one year.

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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
98.09 Minimum Lot Area

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.

98.09 MINIMUM LOT AREA. No permit shall be issued for any on-site wastewater treatment and disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 15,625 square feet.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Determination of Water Usage
99.04 Private or Unmetered Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Lien Exemption
99.08 Lien Notice
99.09 Special Rates and Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service charges as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each and every lot, parcel of real estate, building, or premises within the City which is connected with and uses the sanitary utilities of the City, or which in any way uses or discharges sanitary sewage, industrial waste, water or other liquid, either directly or indirectly, into the sewage system of the City, shall pay a monthly service charge, rate or rental to the City, based on the amount of water used, in accordance with the following schedule:

1. First 3,000 gallons or lesser amount per month @ $28.50 (minimum bill).

2. All over 3,000 gallons per month @ $5.80 per 1,000 gallons.

99.03 DETERMINATION OF WATER USAGE. In determining the amount of water usage for each premises, one of the following methods, which would fairly measure the water used for sanitary sewer purposes, shall be used:

1. Residential Customers.

   A. The average of the water usage for the months of January, February, and March of each year will be used for the following twelve (12) months.

   B. For newly constructed homes, houses, dwelling places, or other residential structures or premises, the water usage for the first full month after completion will be used until the usage can be ascertained under paragraph A of this subsection.

   C. A new resident in an existing residential premises will be billed on the basis of the previous resident, as determined under paragraph A, or if billing under said paragraph cannot be determined, the water usage for the first full month of the person's living in the existing residence will be used until usage can be ascertained under paragraph A.

   D. If the premises is vacant during any one or more of the months of January, February, and March, then the three-month average shall be ascertained by substituting November, December, April, or May, in that order of preference, for the months in which the premises is vacant.

2. Nonresidential Customers. Business, industrial, and other nonresidential customers' usage shall be based on actual monthly water usage.

99.04 PRIVATE OR UNMETERED WATER SYSTEMS. Customers whose premises are served by a private or unmetered water system shall pay sewer charges based upon the water used as determined by the City. The minimum charge for such systems shall be $30.00 per month.

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions as payment for water service and electric service, as established by the Utility Board of Trustees. To the extent that the sewer service charges are billed as part of a combined service account, utility services may be discontinued if the account becomes delinquent.

99.06 LIEN FOR NONPAYMENT. 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 to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to sewer service charges for a residential rental property where the charge is paid directly to the Utility by the tenant, if the landlord gives written notice to the Utility that the property is residential rental property and that the tenant is liable for the rates or charges for such service. The Utility may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the Utility. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the Utility shall acknowledge the notice and deposit. A change in tenant shall require a new written notice to be given to the Utility within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the Utility shall refund the deposit if all service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the Utility within thirty (30) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

(Code of Iowa, Sec. 384.84)

99.08 LIEN NOTICE. A lien for delinquent sewer 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.

(Code of Iowa, Sec. 384.84)

99.09 SPECIAL RATES AND AGREEMENTS PERMITTED. 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. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council,

and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

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CHAPTER 100

STORM WATER MANAGEMENT UTILITY

100.01 Purpose and Findings
100.02 Definitions
100.03 Storm Water Management Utility Established
100.04 Establishment of the ESU Rate
100.05 Single-Family Residential Property Charges
100.06 Multi-Family Residential Property Charges
100.07 Mobile Home Park Charges
100.08 Charges for Undeveloped Property Classified as Agriculture, Commercial or Industrial
100.09 Charges for Developed Property Classified as Agriculture with Improvements
100.10 Charges for Developed Property Classified as Commercial or Industrial
100.11 Charges for Developed Property Classified as Commercial or Industrial in the C-3 Districts
100.12 Charges for Measured Uses
100.13 Seasonal Impervious Area
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100.15 Exemption from Storm Water Management Charge
100.16 Credits for Water Quantity Portion of the Storm Water Utility
100.17 Billing
100.18 Delinquency, Collection, Interest and Penalties
100.19 Request for Service, Disconnection From Service; Use Reclassification; Termination of User Charges
100.20 Adoption of Rules; Interpretations and Appeals

100.01 PURPOSE AND FINDINGS. The purpose of this chapter is to establish the Storm Water Management Utility, to authorize charges for the use of, and discharge to, the storm and surface water drainage systems of the City, to provide a process for appeals of certain decisions by the Council relating to such charges, and to provide for collection of delinquent charges. The Council finds that the construction, operation and maintenance of the City's storm water system should be funded through user charges imposed for the discharge of storm and surface water to the storm water drainage system, thereby charging those persons and activities using or receiving service from that system. The City may be required to provide increased quantity or quality controls to mitigate those impacts of pollutants from discharging storm and surface waters into the storm water system. Therefore, it is appropriate to impose a storm and surface water user charge upon all users of property which may discharge, directly or indirectly into the storm water system.

100.02 DEFINITIONS. The following words have the following definitions when used in this chapter, and any resolution and order adopted pursuant hereto, unless the context requires otherwise or unless such word is expressly defined otherwise:

1. "Bonds" means revenue bonds, notes, loans or other debt obligations issued or incurred to finance the costs of construction.

2. "Collection agent" means the agent, entity or firm designated by the Council to coordinate bills and receive revenues on behalf of the storm water management utility.

3. "Contributor" or "user" means any person responsible for the direct or indirect discharge of storm water or surface or subsurface waters into the City's storm water drainage system.

4. "Cost of construction" means the cost reasonably incurred in connection with providing capital improvements to the system or any portion thereof, including but not limited to the costs of: (i) acquisition of all property, real or personal, and all interests in connection therewith, including all rights-of-way and easements therefor; (ii) physical construction, installation and testing including the costs of labor,

services, materials, supplies and utility services used in connection therewith; (iii) architectural, engineering, legal and other professional services; (iv) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation; (v) any taxes or other charges which become due during construction; (vi) expenses incurred by the City or on its behalf with its approval in seeking to enforce any remedy against any contractor or subcontractor in respect of any default under a contract relating to construction; (vii) principal and interest on any bonds, notes, loans or other debt obligations; and (viii) miscellaneous expenses incidental thereto.

5. "Connection" means the physical act or process of directing or allowing the flow of storm and surface waters to the storm 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.

6. "Date of imposition" or "imposition date" means July 1 of each fiscal year or such other date designated by the Council at which time a charge is imposed and becomes the legal obligation of the user. The obligation may include the cost of services to be provided during the billing period or for services previously provided to the same person under this chapter.

7. "Days" means calendar days unless otherwise specified.

8. "Debt service" means the amount of money necessary annually to pay the interest on outstanding debt and pay the principal of maturing bonded debt.

9. "Developed property" means real property upon which a structure or impervious surface has been placed or constructed, thus increasing the amount of rain water or surface water runoff.

10. "Director" means the City Administrator or designee.

11. "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

12. "Equivalent service units" or "ESU" means a measurement unit based on the impervious surface area of an average improved single-family dwelling lot or parcel within the City (as determined by a statistical sampling performed by the City). Except as otherwise provided, one equivalent service unit shall be deemed to be 2,000 square feet of impervious surface area.

13. "ESU rate" means the dollar value periodically determined and assigned to each ESU as a charge for storm water management services, and expressed as $X.XX per ESU per month.

14. "Exempt property" means public rights-of-way, streets, alleys and sidewalks, public and private cemeteries and public parks, including publicly owned property used for public recreation owned by the City, County, railroad, public utility or State, within the City corporate boundaries.

15. "Extensions and replacements" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for the system, or land acquisition for the system, and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

16. "Fiscal year" means the twelve-month period beginning on the first day of July of any year, and ending on June 30 of the succeeding year.

17. "Impervious surface area" means all land area that has been altered from its natural state such that it does not allow the infiltration and retention of water equivalent to that of undisturbed soil. This includes, but is not limited to: pavement, buildings, decks, parking areas and compacted gravel areas. "Impervious surface" does not include improved streets, roads and sidewalks within the public right-of-way; bike paths; railroad beds or quarry excavation areas and temporary service roads in the excavation areas. Rather, such facilities are deemed to be a part of the public surface water drainage conveyance system or to constitute non-impervious surfaces.

18. "Improved single dwelling parcel" means a lot or parcel on which a single-family dwelling exists at any time during the same years as the imposition of the charge.

19. "Multi-family residential property" means a residential structure designed with two or more dwelling units to accommodate two or more families or groups of individuals living separately and not sharing the same living space.

20. "Non-operating revenue" means revenues derived from activities other than the basic operation of the storm water management system, but excluding interest income on bond proceeds and on contributed capital.

21. "Nonresidential property" means any property developed for commercial, industrial, governmental or institutional use, including churches, hospitals and other eleemosynary institutions, and including multi-use properties incorporating residential uses, but excluding undeveloped property or property used exclusively for agricultural purposes.

22. "Occupant" means the person residing or doing business on the property.

23. "Operating budget" means the annual operating budget for the storm water management utility adopted by the Council for the succeeding fiscal year.

24. "Operation and maintenance expenses" means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including record keeping, labor, executive compensation, the cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

25. "Owner" means the legal owner of records as shown on the tax rolls of Cass County, or where there is a recorded land sale contract, the purchaser thereunder.

26. "Person" means any individual, public or private corporation, political subdivision, governmental agency, municipality, partnership, association, firm, trust, or any other legal entity whatsoever.

27. "Revenues" means all rates, fees, assessments, rentals or other charges or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

28. "Rule" means any written standard, directive, interpretation, policy, regulation, procedure or other provision, adopted by the Council as a resolution to carry out the provisions of this chapter.

29. "Storm water management charge" means the charge authorized by Iowa law and this chapter, which is established to pay for the operations and maintenance, extension and replacement of debt service of the storm water utility.

30. "Storm water management utility" or "utility" means the enterprise fund utility hereby created to operate, maintain and improve the system and for such other purposes as stated in this chapter.

31. "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 rivers, force mains, laterals, manholes, catch basins and inlets, including the grates and covers thereof, detention and retention facilities for the collection, conveyance, treatment and disposal of storm and surface water systems within the City, to which sanitary sewage flows are not intentionally admitted.

32. "Total annual revenue requirements" means the total amount of revenue required in one year to meet all expenditures incurred during that year for the financing of construction and for the operations and maintenance (including administration and renewal and replacements funding) of the storm water drainage system, including facilities for the collection, transportation, and treatment of storm water, and of the flood control protection system, including river levees, detention basins and storm water pumping stations.

33. "Undeveloped property" means real property that has no impervious area.

100.03 STORM WATER MANAGEMENT UTILITY ESTABLISHED. Pursuant to the authority of Section 384.84 of the *Code of Iowa*, the Council hereby establishes a storm water management utility in the City. The entire City, as may be increased from time to time, shall constitute a single storm and surface water drainage district.

100.04 ESTABLISHMENT OF THE ESU RATE.

1. Except as provided otherwise, one equivalent service unit shall be deemed to be 2,000 square feet of impervious surface area.

2. The ESU rate to be applied to residential and nonresidential properties is $2.85 per ESU per month.

3. Except as hereinafter provided, every contributor owning or occupying a single-family residential property, multi-family residential property, or nonresidential

property, other than exempt property as defined by Section 100.15, below, shall pay to the City, at the office of the designated collection agent at the time payment is due, a storm water management charge to be determined and billed as herein provided.

4. In the event the owner and the occupant of a particular property are not the same, the liability for payment of the storm water management charge attributable to the property shall be joint and several as to the owner and occupant. The storm water management charge shall be a monthly service charge and shall be determined by the provisions of this chapter and the ESU unit and ESU rate which is herein established and from time to time adjusted as hereinafter provided.

5. The storm water management charges provided above shall be applied and computed for each contributor during the designated billing period from and after January 1, 2003.

6. As to all subsequent fiscal years, the Director shall determine the ESU rate to be applied to all residential and nonresidential properties within the City on or before March 15 of each year and shall certify the same promptly thereafter. The City Administrator shall inform the Council of the rate so calculated at the time the budget for the storm water management utility is submitted to the Council for review and approval. Adjustment to the ESU or ESU rate shall only be changed by ordinance.

7. The Council shall establish and implement a formal policy regarding the expenditure of storm water utility revenues on an annual basis. No revenues generated by the storm water utility shall be used for any other purpose other than storm water expenses.

100.05 SINGLE-FAMILY RESIDENTIAL PROPERTY CHARGES. The storm water management charge for a parcel classified as a single-family residential property (R) by the County Assessor's office shall be a percentage of the ESU Rate, based upon the impervious area of the lot or parcel upon which the single-family residence is located, as referenced by the following table:

Impervious Area of the Property	Percentage of the ESU Rate
500 square feet or less	50% of one (1) ESU
1,000 to 6,000 square feet	100% of one (1) ESU
6,000 square feet or more or a parcel exceeding one acre or more	150% of one (1) ESU

In the absence of accurate area calculation information by the County Assessor's office, the single-family residential properties shall be charged one (1) ESU. Structures defined as multi-family but containing individually owned units shall be charged to the individual owners of said units. For all newly constructed single-family residential units, the storm water management charge attributable to that residence shall commence on the July 1 after the date of the issuance of a certificate of occupancy, the date in which occupancy occurs, or 30 days after construction has ceased, whichever is first. Any owner or occupant of a single-family residential property aggrieved by the Director's calculation of the storm water management charge as herein provided may appeal such determination to the Director as provided in Section 100.20 hereof.

100.06 MULTI-FAMILY RESIDENTIAL PROPERTY CHARGES. The storm water management charge for a multi-family residential property shall be the ESU rate multiplied by the number of individual dwelling units existing on the property. For all newly constructed

multi-family residential units, the storm water management charge attributable to each residential unit shall commence on the July 1 after the date of the issuance of a certificate of occupancy for each unit, the date in which occupancy occurs, or 30 days after construction has ceased, whichever is first. Any owner or occupant of a multi-family residential property aggrieved by the Director's calculation of the storm water management charge as herein provided may appeal such determination to the Director as provided in Section 100.20 hereof.

100.07 MOBILE HOME PARK CHARGES. The storm water management charge for a mobile home park (a district classified as R-6 in the City's Zoning Ordinance) shall be the ESU rate multiplied by the number of individual park spaces, whether occupied or not, in the mobile home park. For all newly constructed mobile home parks, the storm water management charge attributable to each space shall commence on the July 1 after the date of the first mobile home placement in the park. Any owner or occupant of a mobile home park property aggrieved by the Director's calculation of the storm water management charge as herein provided may appeal such determination to the Director as provided in Section 100.20 hereof.

100.08 CHARGES FOR UNDEVELOPED PROPERTY CLASSIFIED AS AGRICULTURE, COMMERCIAL OR INDUSTRIAL. The storm water management charge for an unimproved parcel classified as agriculture (A), commercial (C) or industrial (I), defined as parcel of land with no impervious surfaces, shall be the ESU rate multiplied by 0.10 for each acre of land in the assessed parcel. A minimum fee of one-half (½) of an ESU shall be charged on all parcels defined by the County Assessor as commercial (C) or industrial (I) containing less than five (5) acres. For all newly constructed agricultural, commercial or industrial parcels, the storm water management charge attributable to each parcel shall commence on the July 1 after the date of the issuance of a certificate of occupancy for each unit, the date in which occupancy occurs, or 30 days after construction has ceased, whichever is first. Any owner or occupant of an undeveloped property aggrieved by the Director's calculation of the storm water management charge as herein provided may appeal such determination to the Director as provided in Section 100.20 hereof.

100.09 CHARGES FOR DEVELOPED PROPERTY CLASSIFIED AS AGRICULTURE WITH IMPROVEMENTS. The storm water management charge for an improved agricultural parcel shall be charged one (1) ESU multiplied by a factor of 1.5. Any owner or occupant of improved agricultural property aggrieved by the Director's calculation of the storm water management charge as herein provided may appeal such determination to the Director as provided in Section 100.20 hereof.

100.10 CHARGES FOR DEVELOPED PROPERTY CLASSIFIED AS COMMERCIAL OR INDUSTRIAL. The storm water management charge for a developed commercial, industrial or public use parcel located outside the C-3 City of Atlantic Zoning Ordinance, on a parcel less than 1.0 acre in size, shall be the residential charge determined in Section 100.05 multiplied by the following factor:

Percentage of Impervious Surface	Factor
Less than 30%	1.6
Over 30%	2.4

Any owner or occupant of developed property classified by the County Assessor as commercial (C) or industrial (I) aggrieved by the Director's calculation of the storm water

management charge as herein provided may appeal such determination to the Director as provided in Section 100.20, hereof.

100.11 CHARGES FOR DEVELOPED PROPERTY CLASSIFIED AS COMMERCIAL OR INDUSTRIAL IN THE C-3 DISTRICTS. The storm water management charge for a developed commercial, industrial or public use parcel located within the C-3 City of Atlantic Zoning Ordinance, on a parcel less than 1.0 acre in size, shall be the residential charge determined in Section 100.05 multiplied by the following factor:

Percentage of Impervious Surface	Factor
Less than 30%	2.0
Over 30%	3.0

Any owner or occupant of developed property classified by the County Assessor as commercial (C) or industrial (I) located in the C-3 zoning district aggrieved by the Director's calculation of the storm water management charge as herein provided may appeal such determination to the Director as provided in Section 100.20 hereof.

100.12 CHARGES FOR MEASURED USES. Properties that are not covered in Sections 100.05 through 100.11 above shall be measured uses. For such uses, the impervious surfaces of the property, as defined by rule, shall be measured. The area shall be estimated using one or more of the following: aerial photographs, assessment records, building permits, construction plans, site visits, ad valorem property tax records, storm and surface water system connection permits, field surveys or other sources deemed reliable by the City. The storm water management charge for measured uses shall be the impervious surface area of the property divided by 4,000 square feet multiplied by the ESU rate. In lieu of determining the impervious surface area of the measured use, the Director may determine the storm water management charge by dividing the gross parcel size of the property by 0.5. The whole number of the dividend shall then be multiplied by any applicable factor for the parcel determined in Sections 100.05 through 100.11 above, and then multiplied by the ESU rate.

100.13 SEASONAL IMPERVIOUS AREA. Properties which have areas that are impervious for only a portion of the year shall constitute seasonal impervious areas; for example, a greenhouse that is covered six months, and open with a pervious floor for six months. If an impervious area is in place for more than one month per year, it shall be included in the impervious area measurement, unless exempted under the policy for "Spreading of Runoff to Pervious Surfaces."

100.14 EXCLUSION FROM IMPERVIOUS SURFACE MEASUREMENT.

1. Roads. Public roads shall not be included in the measurement of impervious surfaces. All private roads are to be included in the measurement of impervious surface areas, except private roads that serve flat rate uses. Private roads are defined as all roads and driveways which have not been dedicated to the public and accepted for public use, and which are defined as an impervious surface under other City rules.

2. Determination of Impervious Surfaces – Roadways. All roadways, whether dirt, gravel, or paved, shall be considered impervious, and unless a part of an exempted category of road, or a part of a flat rate use, shall be included in the impervious area measurement. A "roadway" is defined as an area intended for the

purpose of providing access for motor vehicles. Roadways shall include such things as roads, streets, alleys and driveways.

3. Determination of Impervious Surfaces – Parking and Storage Areas.

A. All parking and storage areas, whether dirt, gravel or paved, shall be deemed impervious. A parking area is defined as an area where motor vehicles are parked temporarily. This includes such areas as public and private parking lots (regardless of frequency of use) and storage areas.

B. A dirt or gravel area that is not accessed by motor vehicles, or is not otherwise highly compacted, shall be considered pervious. This includes such uses as landscaping, and gravel or dirt areas accessed only by foot traffic or small vehicles, as defined above.

C. A user may submit information for City review showing that the conditions of subsection 2 above are valid. The City shall review such information and may perform a site inspection. If, based upon objective, verifiable information presented, or upon the site inspection performed, the City may modify the ESUs for the property to conform to the actual impervious surface. Failure to permit the City to perform a site inspection of the property shall be grounds to deny an application for review under this subsection.

4. Spreading of Runoff to Pervious Surfaces. Impervious areas shall be excluded from measurement and charge if the runoff is spread to a pervious area that does not otherwise receive rainfall. For properties which meet the criteria of this subsection, all or part of the impervious area may be excluded from measurement and charge, as appropriate. For such property, the following criteria shall apply:

A. It is the responsibility of the property owner to provide documentation as required by the City to demonstrate that the criteria are met.

B. The area of impervious area that can be exempted is limited to the area of the pervious area where the runoff is effectively spread.

C. To qualify, the runoff from an impervious area must not be concentrated but must remain as "sheet flow," or be spread so it is in sheet flow; the runoff must pass through the pervious area before it is collected in a drain or channel system and carried away; and there cannot be any barriers such as a concrete foundation preventing the sheet flow runoff from passing through the impervious area.

5. Quarry Property. Permanent roadways, parking areas, and structures shall be included in the impervious area measurement. The actual excavated area from which material is being taken, and the temporary service roads in the excavation area shall be excluded as not being impervious.

6. Railroad Facilities. Railroad facilities shall be included in the measurement of impervious area, but the rail grade itself shall be excluded as being pervious.

100.15 EXEMPTION FROM STORM WATER MANAGEMENT CHARGE.

1. Users of properties for which all storm water is disposed of on-site, as defined by City standards, may request an exemption from storm water management

system charges. No partial exemptions for disposal of only a portion of the storm and surface waters on-site shall be allowed. In order to qualify for a utility charge exemption, the user must design, construct and maintain an on-site facility that keeps all storm and surface water for the full range of storms during the year. This applicant for exemption must pay an initial inspection/review fee. For the purpose of this section, the term "property" means a parcel of land, or a group of adjacent parcels working in cooperation. The term "on-site disposal" means on the parcel, or on another parcel in the near vicinity of the parcel requesting the exemption. In order to qualify for the exemption, the on-site system must encompass the entire property (except for incidental impervious areas as defined below), must be completely separated from the public system, and must provide adequate on-site disposal. Incidental areas such as sidewalks, decks, and driveway aprons, shall not exceed ten percent (10%) of the total impervious area. On-site disposal facilities that may qualify are dry wells, injection wells, retention basins with percolation/evaporation capacity, and retention basins with capacity large enough to accommodate the total of all storms through the year. Many of these may have a possible adverse effect on ground water, and some techniques may require approval of State, Federal and local agencies.

2. To qualify, an applicant must submit a request to the City for a waiver of utility charges relating to the property. This request shall include a certification from an engineer, or other evidence acceptable to the City, that shows the system is separate and will dispose of the full range and volume of storm water through the year on-site. The applicant shall also submit a maintenance plan for assuring the system will function as designed. The application must be signed by the property owner. An inspection/review fee shall be paid at the time of application. If the application is denied, the inspection/review fee will be credited to the utility charges due. If the request for the waiver is made as part of the construction plans, this fee shall be waived. A decision denying an exemption may be appealed following the procedures in Section 100.20 of this chapter. If approved, the waiver will be effective for the next billing cycle.

3. The City retains the right to inspect the on-site measures to assure they are functioning as designed. If at any time the measures are found to not be effective, the exemption shall cease.

100.16 CREDITS FOR WATER QUANTITY PORTION OF THE STORM WATER UTILITY. New developments that provide on-site retention, disposal, or detention, or provide off-site conveyance system enlargements are entitled to a credit in storm water management system charges. To be eligible, new development, or portions of new development, must include design and construction of a facility that meets one of the following standards:

1. The retention facility sized to accommodate the full volume of storm water through the year with no overflow or release into the storm water management system. Eligible facilities shall be exempt from storm water management system charges.

2. A disposal facility which keeps all storm and surface water separated from the public system, and disposes of it on-site for the full range of storms during the year, including the winter, through on-site disposal (dry wells, injection wells,

percolation/evaporation basins). Eligible facilities shall be exempt from storm water management system charges.

3. A detention facility which meets or exceeds the standards defined in City rules for on-site storm water detention facilities. Eligible facilities shall be entitled to a reduction of one-half (½) of the actual number of ESUs calculated.

4. Upsizing of the downstream conveyance system. Credit shall be determined by the City on a case-by-case basis.

The term "on-site" means on the parcel, or on another parcel in the near vicinity of that for which the credit or reduction is requested. To be eligible for a credit (reduction) of storm water management system charges, the request must be submitted prior to, or as part of, the development process, but in all cases the request must be made prior to the payment of the storm water management system charges. To be eligible for a credit, the request can be made at any time, in accordance with this chapter. The request shall demonstrate the property meets one of the above conditions. For on-site facilities, the City reserves the right to inspect the facilities installed at any time. If it is found that the system no longer functions, then the storm water management system charges that were waived will become due and payable.

100.17 BILLING.

1. The City shall send a bill for the amount due by regular mail to every parcel owner in the City. Mailing to the owner of record as shown in the County Assessor's records shall satisfy this requirement. The billing period shall be semiannual. Billing statements will be sent on or about August 1 and February 1 of the year.

2. The recipient has 15 days from the billing date to file a notice of non-occupancy. The notice shall indicate the relationship of the recipient to the property (e.g., owner, lessor, mortgagee, contract holder), whether on the imposition date the property was occupied, and if so, by whom.

3. Upon receipt of the notice, the City shall determine who is obligated for payment. Based on this determination, the City shall:

A. Issue a new bill to the occupant if the property was occupied by someone other than the original recipient;

B. Reissue the bill to the recipient if it is found that that person was the occupant;

C. Issue a bill to the owner as the user, if the property was not occupied.

The City may take into account any reasonably reliable information available to it, including utility or water district records.

4. Failure to file the notice such that it is actually received by the City within the thirty (30) days of the mailing date of the bill shall conclusively establish that the original addressee was the user on the imposition date.

5. Notwithstanding any other provision of this chapter, any person may agree in writing to be responsible for payment of the charge. Upon filing of such a writing with the City, subsequent bills shall be sent to that person, and that person shall be deemed to be the user.

6. It is a violation of this chapter to knowingly provide false information to the City regarding any fact related to billing of a storm water utility service charge or other charge of the City.

100.18 DELINQUENCY, COLLECTION, INTEREST AND PENALTIES.

1. Charges imposed under this chapter are deemed delinquent when not paid in full within forty-five (45) days from the date the billing statement were mailed by the City.

2. It is unlawful and a violation of this chapter for any person to discharge wastewater into the City's storm water management system. It is also unlawful and a violation of this chapter to maintain a connection to or use the City's storm water management system without paying the appropriate charges and fees established in this section or any rule adopted pursuant hereto. Even if no billing is received, such charges shall be due and owing and the user is obligated to pay any charges in a timely fashion.

3. Delinquent charges may be collected pursuant to the same procedure as with delinquent sanitary sewer bills by the City, with the assistance of City legal counsel, without further action or authorization by the Council.

4. In addition to remedies provided for collection of a debt, the City may seek a temporary or permanent injunction prohibiting continued occupancy of premises, requiring disconnection of the premises from the public storm water utility system, and termination of water and sewer service to the user's premises.

5. The Council may prescribe, by resolution and order, a schedule of interest and penalty charges to be imposed upon delinquent charges.

6. In a collection action under this chapter, the City shall be entitled to its costs and reasonable attorney fees, including at trial and on appeal, if it is the prevailing party.

7. In addition to the right of the City to bring a civil action to collect any delinquent charges or enforce any provision of the chapter, the City may take any of the following actions to secure payment:

A. The City may refuse to issue any permit to any person who is delinquent in any payment due under this chapter.

B. The City may terminate provision of storm and surface water service to premises used by the user.

C. The City may terminate sanitary sewer service to premises used by the user.

Termination of service pursuant to this subsection shall be according to procedures adopted under Section 100.20. If the City terminates service as provided in this section, the cost of such disconnection shall be added to the amount of any other delinquent charges and shall be recoverable in the same manner as are such charges.

8. The owner and the tenant must comply with the same procedures as set out in Sections 99.06, 99.07, and 99.08 of this Code of Ordinances.

9. Where a lien against property can be imposed when the owner is liable, it shall exist from the date the bill was last brought current in the same manner as with a lien for water service.

100.19 REQUEST FOR SERVICE; DISCONNECTION FROM SERVICE; USE RECLASSIFICATION; TERMINATION OF USER CHARGES.

1. The issuance of a storm water utility system connection permit relating to impervious surface on a property or parcel shall be deemed to be a specific request for provision of storm and surface water service to that property.

2. Any user of the public storm water utility system may disconnect property served by the system from service and terminate further user charges by utilizing the procedure in this section.

3. Any user of the public storm water utility may remove all or part of the impervious surface on the property served by the system and apply for use reclassification by utilizing the procedure in this section.

4. A person desiring to disconnect property from the system shall make application on a form provided by the City and pay the fee established therefor. The application shall be signed by the owner of the property; shall provide evidence of demolition or removal of any impervious surface on the property, or of installation of an approved on-site storm and surface water retention or infiltration system serving the property. Such on-site system shall be designed and operated to retain or dispose of all on-site storm and surface waters generated by impervious surfaces on the property, through the full range of storm events prescribed by City rule. The Council may, by rule, adopt additional criteria and administrative procedures to provide for disconnection from storm water utility service, and suspension or termination of user charges.

5. Upon receipt of a complete application for disconnection or reclassification, and verification of information thereon, and installation of the on-site system or demolition of impervious area as provided in subsection 3 of this section, the City shall issue a permit for disconnection or reclassification. Whether performed by the City or other person, the City shall inspect the disconnection.

6. The City may inspect the on-site system at any time. If at any time the system fails to perform to the standard specified in subsection 3 above, the City shall notify the owner to correct the system. If the system is not corrected to meet on-site retention or infiltration standards within thirty (30) days of such notice, the City may treat such deficiency as a reconnection to the storm water utility system and as a specific request for storm water utility service. Service fees shall then relate back to the earliest date on which the system failed to meet applicable performance standards for on-site retention or disposal.

7. If at any time after reclassification an impervious surface is added to the property, the City shall consider such an addition as a reconnection to the storm water utility and as a specific request for storm water utility service.

100.20 ADOPTION OF RULES; INTERPRETATIONS AND APPEALS.

1. Adoption of Rules.

A. The Council may, by resolution and order, promulgate rules pertaining to matters within the scope of this chapter.

B. Any rule adopted pursuant to this section shall require a public hearing. Not less than four (4) or more than twenty (20) days before such hearing, public notice of such hearing shall be given by publication in a newspaper of general circulation within the City. Such notice shall include the place, time and purpose of the hearing and the location at which copies of the full text of the proposed rules may be obtained.

C. At the conclusion of the public hearing, the Council shall either adopt the proposal, modify or reject it. If a modification is made, an additional public hearing shall be held but no additional notice shall be required if such additional hearing is announced at the meeting at which the modification is made. All rules shall be effective upon adoption by the Council and shall be filed in the office of the City.

D. Notwithstanding paragraphs B and C of this subsection, a rule maybe adopted without prior notice upon a finding that failure of the Council to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this subsection shall be effective for a period of not longer than one hundred eighty (180) days.

2. Appeals. The following may be appealed to the City Council:

A. A determination that the person is obligated to pay the service charge imposed herein.

B. A dispute as to the proper calculation of the amount due from the person. This does not include, however, an objection to the overall establishment of the storm water utility charge or the amount per ESU established by the Council or the establishment of classes of impervious surface area pursuant to this chapter.

C. A discretionary decision implementing a rule adopted by the Council if an appeal is provided in the Order adopting the rule.

3. The appeal shall be filed in writing and must be actually received by the City no later than the thirtieth (30th) day after the billing statements have been mailed by the City. The thirty (30) days shall be calculated from the due date of the original or reissued bill in response to a notice of non-occupancy, whichever is later.

4. The appeal shall be heard by the Council in an informal proceeding.

5. The appellant shall be provided a reasonable opportunity to submit written and oral support for the appellant's position. The Council shall issue a written decision within thirty (30) days of the proceeding. The written decision of the Council may be appealed to the Circuit Court of Cass County by writ of review. Failure to properly exhaust the administrative remedy provided for herein shall constitute a bar to judicial relief.

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CHAPTER 105

SOLID WASTE CONTROL

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105.09 Open Dumping Prohibited
105.10 Toxic and Hazardous Waste
105.11 Waste Storage Containers
105.12 Prohibited Practices
105.13 Sanitary Disposal Project Designated

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

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

1. "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 that are used or are intended to be used for living, sleeping, cooking, and eating.

4. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)

5. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2[455B])

6. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.
(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 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])

10. "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)

11. "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)

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

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

13. "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.

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 seven (7) 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, provided that such burning is done at least forty (40) feet from any building or structure and that a burn barrel with a wire mesh cover is used. 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 inhabited building. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

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

(IAC, 567-23.2[3e])

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

(IAC, 567-23.2[3g])

7. 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])

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

(IAC, 567-23.2[2])

105.06 OPEN BURNING PROHIBITED. No person shall allow, cause or permit open burning of combustible materials during any period of high fire hazard as determined by the Fire Chief or an authorized representative. The Fire Chief shall publicize the existence of such high fire hazard period and the temporary ban on open burning.

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

105.08 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)

105.09 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 rubble at places other than a sanitary disposal project. "Rubble" means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water or in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

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

(IAC, 567-100.2)
(IAC, 567-102.13[2] and 400-27.14[2])

105.11 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 sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise 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 leaving the premises except at collection.

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

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

105.12 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.

105.13 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the Cass County Environmental Control Agency 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 Collector's Permit

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be by private contract with collectors.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be 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.

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 COLLECTOR'S PERMIT. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual permit in accordance with the following:

1. Application. Application for a solid waste collector's permit shall be made to the Clerk and provide the full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

2. Insurance. No collector's permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of

the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily Injury - $100,000.00 per person; $300,000.00 per occurrence.

Property Damage - $ 50,000.00

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. Permit Fee. A permit fee in the amount of fifty dollars ($50.00) shall accompany the application. In the event the requested permit is not granted, the fee paid shall be refunded to the applicant.

4. Permit Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested permit shall be issued to be effective for a period of one year from the date approved.

5. Permit Renewal. An annual permit may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application.

6. Permit Not Transferable. No permit authorized by this chapter may be transferred to another person.

7. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project.

8. Grading or Excavation Excepted. No permit is required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported spills upon any public right-of-way.

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 City Held Harmless
110.03 Excavations
110.04 Standards of Service
110.05 Nonexclusive Franchise

110.01 FRANCHISE GRANTED. There is hereby granted to IES UTILITIES INC., 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 in 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 CITY HELD HARMLESS. 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 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. 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 STANDARDS OF SERVICE. Said Company, its successors and assigns shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, 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.

110.05 NONEXCLUSIVE FRANCHISE. The franchise granted by this chapter shall not be exclusive.

[†] **EDITOR'S NOTE:** Ordinance No. 855, adopting a natural gas franchise for the City, was passed and adopted on December 19, 2001.

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CHAPTER 111

CABLE TELEVISION REGULATIONS

111.01 Definitions
111.02 Franchise Required
111.03 Purpose
111.04 Length of Franchise
111.05 Significance of Franchise
111.06 Rights Reserved to the City
111.07 Application For Franchise
111.08 Acceptance and Effective Date of Franchise
111.09 Geographical Coverage
111.10 Conditions of Street Occupancy
111.11 Restoration of Public Ways
111.12 Relocation at Request of the City
111.13 Safety Requirements
111.14 Underground and Above-Ground Installation Requirements
111.15 Extension of Service
111.16 Service to Public Buildings
111.17 Customer Service Standards - FCC Model
111.18 Local Office
111.19 Deposits
111.20 Subscribers' Antennas
111.21 Disconnection
111.22 Reconnections
111.23 Downgrades
111.24 Termination of Service
111.25 Notification to City of Service Interruptions
111.26 Subscriber Credit For Service Disruptions
111.27 Service Repair Standards
111.28 Refunds To Subscribers
111.29 Channel Card
111.30 Customer Handbook
111.31 Subscriber Privacy
111.32 Discriminatory or Preferential Practices
111.33 Identification of Employees
111.34 System Design and Equipment Requirements
111.35 Regulations by the City
111.36 Compliance and Monitoring
111.37 Insurance and Indemnification
111.38 Enforcement and Termination of Franchise
111.39 Actions of Parties
111.40 Equal Protection
111.41 Notices

111.01 DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below.

1. "Basic cable" is the lowest priced tier of service that includes the retransmission of local broadcast television signals and any public, educational and governmental channels.

2. "Cable Act" means collectively the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996.

3. "Cable operator" is defined as in the Cable Act.

4. "Cable service" is defined as in the Cable Act.

5. "Cable system" is defined as in the Cable Act.

6. "FCC" means Federal Communications Commission or successor governmental entity thereto.

7. "Franchise" means the initial authorization or renewal thereof issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system.

8. "Grantee" means any person, firm, corporation or other entity granted a franchise hereunder, or the lawful successor, transferee or assignee thereof.

9. "Gross revenues" means any and all revenue received by the Grantee from the operation of the cable system to provide cable services in the service area, provided, however, that such phrase does not include any fees or franchise fees or

taxes which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

10. "Headend" means the land, electronic processing equipment, antennas, tower, building and other appurtenances normally associated with and located at the starting point of a cable system.

11. "House drop" or "drop" means a cable that connects each building or home to the nearest feeder line of the cable network.

12. "Normal business hours" means those hours during which most similar businesses in the community are open to serve subscribers. In all cases, "normal business hours," at a minimum, means those hours when the City Hall is open to serve citizens.

13. "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are *not* within the control of the Grantee include, but are not limited to, natural disasters, strikes, civil disturbances, power outages of less than two hours, telephone network outages and severe or u usual weather conditions. Those conditions which *are* ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system.

14. "Outlet" means the point of connection of the cable or wire to a television.

15. "Person" means an individual, partnership, association, joint stock company, trust corporation or governmental entity.

16. "Private property" means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

17. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

18. "Public access channel" means channel capacity designated for public access use.

19. "Public way" means the surface of, and the space above and below any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. "Public way" also means any easement now or hereafter held by the City within the service area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and includes other easements or rights-of-way as shall within their proper use and meaning entitle the City and the Grantee to the use thereof for the purpose of installing and operating the Grantee's cable system over poles, wires, cables,

conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the cable system.

20. "Service area" means the present municipal boundaries of the City.

21. "Service interruption" means the loss of video or audio on one or more channels.

22. "Service tier" means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator.

23. "Subscriber" means a person or user of the system who lawfully receives communications and other services therefrom with the Grantee's express permission.

111.02 FRANCHISE REQUIRED. Subject to Federal and State law, no person shall construct, install, maintain or operate within any public street in the City or within any other public property of the City any equipment or facilities for the distribution of television signals over a cable system to any subscriber, unless a franchise authorizing the use of the streets or properties or areas has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect.

111.03 PURPOSE. The purpose of this chapter is to specify requirements for the establishment, construction, operation and maintenance of a cable system in the City pursuant to Chapter 364, *Code of Iowa*, and applicable Federal law. If a new applicant submits a proposal acceptable to the City, meets the requirements of this chapter and those of the FCC, and receives a majority of the votes cast in a franchise election, the City may then proceed to enter into a nonexclusive franchise agreement with such prospective Grantee, subject to the provisions of this chapter. If the incumbent operator submits a proposal acceptable under the terms of the Cable Act as amended, and meets the requirements of the FCC, the City shall proceed to fulfill its obligations under Section 626 of the Telecommunications Act of 1996.

111.04 LENGTH OF FRANCHISE. The term of a franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be determined by the City in the franchise agreement.

111.05 SIGNIFICANCE OF FRANCHISE.

1. Franchise Nonexclusive. Any franchise granted hereunder by the City shall not be exclusive and the City reserves the right to grant a similar franchise to any qualified person at any time.

2. Privileges Must Be Specified. No privilege of exemption shall be inferred from the granting of any franchise, unless it is specifically prescribed.

3. Authority Granted. Any franchise granted hereunder shall give to the Grantee the right and privilege to construct, erect, operate, modify and maintain, in, upon, along, above, over and under public ways, as defined in Section 111.01, which have been or may hereafter be dedicated and open to public use in the City, towers, antennas, poles, cables, electronic equipment, and other network appurtenances necessary for the operation of a cable system in the City, subject to the requirements of this chapter.

4. Subject to Other Regulatory Agencies Rules and Regulations. The Grantee shall at all times during the life of any franchise granted hereunder be subject to all

generally applicable ordinances promulgated pursuant to the lawful exercise of the police power by the City.

5. Pole Use Agreements Required. Any franchise granted hereunder shall not relieve the Grantee of any obligation involved in obtaining pole or conduit-use agreements from the gas, electric and the telephone companies or others maintaining poles or conduits in the streets of the City.

6. Ordinance Revisions. Any franchises granted under this chapter are made subject to the lawful revisions of this chapter, provided that such revisions do not materially alter or impair the rights or the obligations of Grantee set forth in any Franchise Agreement and are mutually agreed to by the City and Grantees.

111.06 RIGHTS RESERVED TO THE CITY.

1. Right of Amendment Reserved to City. The City may from time to time add to, modify or delete provisions of this chapter as it shall deem necessary in the exercise of its lawful police powers and as may be mutually agreed to by the City and Grantee. Such additions or revisions shall be made only after a public hearing for which the Grantee shall have received written notice at least thirty (30) days prior to such hearing.

2. No Impairment of City's Rights. Nothing herein shall be deemed or construed to impair or affect in any way to any extent any right of the City pursuant to Iowa law.

3. Grantee Agrees to City's Rights. The City reserves every right and power which is required to be reserved or provided by an ordinance of the City, and the Grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or powers which have been or will be enacted or established subject to the provisions of subsection 1 of this section.

4. Police Powers of the City. Neither the granting of any franchise nor any provision governing the franchise shall constitute a waiver of any lawful governmental right or power of the City.

5. City Transfer of Functions. Any administrative right or power in or administrative duty imposed upon any elected official of the City shall be subject to transfer by the City to any other elected official, officer, employee, department or board.

6. City Right of Inspection. The City reserves the right, during the life of any franchise granted hereunder, to inspect and oversee all construction or installation work performed in the public right-of-way.

111.07 APPLICATION FOR FRANCHISE. No initial franchise may be granted unless the applicant has successfully completed the application procedure in accordance with the following filing instructions promulgated by the City:

1. Filing Fee. Payment of a nonrefundable filing fee to the City of one hundred dollars ($100.00), which sum shall be due and payable at the time with the submission of the application.

2. Content. All applicants must complete an application which shall include, but not be limited to, the following:

A. Name and Address of Applicant. The name and business address of the applicant, date of application, and signature of applicant or appropriate corporate officers.

B. Description of Proposed Operation. A general description of the applicant's proposed operation, including but not limited to business hours, operating staff, maintenance procedures beyond those required in this chapter, management and marketing staff policies and procedures, and, if available, the rules of operation for public access.

C. Signal Carriage. A statement of the television and radio services to be provided, including both off-the-air and locally originated signals.

D. Special Services. A statement setting forth a description of the automated services proposed as well as a description of the production facilities to be made available by the Grantee for the public, governmental and educational channels required to be made available by the provisions of this chapter.

E. Corporate Organization. A statement detailing the corporation organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director.

F. Stockholders. A statement identifying the number of authorized outstanding shares of applicant's stock including a current list of the names and current addresses of its shareholders holding five percent (5%) or more of the applicant's outstanding stock.

G. Inter-Company Relationships. A statement describing all inter-company relationships of the applicant, including parent, subsidiary or affiliated companies.

H. Agreements and Understandings. A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other person with respect to any franchise awarded hereunder and the conduct of the operation thereof existing at the time of proposal submittal.

I. Financial Statement. A copy of the financial statements for the two (2) previous fiscal years.

J. Financial Projection. A five-year operations pro forma which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets, and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this chapter, but shall be separately identified in the pro forma.

K. Financial Support. Suitable written evidence from a recognized financing institution, addressed to both applicant's financial ability and planned operation have been analyzed by the institution and that the financing

institution is prepared to make the required funds available to applicant if it is awarded a franchise. If the planned operation is to be internally financed, a board resolution shall be supplied authorizing the obtainment and expenditure of such funds as are required to construct, install and operate the cable television system contemplated hereunder.

L. Construction Timetable. A description of system construction including the timetable for provision and extension of service to different parts of the City.

M. Technical Description. A technical description of the type of system proposed by the applicant, including but not limited to system configuration, (i.e. hub, dual cable), system capacity, two-way capability, etc.

N. Existing Franchises. A statement of existing franchises held by the applicant indicating when the franchises were issued and when the cable systems were constructed and the present state of the cable systems in each respective governmental unit, together with the name and address and phone number of a responsible governmental official knowledgeable of the applicant.

O. Convictions. A statement as to whether the applicant or any of its officers or directors or holders of five percent (5%) or more of its voting stock have, in the past ten (10) years, been convicted of or have any charges pending for any crime other than a routine traffic offense and the disposition of each such case.

P. Operating Experience. A statement detailing the prior cable television experience of the applicant, including that of the applicant's officers, management and staff to be associated, where known, with the proposed franchise.

3. Supplementation to Applications. The City reserves the right to require such supplementary, additional or other information that the City deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the City.

4. Incorporation of Proposals. The Grantee, by the acceptance of any initial franchise awarded hereunder, agrees that the matters contained in the Grantee's application for franchise, except as inconsistent with the FCC rules and regulations, law or ordinance, shall be incorporated into the franchise as though set out verbatim.

5. Forfeiture of Proposal Bond. Should the Grantee fail to comply with this section, it shall acquire no rights, privileges or authority under this chapter whatever, and the amount of the proposal bond or certified check in lieu thereof, submitted with its application, shall be forfeited in full to the City as liquidated damages.

111.08 ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE.

1. Franchise Acceptance; Procedures. Any initial franchise awarded hereunder or franchise renewal and the rights, privileges and authority granted thereby shall take effect and be in force from and after the award thereof, provided that the Grantee shall file with the City the following:

A. A statement by the Grantee of the unconditional acceptance of the franchise.

B. A certificate of insurance as set forth in Section 111.37(2).

C. Reimbursement to the City for the costs of publication of the franchise ordinance and the holding of the election connected therewith, if required by law.

2. Grantee To Have No Recourse. In accordance with Section 635A of the Cable Act, the Grantee shall have no monetary recourse whatsoever against the City for any loss, cost, expense, or damage arising out of any provision or requirement of this chapter or its regulation. This shall not include negligent acts of the City, its agents or employees which are performed outside the regulatory or franchise awarding authority hereunder.

3. Acceptance of Power and Authority of City. The Grantee expressly acknowledges that in accepting any franchise awarded hereunder, it has relied upon its own investigation and understanding of the power and authority of the City to grant this franchise.

4. Inducements Not Offered. The Grantee, by acceptance of any franchise awarded hereunder, acknowledges that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or in behalf of the City concerning any term or condition of this franchise that is not included in this chapter.

5. Grantee Accepts Terms of Franchise. The Grantee acknowledges by the acceptance of the franchise and the terms herein and in this chapter that it has carefully read said terms and conditions and it is willing to and does accept all other obligations of such terms and conditions and further agrees that it will not claim that any provision of this chapter, or any franchise granted hereunder, is unreasonable or arbitrary.

111.09 GEOGRAPHICAL COVERAGE. The Grantee shall provide a cable system in such manner as to pass and provide adequate tap off facilities for every single-family dwelling unit, multiple dwelling unit or other residential unit within the service area, subject to the provisions of the Franchise Agreement.

111.10 CONDITIONS OF STREET OCCUPANCY. All transmission and distribution structures, poles, other lines, and equipment installed or erected by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways. A Grantee shall first obtain a permit from the City prior to commencing construction on the streets, alleys, public grounds or places and shall be on a form provided by the City. A Grantee shall not open or disturb the surface of any street, sidewalk, driveway or public place for any purpose without having first obtained a permit to do so in the manner provided by ordinance. All excavation shall be coordinated with other utility excavation or construction so as to minimize disruption to the public.

111.11 RESTORATION OF PUBLIC WAYS. If during the course of the Grantee's construction, operation, or maintenance of the cable system there occurs a disturbance of any public way by the Grantee, it shall, at its expense, replace and restore such public way to a

condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

111.12 RELOCATION AT REQUEST OF THE CITY. Upon its receipt of reasonable advance notice, not to be less than ten (10) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way, or remove from the public way, any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by the City; however, the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any person using such street, easement, or right-of-way for the purpose of defraying the cost of any of the foregoing, the City shall provide notice to the Grantee of the City's application for such funds and shall allow the Grantee to apply on its own behalf for such funds.

111.13 SAFETY REQUIREMENTS. Construction, installation, and maintenance of the system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other Federal, State and local regulations and the *National Electric Safety Code*. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

111.14 UNDERGROUND AND ABOVE-GROUND INSTALLATION REQUIREMENTS.

1. Pole Agreements. The Grantee may lease, rent, or in any other manner by mutual agreement obtain the use of towers, poles, lines, cables, and other equipment and facilities from utility companies operating within the City, and use towers, poles, lines, cables, and other equipment and facilities for the system. When and where practicable, the poles used by the Grantee's distribution system shall be those erected and maintained by such utility companies operating within the City, provided mutually satisfactory rental agreements can be reached. It is the City's desire that all holders of public franchises in the City cooperate with the Grantee and allow the Grantee the use of their poles and pole line facilities whenever possible so that the number of new or additional poles installed in the City may be minimized.

2. Grantee's Poles. The Grantee shall have the right to erect, install, and maintain its own towers, poles, guys, anchors, underground conduits, and manholes as may be necessary for the proper construction and maintenance of the antenna site, headend, and distribution system, providing that the Grantee has at the work site the necessary City permits or copies thereof, for scheduled work, obtained in advance from the appropriate Department of the City.

3. Rent of Grantee's Poles. A Grantee shall have the right to establish terms, conditions, and specifications governing the form, type, size, quantity, and location of equipment of others on its poles, and shall have the further right to charge a fair rental for attachment space or spaces occupied by the said equipment and plant of others. The City shall pay any costs incurred by a Grantee in providing space for a City's attachments, including any necessary rearrangements of a Grantee's equipment and plant to provide room for City's attachments. Upon expiration, termination, or revocation of a franchise, or should a Grantee wish to dispose of any of its poles,

conduit or manholes, being used by the City, the City shall have the option to purchase them in place for their fair market value.

4. Underground Facilities. In those areas of the City where transmission or distribution facilities of both telephone and power companies are underground or hereafter may be placed underground, the Grantee shall likewise construct, operate and maintain all of its transmission and distribution facilities underground to the maximum extent the then existing technology permits, in accordance with the most recent *National Electrical Code*, and its successor document, as well as in conformance with all applicable State and municipal ordinances and codes. If and when necessary, amplifiers and/or transformers in the Grantee's transmission and distribution lines shall be in appropriate housings on the surface of the ground. The Grantee shall obtain a permit from the City for such underground construction of all work required or pursuant to this section. Even when not required, underground installation is preferable to the placing of additional poles.

5. Compliance To Codes. All transmission and distribution structures, lines, and equipment erected by the Grantee in the City shall be located so as not to endanger or interfere with the normal use of streets, alleys, or other public ways and places so as to cause minimum interference with the rights or reasonable convenience of the general public and adjoining property owners and so as not to interfere with existing public utility installations and so as to comply with the most recent *National Electrical Code*, as amended, as well as in conformance with all applicable state and municipal ordinances and codes of general applicability. In the case of any disturbance by the Grantee or its equipment of pavement, sidewalks, driveway, lawn, or other surfacing the Grantee shall, at its expense and in the manner required by the City, promptly replace and restore all such surfacing to a reasonably comparable condition. The construction, installation, operation, maintenance, and/or removal of the cable communications system shall meet all of the following safety, construction, and technical specifications and codes and standards:

- Occupational Safety and Health Administration Regulations (OSHA)
- National Electric Code
- National Electrical Safety Code (NESC)
- All Federal, State and Municipal Construction Requirements, including FCC Rules and Regulations
- All Building and Zoning Codes, as the same exist or may be amended hereafter
- City Standard Specifications

6. Interference With Other Utilities. The Grantee shall not place poles, conduits, or other fixtures above or below ground where the same shall interfere with any prior placement of gas, electric, telephone fixtures, water hydrant, or other utilities, and all such poles, conduits, or other fixtures above or below ground shall be so placed as to comply with all the requirements of the City.

7. Moving Permits. The Grantee shall on request of any persons holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings. The expense of such temporary removal shall be paid in

advance by the person requesting the same, and the Grantee shall be given not less than seven (7) business days' advance notice to arrange for such temporary changes.

8. Authority To Trim Trees and Shrubbery. The Grantee shall have the authority under the supervision and direction of the City to trim trees or other natural growth overhanging any of its cable system in the street or alley right-of-way so as to prevent branches from coming in contact with the Grantee's wires, cables, or other equipment. The Grantee shall reasonably compensate the City or property owner for any damages caused by such trimming, or shall, in its sole discretion, and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the cable system undertaken by Grantee. Such replacement shall satisfy any and all obligations Grantee may have to the City pursuant to the terms of this section.

9. Service Area. The Grantee shall design and construct the cable system in such a manner as to pass by and provide adequate tap-off facilities for every single-family dwelling, multiple family dwelling, and apartment building located within the City limits, based upon the corporate boundaries at the time of the granting of the Franchise, provided that such locations meet the density requirements pursuant to Section 111.15.

10. Underground Construction. Grantee shall participate in and use Iowa One Call and ensure that cable is buried pursuant to standards established by Iowa One Call or competitive company.

11. Temporary Drops. Temporary drops shall be buried within two months of installation, except during the winter months which shall be defined as November 15 to April 1. In the event that the Grantee fails to bury any cable drops, within the two-month period, the Grantee shall provide cable service without charge to the affected cable subscriber from the last date that the drop was to have been buried to that actual date that it is buried.

12. Closing of Streets. The Grantee shall not be entitled to damages from the City sustained by the virtue of the closing, vacation, or relocation of any streets or alleys.

13. Private Easements. No cable, line, wire, amplifier, converter or other pieces of equipment owned by the Grantee shall be installed by the Grantee within private easements without first securing the written permission of the owner, lessee or tenant of the property involved, unless a private easement is determined to be available for use by the Grantee in accordance with applicable law.

111.15 EXTENSION OF SERVICE. Any Franchise granted pursuant to this chapter shall require that a Grantee shall, at its expense, promptly extend its system to have service available to all potential subscribers of:

1. The corporate limits of the City and newly annexed areas to the City, not then served by a cable system, where the average density is at least eight (8) potential subscribers per lineal one-quarter (1/4) mile of the proposed trunk and feeder cable route.

2. Any new single-family dwelling unit multiple dwelling unit, other residential unit, or potential subscriber within one hundred fifty (150) feet of the existing distribution system in the City, upon request of the potential subscriber.

No customer shall be refused service arbitrarily. However, for unusual circumstances, such as existence of more than two hundred twenty-five (225) feet of distance from the distribution cable to the connection point of service to the customers, or a density of less than eight (8) potential subscribers per 1320 cable-bearing strand feet of trunk or distribution cable, service may be made available on the basis of a capital contribution in aid of construction, including cost of material, labor, and easements. For the purpose of determining the amount of capital contribution in the aid of construction to be borne by the Grantee and the customers in the area in which service may be expanded, the Grantee will contribute an amount equal to the construction and other costs per mile, multiplied by a fraction whose numerator equals the actual number of residences per 1320 cable-bearing strand feet of its trunks or distribution cable, and whose denominator equals eight (8) potential subscribers. Customers who request service hereunder will bear the remainder of the construction and other costs on a pro rata basis. The Grantee may require that the payment of the capital contribution in aid of the construction borne by such potential customers be paid in advance.

111.16 SERVICE TO PUBLIC BUILDINGS. Any Grantee, upon request, shall provide without charge one outlet of basic service and expanded basic service to those public buildings identified in the Franchise Agreement in accordance with the terms set forth in the Franchise Agreement.

111.17 CUSTOMER SERVICE STANDARDS - FCC MODEL. Any Grantee of a cable television franchise shall adhere to the FCC's customer service standards.

111.18 LOCAL OFFICE. Any Grantee shall establish a local payment center conveniently located within the City, which shall be open during normal business hours, and adequately staffed to accept subscriber payments and respond to service requests and complaints.

111.19 DEPOSITS. If required by Federal law, a Grantee shall bear interest at the minimum lending rate required by law on any subscriber deposit or a rate equal to that paid by the City for water and/or sewer deposits.

111.20 SUBSCRIBERS' ANTENNAS. A Grantee shall not require the removal of any potential or existing subscriber's antenna as a condition of provision of service.

111.21 DISCONNECTION. There shall be no charge for a disconnection of cable service. If any subscriber fails to pay a fee or charge, a Grantee may disconnect the subscriber's service. Such disconnection shall not be effected until the subscriber has been given ten (10) days' advance written notice of the intention to disconnect. After disconnection, upon payment of any required delinquent fee or reconnection charge, the Grantee shall reinstate the subscriber's service.

111.22 RECONNECTIONS. Grantee shall restore service to customers wishing restoration of service provided customer shall first satisfy any previous obligations owed.

111.23 DOWNGRADES. Subscribers shall have the right to have cable service disconnected or downgraded in accordance with FCC rules. The reduced billing for such service will be effective immediately and such disconnection or downgrade shall be made as soon as practicable. A refund of unused service charges shall be paid to the customer within thirty (30) days from the date of termination of service.

111.24 TERMINATION OF SERVICE. Within 30 days of termination of service to any subscriber for any reason, a Grantee may, upon the subscriber's written request, promptly remove all its aerial facilities and equipment from the subscriber's premises, pursuant to FCC rules and regulations.

111.25 NOTIFICATION TO CITY OF SERVICE INTERRUPTIONS. A Grantee shall promptly notify the City, in writing, or, if appropriate, by oral communication, of any significant interruption in the operation of the system. For the purposes of this section, a "significant interruption in the operation of the system" means any interruption of audio or video on one (1) or more channels for a duration of at least one (1) hour to at least five percent (5%) of the subscribers.

111.26 SUBSCRIBER CREDIT FOR SERVICE DISRUPTIONS. Upon service interruption of subscriber's cable service, the following shall apply:

1. For service interruptions of over four (4) hours and up to seven (7) days, the Grantee shall provide, at the subscriber's verbal or written request, a credit of one-thirtieth (1/30) of one month's fees for affected services for each 24-hour period service is interrupted for four (4) or more hours for all affected subscribers.

2. For interruptions of fifteen (15) days or more in one month, the Grantee shall provide, at the subscriber's request, a full month's credit for affected services for all affected subscribers, except in situations beyond the control of the Grantee.

111.27 SERVICE REPAIR STANDARDS. A Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Scheduled service interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the cable system. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions, as required by this chapter.

111.28 REFUNDS TO SUBSCRIBERS. If a Grantee fails to provide any material service requested by a subscriber in accordance with the current FCC standards, the Grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by the subscriber. If any subscriber terminates for any other reason, a Grantee shall refund the unused portion of any prepaid subscriber service fee on a daily pro rata basis. The effective date used to pro rate such refunds shall be the date that the subscriber contacts the Grantee or a mutually agreed upon date. Any disputes arising under this section shall be resolved in accordance with Section 111.36(5) of this chapter.

111.29 CHANNEL CARD. A Grantee shall prepare and make available on annual basis at no charge to all subscribers, an accurate and up-to-date channel card listing the cable channels and services available over the cable system. The channel card shall be distributed to every new subscriber, and within thirty (30) days after a change or addition in channels or services offered affecting two (2) or more channels via a newspaper of record, direct mail, or bill stuffers.

111.30 CUSTOMER HANDBOOK. A Grantee shall provide written customer policies or a handbook to all new subscribers and, thereafter, upon request. Grantee's written customer policies or handbook shall, at a minimum, comply with all notice requirements in

this chapter and those promulgated by the FCC. If a Grantee's operating rules are changed, subscribers shall be notified in a timely manner. Grantee shall provide enlarged photocopies of information upon request of any subscriber.

111.31 SUBSCRIBER PRIVACY. Any Grantee shall abide by current Federal law and FCC regulations and Section 631 of the Cable Act regarding protection of subscriber privacy.

111.32 DISCRIMINATORY OR PREFERENTIAL PRACTICES. A Grantee shall not, in making available the services or facilities of its cable system, or in its rules or regulations, or in any other manner, make or grant preferences or advantages to any subscriber or potential subscriber, or to any user or potential user, and shall not subject any person to any prejudice or disadvantage, based on their race, color, national origin or gender. This provision shall not prohibit promotional campaigns to stimulate subscriptions to the cable system or other legitimate uses thereof, nor the establishment of a graduated scale of charges and classified rate schedules to which any subscriber coming within such classification shall be entitled.

111.33 IDENTIFICATION OF EMPLOYEES. Every field service and installation employee of the Grantee shall be clearly identified by an identification card, badge or uniform shirt. All employees of Grantee shall display proper identification upon request of a subscriber, provided that the City requires all utilities operating in the City to do the same. Every field service and installation vehicle of the Grantee shall be clearly marked by logo or decals.

111.34 SYSTEM DESIGN AND EQUIPMENT REQUIREMENTS.

1. All Channels Emergency Alert System. In accordance with the provisions of FCC Regulations and as such provisions may from time to time be amended, and as set forth in the franchise agreement, a Grantee shall provide an Emergency Alert System (EAS) for use in transmitting emergency alert signals to all subscribers.

2. Switching Device. A Grantee, upon request from any subscriber, shall install at a reasonable charge a switching device to permit a subscriber to continue to utilize the subscriber's television antenna. The Grantee shall not require the removal, or offer to remove, any subscriber's antenna lead-in wire.

3. Parental Control Devices. Upon request, and within one hundred twenty (120) days, Grantee shall provide at a reasonable charge to subscribers, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible. The lockout device described herein shall be made available to all subscribers requesting it beginning on the first day that any cable service is provided.

4. Public Educational and Governmental Channels. A Grantee shall provide public educational and governmental channels as stipulated in the franchise agreement.

5. Access Equipment and Facilities Fee. If authorized by the City, and after sixty (60) days' notice from the City to a Grantee, a City shall provide ongoing support for public educational, and governmental access equipment and facilities in the amount of not to exceed fifty cents ($.50) per subscriber per month for the entire

term of the franchise, payable in the same manner as the franchise fee payment pursuant to Section 111.35(1) hereof. The City acknowledges that this amount shall not be considered gross revenues subject to the payment of franchise fees pursuant to Section 111.35(1) hereof. Furthermore, payments of this ongoing support shall not be deemed to be "franchise fees" within the meaning of Section 622 of the Cable Act and such payment shall not be deemed to be "payments-in-kind" or any involuntary payments chargeable against the compensation to be paid to the City by a Grantee pursuant to Section 111.35(1) hereof. A Grantee shall be allowed to collect such fee as a pass through to cable subscribers. This fee shall be revised on an annual basis in accordance with the consumer price index.

6. Leased Access Channels. Any Grantee shall make a portion of the remaining unused channels available for lease as required by Section 612 of the Cable Act.

7. Interference. The Grantee's cable system shall be designed, engineered, and maintained so as not to interfere with the television and radio reception of residents of the City who are not subscribers on the cable system.

8. Additional Services. The Grantee is encouraged to make available such additional video, audio, radio, digital, point-to-point service, and other services as are requested by subscribers and programmers who are willing to pay for such services, provided that such services are technologically and economically feasible. If no applicable rate exists when such a service is requested, the rate change procedures established in Section 111.35(2) shall be followed.

9. Technical Standards. The cable system shall be operated and maintained in compliance with FCC Rules and Regulations Technical Standards K of Part 76 of Chapter 1 of Title 47 of the Code of Federal Regulations, as revised or amended from time to time. FCC proof of performance test results shall be delivered to the City annually or upon written request of the City. Grantee shall file a copy of test results performed by the FCC or other governmental regulatory agencies on the cable system with the City.

10. Filing Of Maps. Upon request of the City, the Grantee shall file with the City strand maps, showing the location of all property and facilities of the Grantee within the City. All maps supplied by the Grantee shall be considered confidential and proprietary.

111.35 REGULATIONS BY THE CITY.

1. Franchise Fee.

A. Franchise Fee Payment. In consideration for the use of the streets and public ways of the City for the construction, operation, maintenance, and reconstruction of a cable system within the City, the Grantee shall pay to the City an annual amount equal to five percent (5%) of the Grantee's gross revenues as defined in Section 111.01 of this chapter.

B. Quarterly Payments. Payment due to the City under the Franchise Agreement shall be made quarterly at the City Clerk's office not later than forty-five (45) days following March 31, June 30, September 30 and December 31 of each year. Any fee not paid when due shall bear interest at a rate of one and one-half percent (1½%) per month from the date due. Each payment shall be accompanied with a detailed report, showing the basis for

the computation, specific income categories, and such other relevant facts as may be required by the City necessary to determine the accuracy of the franchise payment as specified in this chapter. The acceptance of any payment shall not be construed as an accord that the amount paid is, in fact, the correct amount; nor shall such acceptance of payment be construed as a release of any claim the City may have for additional sums payable by the Grantee. All amounts paid shall be subject to audit and re-computation by the City.

C. Franchise Fee Audit. A Grantee will fully cooperate with a franchise fee audit performed by a professional firm that is chosen by the City. The costs associated with the audit will be paid for by the City, except that the Grantee shall pay for the costs if the audit shows an underpayment of franchise fees in excess of five percent (5%) or more.

D. Franchise Fee Increases. The City may request an increase in franchise fees at any time during the term of the franchise equal to the maximum percentage allowed by Federal law. However, such request shall be made in writing and the Grantee will not be liable for said increase until proper notice, as defined by Federal law, is given to its subscriber. Prior to making a final decision regarding an increase in franchise fees, the City shall conduct a public hearing and shall grant an opportunity to the Grantee to discuss the proposed increase in franchise fee.

E. Limitation on Franchise Fee Actions. The period of limitation for recovery of any franchise fee payable hereunder shall be five (5) years from the date on which payment by a Grantee is due.

F. Annual Review. Grantees shall provide the City with a statement of annual gross revenues signed by an officer of the Grantee, reflecting the amount of franchise fees paid to the City and the method the amount was computed. The Grantee agrees to permit the City, upon request with reasonable notice, to review at Grantee's local office its gross revenue records as may be necessary to monitor compliance with this subsection.

2. Rates and Charges. The City may regulate rates for the provision of basic cable and equipment as permitted by of the Cable Act. Any rate adjustment shall be filed with the City Clerk not later than thirty (30) days prior to the implementation of the adjustment.

3. Franchise Renewal. Any proceedings undertaken by the City that relate to the renewal of a Grantee's Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended, unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of Federal or State law.

4. Conditions of Sale. If a renewal or extension of a Grantee's franchise is denied or the franchise is lawfully terminated, and the City either lawfully acquires ownership of the cable system or by its actions lawfully effects a transfer of ownership of the cable system to another person, any such acquisition or transfer shall be at a price determined pursuant to the provisions set forth in Section 627 of the Cable Act. In the case of a final determination of a lawful revocation of the Franchise, at the Grantee's request, which shall be made in its sole discretion, the

Grantee shall be given a reasonable opportunity to effectuate a transfer of its system to a qualified third party. During such a period of time the City shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise. However, in no event shall such authorization exceed a period of time greater than nine (9) months from the effective date of such revocation. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its system which is reasonably acceptable to the City, the Grantee and the City may avail themselves of any rights they may have pursuant to Federal or State law. The Grantee may continue to operate of its system during the nine-month period and it shall not be deemed to be a waiver or extinguishment of any right of either the City or the Grantee.

5. Transfer of Franchise.

A. Transfer of Franchise. Any franchise granted under this chapter shall be a privilege to be held for the benefit of the public. Any franchise so granted cannot, in any event, be sold, transferred, leased, assigned or disposed of, including, but not limited to, by forced or voluntary sale, except to entity controlling, controlled by or under common control with the Grantee, without the prior written consent of the City. Such consent as required by the City, shall be given or denied no later than one hundred twenty (120) days following any request and shall not be unreasonably withheld. Prior consent shall not be required when transferring the franchise between wholly owned subsidiaries of the same entity, nor shall such consent be required for a transfer in trust, by mortgage, by other hypothecation, or assignment of any rights, title, or interest of the Grantee in the cable system in order to secure indebtedness.

B. Ownership or Control. In the event that the Grantee sells or otherwise transfers ownership in the cable system, such sale or transfer shall conform with Section 617 of the Cable Act. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, the City may in accordance with Section 617 inquire into the qualifications of the prospective controlling party, and the Grantee shall assist the City in any such inquiry. In seeking the City's consent to any change in ownership or control, the transferee shall have the responsibility:

(1) To show to the satisfaction of the City whether the proposed purchaser, transferee, or assignee (the "proposed transferee"), which in the case of a corporation, shall include all directors and all persons having a legal or equitable interest of fifty percent (50%) or more of the voting stock:

a. Has ever been convicted or held liable for acts involving moral turpitude including, but not limited to, any violation of Federal, State or local law or regulations, or is presently under an indictment, investigation or complaint charging such acts;

b. Has ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him, or them by any court of competent jurisdiction; or

c. Has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a cable system. The City retains the right to withhold approval of the transfer until the transferee has provided the information required in this subsection.

(2) To establish the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee and such other data to determine the legal, financial, and technical qualification of the transferee, as the City may request, where the same shall be audited, certified and qualified by a certified public accountant.

(3) To establish that the technical capability of the proposed transferee is such as shall enable it to maintain and operate the cable system for the remaining term of the franchise under the existing franchise terms.

C. Any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the City that the financial institution, or its designee, as approved in writing by the City, shall take control and operate the cable system in the event of a Grantee default in its financial obligations. Further, said financial institution shall also submit a plan for such operation that will ensure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the cable system for a period exceeding one (1) year, unless extended by the City at its discretion, but during said period of time it shall have the right to petition the City to transfer the franchise to another Grantee. Except insofar as the enforceability of this subsection may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally, and further subject to applicable Federal, State or local law, if the City finds that such transfer, after considering the legal, financial, character, technical and other public interest qualities of the proposed transferee, is satisfactory, the City shall transfer and assign the right and obligations of such franchise as in the public interest.

D. The consent or approval of the City to any transfer by the Grantee shall not constitute a waiver or release of the rights of the Franchising Authority in and to the streets, and any transfer shall by its terms, be expressly subject to the terms and conditions of any franchise.

E. In no event shall a transfer of ownership or control be approved without the successor in interest becoming a signatory of the Franchise Agreement.

F. The City may approve the transfer or deny the transfer pursuant to Section 617 of the Cable Act.

G. When the City approves a transfer under this section, the new Grantee shall indicate acceptance of the franchise as specified in Section

111.08, including the filing of all necessary bonds, funds, proofs of insurance and certifications.

The restrictions of this section shall be effective immediately upon execution of a franchise agreement.

6. Right of Inspection of Construction. The City shall have the right to visually inspect all construction or installation work performed subject to the provisions of this chapter and to make such visual inspections as it shall find necessary to ensure compliance with the terms of this chapter and other pertinent provisions of law.

7. New Developments. The Grantee is encouraged to upgrade its facilities, equipment and service. New developments shall be a topic of discussion at all review sessions and shall be a factor to be considered in connection with requests for rate adjustments, pursuant to FCC rules and regulations.

111.36 COMPLIANCE AND MONITORING.

1. Testing For Compliance. The Grantee shall meet or exceed all FCC minimum performance and technical standards. The City shall have the right to compel the Grantee to provide results of Grantee's testing of the cable system. In the event that the City has evidence of noncompliance, such as subscriber complaints, the City may also perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the cable system in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable State or Federal laws. Such tests may be undertaken only after giving the Grantee reasonable notice thereof, not to be less than ten (10) business days, and providing a representative of the Grantee has an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that the Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the City. Except in emergency circumstances, the City agrees that such testing shall be undertaken no more than once a year, and that the results thereof shall be made available to the Grantee. Any such special performance tests or measurements required by the City shah be reported to the City within fourteen (14) business days after such test or measurements are performed. Such report shall include the following information: the nature of the complaint which precipitated the special tests; what system component was tested, the equipment used, and procedures employed in said testing; the results of such tests; and the method in which such complaints were resolved. Any other information pertinent to the special test shall be recorded.

2. Books and Records. The City or its certified public accountant upon reasonable notice to the Grantee may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or

confidential in nature under State and Federal rules of evidence. The City agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide subscriber information in violation of Section 631 of the Cable Act.

3. Communications With Regulatory Agencies. Copies of all petitions, applications, communications, reports, and all other documents pertaining to the cable system and franchise submitted by the Grantee or its parent companies to the FCC, Securities Exchange Commission, or any other Federal or State regulatory commission or agency shall be made available to the City upon written request to the Grantee.

4. Complaint Records. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions or complaints regarding system service problems. The Grantee shall maintain detailed logs setting forth the date and substance of each service interruption or complaint regarding the system service problems received by phone, mail or other means during the preceding calendar month, and the date and nature of action taken by the Grantee to respond to such complaints, or, if still pending, the status thereof. Such logs shall be available to the City for review for two years thereafter. A "complaint" as used herein shall be a written or oral complaint from a subscriber regarding signal quality or service, but not regarding programming or rates which, in the case of oral complaints, is not resolved within the original telephone call or visit from the subscriber.

5. City Role In Complaints. Unresolved complaints concerning the system or its operation or maintenance may be directed to the City Administrator. The City Administrator shall promptly forward the complaint to the Grantee or shall take the question up by correspondence with the Grantee. The procedure to handle complaints shall be as follows:

A. Within 30 days from the occurrence of the facts and circumstances giving rise to a complaint or grievance, the complainant shall state his or her complaint or grievance to the Grantee in writing. In the event such a complaint or grievance is received by the City, the same shall be forwarded to Grantee in writing.

B. Within five (5) business days from the receipt by the Grantee of a complaint from the City, the Grantee shall state to complainant its intentions with respect to the complaint in writing.

C. Unresolved complaints concerning the system or its operation or maintenance shall be directed to the City Administrator. The City Administrator shall forward the complaint to the Grantee or shall take the question up by correspondence with the Grantee. Within such time as may be prescribed by the City Administrator, the Grantee shall resolve the complaint or advise the City of its refusal or inability to do so. When the Grantee resolves the complaint, it shall so notify the City. If a complaint has not been resolved, the complainant may petition the City to take any appropriate action authorized by this chapter.

D. All subscribers shall be notified by the Grantee at the time of their initial installation of these complaint procedures in writing.

E. Nothing herein shall limit or alter the requirement or requirements contained in this chapter for customer service standards.

F. The City shall be notified of action taken to resolve grievances or complaints.

6. Performance Testing. The Grantee perform all cable system tests and maintenance procedures as required by the FCC and this chapter.

7. Review Sessions. In recognition of the fact that a great many technical, financial, marketing and legal uncertainties are associated with all aspects of cable communications at the present time, it is the intent of the City to provide for a maximum feasible degree of flexibility in a Franchise throughout its term to achieve an advanced and modern cable system for the City. The principal means for accomplishing this flexibility will be the scheduled review sessions provided for in this chapter. It is intended that such review sessions will serve as a means of cooperatively working out solutions to problems that develop. Furthermore, such review sessions shall be two-way processes. For example, if either party has perceived that some major problem has developed, the session shall be devoted primarily to working out solutions acceptable to both parties. The City and the Grantee shall hold scheduled review sessions on the third, sixth, and ninth anniversary dates of the effective date of the franchise agreement. All such review sessions shall be open to the public and notice thereof shall be published once, not less than four (4) days or more than twenty (20) days before each review session, as provided by law. The published notice shall specify the topics to be discussed. The review sessions may be canceled by mutual agreement of the City and Grantee. The following topics may be discussed at every scheduled review session:

- Recent and Developing Judicial and Federal Communications Rulings
- Service Rate Structures
- Free and Discounted Services
- Application of New Technology or New Developments
- Cable System Performance
- Cable System Extension Policy
- Services Provided
- Programming Offered
- Customer Complaints Review
- Community Development and Education
- Interconnection
- New Services
- Subscriber Privacy Abuse Issues
- New Developments
- Franchise Fees

Other topics, in addition to those listed, may be added by either party. Members of the general public may also request additional topics.

8. Regulatory Responsibility. The City, acting alone or acting jointly with other franchising authorities, may exercise or delegate the following responsibilities:

A. Administering the provision of a cable system franchise,

B. Coordinating the operation of any PEG channel and facilities,

C. Providing technical, programming and operational support to public agency users, such as government departments, schools and health care institutions,

D. Establishing jointly with a Grantee, or as otherwise specified in the Franchise Agreement, procedures and standards for use of channels dedicated to public use and the sharing of public facilities, if provided for in any Franchise Agreement,

E. Planning the expansion and growth of public benefit cable services,

F. Analyzing the possibility of integrating cable systems with other local, regional or national telecommunications networks,

G. Formulating and recommending long-range telecommunications policy.

9. Annual Report. No later than ninety (90) days after the close of a Grantee's fiscal year, and upon written request, the Grantee shall submit a detailed written informative report to the City, including the following information:

A. A summary of the previous year's activities in development of the cable system, including, but not limited to, services begun or dropped.

B. A detailed revenue statement including a breakdown of all revenue sources upon which the City can verify franchise fee accuracy. The list of revenues shall include but not be limited to, a specific breakdown of all gross revenues.

C. A summary of complaints, identifying the number and specific nature of complaints and their disposition.

D. A list of key management for the Atlantic franchise along with their addresses and job titles.

E. The annual report of the parent company, if a public corporation. Such report shall be construed to mean the report of the previous year.

F. A summary of types of communication signals and services provided without charge or provided under a barter arrangement along with their dollar equivalent.

111.37 INSURANCE AND INDEMNIFICATION.

1. Indemnification. Any Grantee shall indemnify, save and hold harmless and defend the City, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction,

operation, or maintenance of its cable system, including but not limited to reasonable attorney's fees and costs, provided that the City shall give the Grantee written notice of its obligation to indemnify the City within 10 days of receipt of a claim or action pursuant to this section. If the City determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the City.

2. Insurance Coverage and Notifications. A Grantee shall maintain insurance in such amounts and kinds of coverage as may be specified by the City in the Franchise Agreement. The Grantee shall maintain such insurance with insurance underwriters authorized to do business in the State of Iowa. All policies shall name the City, its employees, servants, agents, and officers as additional insured parties. Each policy shall provide that it may not be canceled or the amount of coverage altered until thirty (30) days after receipt by the City Clerk of a registered mail notice of such intent to cancel or after coverage. The Grantee shall provide a certificate of insurance designating the City as an "additional insured."

3. Insurance For Contractors and Subcontractors. Any Grantee shall provide coverage for any contractor or subcontractor involved in the construction, installation, maintenance or operation of its cable system by either obtaining the necessary endorsements to its insurance policies or requiring such contractor of subcontractor to obtain appropriate insurance coverage consistent with this section and appropriate to the extent of its involvement in the construction, installation, maintenance or operation of the Grantee's cable system.

4. Foreclosure. A foreclosure or other judicial sale of all or part of the system shall be treated as a change in control of the Grantee and the provision of Section 111.38(7) of this chapter shall apply.

5. Receivership. The City shall have the right to cancel this franchise one hundred twenty (120) days after the appointment of a receiver or trustee, to take over and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceedings, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or less:

A. Within one hundred twenty (120) days after being elected or appointed, such receiver or trustee shall have fully complied with all provisions of this chapter and remedied all defaults thereunder; and

B. Shall have executed an agreement, approved by the court having jurisdiction, whereby such receiver or trustee agrees to be bound by this chapter and the franchise granted to the Grantee.

6. Continuity of Service.

A. Right to Continuous Service. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to rebuild, modify, or sell the cable system, or the City gives notice in accordance with the Franchise or this chapter of intent to terminate or fails to renew the franchise, the Grantee shall act so as to ensure that all subscribers receive continuous, uninterrupted service for six (6) months. In the event of a change of Grantee, or in the event a new operator acquires the cable system. the

original Grantee shall cooperate with the City, new Grantee or operator in maintaining continuity of service to all subscribers. During such period, Grantee shall be entitled to the revenue for any period during which it operates the cable system, and shall be entitled to reasonable costs for its services when it no longer operates the cable system.

B. Right of City to Operate Cable System. In the event Grantee fails to operate the system for seven (7) consecutive days without prior approval of the City or without just cause, the City may, working in conjunction with any financial institution having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise, operate the system or designate an operator until such time as Grantee restores service under conditions acceptable to the City or a permanent operator is selected. If the City is required to fulfill this obligation for the Grantee, then during such period as the City fulfills such obligation, the City shall be entitled to a reasonable management fee.

7. Franchise Publication Costs.

A. Initial Franchises. For an initial franchise awarded, the costs to be borne by the Grantee shall include, but shall not be limited to, all costs of publication of notices prior to any public meeting, publication of relevant ordinances and franchise agreements, incurred by the City.

B. Franchise Renewal. For a franchise renewal, the Grantee shall reimburse the City cost of publication of notices publication of relevant ordinances, and publication of franchise agreements.

C. Franchise Transfer. For a franchise transfer, the transferee shall reimburse the City the cost of publication of notices, publication of relevant ordinances and publication of franchise agreements. The City reserves the right to withhold approval of such transfer until all such costs have been reimbursed by the transferee.

D. Other Costs. The publication costs provided for in this section shall be in addition to any other inspection or permit fee or other fees due to City under any other ordinance of general applicability.

8. Taxes. Subject to Federal and State law, the Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other generally applicable charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

111.38 ENFORCEMENT AND TERMINATION OF FRANCHISE.

1. Notice of Violation. In the event that the City believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

2. Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from receipt of the notice described in subsection 1 to respond to the City, contesting the assertion of noncompliance, or to cure such default, or, in the event that, by the nature of default, such default cannot be cured within the 30-day period, initiate

reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

3. Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 1 pursuant to the procedures set forth in subsection 2, or in the event that the alleged default is not remedied within 30 days or the date projected pursuant to subsection 2 above, the City shall schedule a public hearing to investigate the default. The City shall notify the Grantee in writing of the time and place of such meeting no less than five business days in advance and provide the Grantee with an opportunity to be heard. The City shall notify the Grantee in writing of the time and place of such meeting no less than five (5) business days in advance and provide the Grantee with an opportunity to be heard.

4. Enforcement. Subject to applicable Federal and State law, in the event the City, after such public hearing, determines that the Grantee is in default of any provision of the Franchise, the City may:

A. Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages;

B. Commence an action at law for monetary damages or seek other equitable relief, or

C. In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the procedures outlined in this section.

The City shaft give written notice to the Grantee of its intent to revoke the franchise on the basis of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the franchise. The notice shall set forth the exact nature of the noncompliance. The Grantee shall have ninety (90) days from such notice to object in writing and to state its reasons for such objection. In the event the City has not received a response satisfactory from the Grantee, it may then seek termination of the franchise at a public meeting. The City shall cause to be served upon the Grantee, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request such termination. At the designated meeting, the City shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the City *de novo* and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the City. The City may, at its sole discretion, take any lawful action which it deems appropriate to enforce the City's rights under the franchise in lieu of revocation of the franchise.

5. Prompt Compliance. The Grantee shall not be relieved of its obligation to comply with this chapter by reason of the City's failure to enforce prompt compliance.

6. Impossibility of Performance. A Grantee shall not be held in default under, or in noncompliance with, the provisions of a franchise, or suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the franchise), where such noncompliance or alleged defaults occurred

or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate and control. This provision also covers work delays caused by waiting for utility providers to service monitor their own utility poles on which the Grantee's cable and/or equipment is attached, as well as unavailability of materials and/or labor to perform the work necessary.

7. Termination of Franchise.

A. Grounds for Revocation. The City reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

(1) If the Grantee should default in the performance of any of its material obligations under this chapter or the franchise and fails to cure the default within sixty (60) days after receipt of written notice of the default from the City, or such longer time as specified by the City.

(2) If a petition is filed by or against the Grantee under the Bankruptcy Act or any other insolvency or creditors' rights law, State or Federal, and the Grantee shall fail to have it dismissed.

(3) If a receiver, trustee or liquidator of the Grantee is applied for or appointed for all or part of the Grantee's assets.

(4) If the Grantee makes an assignment for the benefit of creditors.

(5) If the Grantee violates any order or ruling of any State or Federal regulatory body having jurisdiction over the Grantee, unless the Grantee or any party similarly affected is lawfully contesting the legality or applicability of such order or ruling and has received a stay from a Court of appropriate jurisdiction.

(6) If the Grantee evades any of the provisions of this chapter or the Franchise Agreement.

(7) If the Grantee practices any intentional fraud or deceit upon the City or cable subscribers.

(8) If the Grantee materially misrepresents facts in the application for a franchise.

(9) If the Grantee ceases to provide services over the cable system for seven (7) consecutive days for any reason within the control of the Grantee.

B. Restoration of Property. In removing its plant, structures and equipment, the Grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its equipment and appliances, without affecting the electric or telephone cables, wires or attachments. The City shall inspect and approve the condition of the public

ways and public places and cables, wires, attachments and poles after removal. Liability insurance indemnity provided in Section 111.37(2) and the performance bond in Section 111.38(9) shall continue in full force and effect during the period of removal.

C. Reimbursement of Costs. In the event of a failure by the Grantee to complete any work as required above or any work required by law or ordinance within the time established and to the reasonable satisfaction of the City, after due notice and opportunity to cure, the City may cause such work to be done and the Grantee shall reimburse the City the costs thereof within thirty (30) days after receipt of an itemized list of such costs or the City may recover such costs as provided in subsection 8.

8. Security Fund.

A. Within ten (10) days after execution of the Franchise Agreement, the Grantee shall deposit with the City Clerk, and maintain on deposit through the term of the franchise, the sum of $10,000.00 as security for the faithful performance by it of all the provisions of the franchise and compliance with all orders, permits, and directions of any agency of the City having jurisdiction over its acts or defaults under the franchise, and the payment by the Grantee of any claims, liens, and taxes due the City which arise by reason of the construction, operation, or maintenance of the system.

B. Within ten (10) days after notice that any amount has been withdrawn from the security fund deposited pursuant to paragraph A of this subsection, the Grantee shall pay to, or deposit with, the City Clerk a sum of money sufficient to restore such security fund to the original amount of $10,000.00.

C. If the Grantee fails to pay to the City any compensation within the time fixed herein; or fails after ten (10) days' notice to pay to the City any taxes due and unpaid; or fails to repay to the City within such ten (10) days, any damages, costs, or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with the franchise; or fails after three (3) days' notice of such failure by the City to comply with any provision of the franchise which the City reasonably determines can be remedied by an expenditure of the security, the City Clerk may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the City Clerk shall notify the Grantee of the amount and date thereof.

D. The security fund deposited shall become the property of the City in the event that the franchise is canceled by reason of the default of the Grantee. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit at the expiration of the term of the franchise, provided that there is then no outstanding default on the part of the Grantee. Interest earned by the investment of the security fund will accrue to the Grantee.

E. The rights reserved to the City with respect to the security fund are in addition to all other rights of the City, whether reserved by the franchise or authorized by law, and no action, proceeding, or exercise of a right with respect to such security fund shall affect any other right the City may have.

9. Faithful Performance Bond. If required by the franchise, upon acceptance of a franchise, the Grantee shall submit and maintain throughout the term of the franchise, a faithful performance bond in an amount specified in the Franchise Agreement. The bond shall insure compliance with all applicable laws, regulations, ordinances and provisions of the franchise, shall provide for recoverable loss or damages, compensation, indemnification, reasonable attorney fees, cost of removal or abandonment of Grantee's property, and shall cover liquidated damages of one hundred dollars ($100.00) per day for failure to meet the construction requirements of any franchise agreement.

10. Violations and Penalties. If the Grantee fails to comply with the requirements of this cable franchise regulatory ordinance, and a cable franchise agreement, then the City may invoke and secure compliance in accordance with Chapter 4 of this Code of Ordinances and as authorized by Section 364.22 of the *Code of Iowa*.

111.39 ACTIONS OF PARTIES. In any action by the City or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

111.40 EQUAL PROTECTION. In the event the City enters into a franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the City's streets and public ways for the purpose of constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

111.41 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by a franchise to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope, or when hand delivered or sent by certified or registered mail, postage prepaid or express mail service.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the *Code of Iowa*.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the *Code of Iowa*, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises that does not conform to the applicable law and ordinances, resolutions, and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of 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 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a 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 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49[2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under 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.

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee, permittee, or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in

any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[21])

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(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 that 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.

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. "Carton" means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

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. "Package" or "pack" means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

4. "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.

5. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.

6. "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.

7. "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.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes 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. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

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

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

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (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.

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

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

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

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

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Alcoholic Beverages Division of the Department of Commerce within 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, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products 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])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, 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 cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable
122.10 Time Restriction
122.11 Revocation of License
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. Applicants for a license under this chapter shall file with the City Clerk an application in writing, on a form to be furnished by the Clerk, which shall give the following information:

1. Name, proof of identity, photograph, and social security number (or employer identification number) of the applicant and each and every person employed or engaged by said applicant who will be transacting business under the terms of the license.

2. Business address, or if not a business, the home address of the applicant, and in the case of transient merchants, the local address from which proposed sales will be made.

3. A description of the nature of the business and the goods to be sold by the applicant.

4. The source of supply of the goods or products proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed method of delivery.

5. If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

6. The last three (3) places of such business.

7. The length of time for which the license to do business is desired.

At the time of filing the application, a nonrefundable fee in the amount of $50.00 shall be paid to the City Treasurer to cover the cost of investigating the facts stated therein. The applicant shall not be required to pay the application fee for a renewal or renewals of the license for one year from the date of issuance of the initial license.

122.05 LICENSE FEES. License fees in amounts set by resolution of the Council shall be paid to the Clerk prior to the issuance of any license.

122.06 BONDS REQUIRED.

1. Before a license under this chapter is issued, each principal shall post a bond, by a surety company authorized to engage in the business of insuring the fidelity of others in Iowa, in the amount of two thousand five hundred dollars ($2,500.00) with the Clerk to the effect that the registrant and the surety shall consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary either to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter or to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with such registrant's peddling or solicitation. Said bond shall not be retired until after a lapse of one year from the expiration of the license which it covers.

2. 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. The licensee shall exhibit the license at the time of initial introduction to any resident of the City for the purpose of negotiating any transaction covered by this chapter. Any law enforcement officer of the City may demand a license to be exhibited of any person suspected of peddling, soliciting, or canvassing and who is not known by the officer to be duly licensed.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 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. Farmers and Gardeners. Farmers and gardeners who offer for sale products they raised themselves.

4. Students. Students representing schools conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

7. Craft Sales. Persons who offer for sale crafts, art work and similar items that they make or create themselves.

8. Swap Meets. Organized events where used items are sold, traded or exchanged.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization, the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee
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123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION. Application for a house mover's permit shall be made in writing to the 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, Public Works Director 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 fifty dollars ($50.00) 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 flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 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.

CHAPTER 124

PUBLIC DANCE HALL LICENSES

124.01 Purpose
124.02 Definitions
124.03 Compliance Required
124.04 License Required
124.05 Application for License
124.06 Inspection and Verification
124.07 License Fee
124.08 Issuance of License
124.09 Duration of License
124.10 Posting of License
124.11 Public Dance Hours
124.12 Disorderly Conduct
124.13 Suspension or Revocation of License
124.14 Effect of Revocation

124.01 PURPOSE. The purpose of this chapter is to provide for the licensing and regulating of Public Dance Halls in the City.

124.02 DEFINITIONS. For the purpose of this chapter, the following words and phrases are defined:

1. "Applicant" means any person, partnership, corporation or association applying for a license under this chapter.

2. "License" means the license to establish and operate a public dance hall issued by the City pursuant to the provisions of this chapter.

3. "Owner" means the person that establishes and operates or proposes to establish and operate a public dance hall pursuant to the provisions of this chapter and, when the context so requires, means and includes the partners, officers, employees, agents and independent contractors of the owner.

4. "Public dance" means an organized dance and/or live band. The term "public dance" does not include dances held, conducted or sponsored by a fraternal lodge or society; Veteran's organization composed of veterans of any war; agricultural societies or organizations of a benevolent, charitable or religious character, or other similar organizations whose purpose and objective are not for pecuniary profit.

5. "Public dance hall" means any place open to the public where dancing is permitted.

124.03 COMPLIANCE REQUIRED. No public dance hall shall be opened, operated or permitted to be opened or operated without compliance with the provisions of this chapter by the owner or operator, and no premises shall be used as a public dance hall without compliance with the provisions of this chapter by the owner or lessee.

124.04 LICENSE REQUIRED. No public dance hall shall be opened, operated or permitted to be opened or operated without the owner or operator first obtaining a public dance hall license from the Council; and no premises shall be used as a public dance hall without the owner or lessee first obtaining a public dance hall license from the Council.

124.05 APPLICATION FOR LICENSE. Any applicant for a public dance hall license shall apply in writing to the Clerk. The application shall be made in the name of the owner or operator and shall contain the following:

1. The full name, residence address, business address of the applicant and, if the applicant is a partnership, corporation or association, the names of the partners, corporate officers or association members, as applicable.

2. The address of the premises where the applicant proposes to establish and operate a public dance hall.

3. If the applicant is not the owner of the premises where the proposed public dance hall is to be located, the name and address of the owner, and a statement that the applicant is the actual lessee of the premises.

4. A statement that the premises where the applicant proposes to hold, conduct or permit public dances or public dancing conforms to all laws and regulations, including fire, health and zoning codes, and is a safe place for holding, conducting or permitting public dances.

124.06 INSPECTION AND VERIFICATION. Before any license is granted under the provisions of this chapter, the premises where the applicant proposes to hold, conduct or permit public dances or public dancing shall be inspected by the Police Chief or designee. The Council shall have determined the moral fitness of the applicant to hold, conduct or permit public dances or public dancing, and shall have verified the truth of the statements made in the application.

124.07 LICENSE FEE. The license fee for a public dance hall under the provisions of this chapter is as follows:

1. For premises where neither alcoholic beverages nor food is sold or served, the sum of $50.00 per year, or $10.00 per day or portion thereof, for each dance held;

2. For premises where alcoholic beverages and/or food is sold or served, the sum of $60.00 per year or $20.00 per day or portion thereof, for each dance held.

All license fees must be paid prior to the issuance of a license to the applicant. No license fee or part thereof shall be refunded for any reason.

124.08 ISSUANCE OF LICENSE. If the Council finds that the applicant has fully complied with all requirements of this chapter and that the applicant is of good moral character, the Council shall authorize the issuance of a license to the applicant.

124.09 DURATION OF LICENSE. All licenses issued pursuant to this chapter shall expire on the 30th day of June following the date of issuance.

124.10 POSTING OF LICENSE. The license required by this chapter shall be displayed in a conspicuous place in the public dance hall.

124.11 PUBLIC DANCE HOURS. No public dance shall continue later than 1:00 a.m. on any day unless permission has been granted by the Council.

124.12 DISORDERLY CONDUCT. Neither a licensee nor any partner, officer, employee, agent or independent contractor of the licensee shall permit the public dance hall to be or become disorderly, and the term "disorderly" as used herein means permitting or allowing any of the following on the premises, the parking areas or on property contiguous to the premises, where the disorderly conduct originated on the premises:

1. Fights or affrays;

2. Disturbance of the peace and quiet including loud music or noise, produced by any means;

3. Consumption of alcoholic beverages by persons under the legal age for consumption of such beverages, or any other illegal consumption of alcoholic beverages;

4. Disposal of trash or litter on public streets, private property or sidewalks contiguous to the premises;

5. Trespassing upon private property;

6. Gambling in violation of the laws of the State;

7. Consumption of alcoholic beverages during any public dance unless such licensee also holds a valid liquor license or wine or beer permit for the premises;

8. Any other violation of the laws of the State or this Code of Ordinances which affect the general welfare, comfort, safety and health of the public.

124.13 SUSPENSION OR REVOCATION OF LICENSE. Any license may be suspended or revoked by the Council for the violation of any provision of this chapter by proceeding in the following manner:

1. The Council shall set a time and place of hearing on any proposed suspension or revocation.

2. Notice of the time and place of such hearing, the purpose thereof and the reason or reasons for the proposed suspension or revocation shall be given by mailing such notice to the licensee at the address of the public dance hall by certified mail or by personal service by a City employee, such notice to be completed at least ten (10) days prior to the time of such hearing.

3. At such hearing, the licensee and all other interested persons shall have the right to be heard and to present evidence relative to the proposed suspension or revocation.

If, after such hearing, the Council finds that, based upon the evidence, a violation of any provision of this chapter has occurred, the Council may either suspend or revoke the license; and the determination of whether to suspend or revoke the license shall depend upon the circumstances surrounding and the severity of the violation. Failure to cooperate and/or assist in any investigation with City authorities pertaining to any possible violations relating to the public dance shall be considered grounds for revocation or refusal of a public dance license.

124.14 EFFECT OF REVOCATION. A licensee whose license has been revoked shall not be eligible for another license for a period of 180 days after such revocation; and where the license for a premises has been revoked, no license shall be granted for such premises for a period of 180 days after such revocation.

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CHAPTER 125

TREE TRIMMERS

125.01 Definitions
125.02 Permit Required
125.03 Permit Fee
125.04 Rules Regulating Tree Removal
125.05 Permit Issued
125.06 Revocation of Permit
125.07 Current Permits Valid

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

1. "Tree removal" means the carting or hauling away, or otherwise disposing of, by any lawful means whatsoever, any tree or part thereof from the site of said tree.

2. "Tree trimmer" means any person who removes, cuts or trims, by any means whatsoever, any tree or part thereof for compensation.

125.02 PERMIT REQUIRED. Any person who engages in tree trimming or tree removal within the City shall first secure from the Clerk a permit to engage in the same. Before any permit is granted by the Clerk for tree trimming or tree removal, said permit shall be approved by the Council or Public Works Director and the applicant shall file with the Clerk a certificate of insurance from a company authorized to do business in Iowa, showing that the applicant has the following insurance coverage in force:

1. Bodily Injury - $250,000.00/$500,000.00

2. General Liability - $1,000,000.00/$2,000,000.00

Said insurance shall protect the applicant against claims for damages or injury which may result from the applicant's tree trimming or tree removal work.

125.03 PERMIT FEE. An annual permit fee in an amount set by resolution of the Council shall be charged for a tree trimmer's or tree remover's permit. All permits shall be issued for one year.

125.04 RULES REGULATING TREE REMOVAL. All tree removals in the City shall be done in accordance with the rules and regulations prescribed by the Council. The Council is hereby authorized to file with the Clerk rules and regulations to be followed and complied with in respect to all tree removal within the City.

125.05 PERMIT ISSUED. Upon granting a permit for tree trimming or tree removal, the Clerk shall issue to said applicant a permit for the same, which shall be on public display by said tree trimmer or tree remover.

125.06 REVOCATION OF PERMIT. The Council may, for cause shown, revoke any permit granted under this chapter for violation of any of the provisions hereof.

125.05 CURRENT PERMITS VALID. Permits that have been issued and are currently valid shall continue valid until the expiration date.

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CHAPTER 126

MECHANICAL AMUSEMENT DEVICES

126.01 Definitions
126.02 License Required
126.03 Application
126.04 Inspection and Issuance of License
126.05 Referral to Council
126.06 Fees and Expiration
126.07 Change of Location
126.08 Refunds
126.09 Prohibitions and Restrictions
126.10 Revocation of License
126.11 Gambling Devices Not Permitted

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

1. "Juke box" means any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc, or key into any slot, crevice, or other opening, or by the payment of any price, operates or may be operated, for the emission of songs, music or similar amusement.

2. "Mechanical amusement device" means any machine which, upon the insertion of a coin, slug, token, plate or disc, or by the payment of any price, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pin ball machines, skill ball, mechanical grab machines and all games, operations, or transactions similar thereto under whatever name they may be indicated.

3. "Operator" means the person, firm, corporation or association who owns, maintains, and exhibits for use, play or operation, or who rents to, or places with others for use, play or operation, any juke box or mechanical amusement device, and further shall include the person, firm, corporation or association who operates the place of business where the juke box or mechanical amusement device is physically located when in use, play or operation.

126.02 LICENSE REQUIRED. Any operator displaying for public patronage or keeping for operation any juke box or mechanical amusement device, as herein defined, shall be required to obtain a license from the City upon payment of a license fee. Application for such license shall be made to the Clerk upon a form to be supplied by the Clerk for that purpose. No license shall be issued to any operator unless the operator is 18 years of age or over and a citizen of the United States.

126.03 APPLICATION. The application for an operator's license shall contain the following information:

1. Personal Data. The name and address of the applicant, age, date and place of birth.

2. Felony Convictions. Prior felony convictions of the applicant, if any.

3. Business Information. The place or places where the machines or devices are to be displayed or operated, the number of machines or devices at each such place, and the business conducted in that place.

126.04 INSPECTION AND ISSUANCE OF LICENSE. The application for an operator's license shall be made out in duplicate, one copy being referred to the Police Chief.

1. Investigation. The Police Chief shall investigate the place or places wherein it is proposed to operate such machines, ascertaining if the applicant and person who operates the business where the machine shall be located is of good moral character, and either approve or disapprove the application.

2. Issuance. If the application is not approved by the Police Chief, the Clerk shall not issue said license unless so directed by the Council.

126.05 REFERRAL TO COUNCIL. If for any reason the Clerk is not permitted to issue a license, or fails or refuses to do so, the Clerk shall refer the matter to the Council at its next regular meeting after receipt of the application. The Council shall, after hearing thereon, either direct the Clerk to issue or not to issue the license.

126.06 FEES AND EXPIRATION.

1. Fees. Every applicant, before being granted an operator's license, shall pay a license fee of fifty dollars ($50.00) per year for each business location where such machines are located. The fee for the license issued under the terms hereof shall be payable at the time of issuance. All licenses so issued shall be effective until the next succeeding July 1.

2. Prorated Fees. If such period is less than a year, the applicant shall pay the sum of a fourteen dollar ($14.00) basic charge, plus three dollars ($3.00) for each month or part of a month of the fiscal year then remaining.

3. Refund. If the licensee, after once obtaining said license, determines to discontinue use thereof and to return said license to the City the licensee shall be entitled to a refund of three dollars ($3.00) per each full month still remaining in the fiscal year.

4. New Licenses. A new application and a new license will be issued for each business location each year after the initial license is issued.

126.07 CHANGE OF LOCATION. The holder of each license issued hereunder shall notify the Clerk of any change in the place or places where machines or devices are displayed or operated. Such notice shall be given within ten (10) days of the time that such change is made.

126.08 REFUNDS. Any licensee, or the executor, administrator or person duly appointed by the court to take charge of and administer the property or assets of such licensee for the benefit of the licensee's creditors, may voluntarily surrender any license issued under this chapter to the Council, and when so surrendered, the Council shall refund to the person so surrendering the license, a proportionate amount of the license fee paid for such license. If surrendered during the first three months of the period for which the said license was issued, the refund shall be three fourths of the amount of the license fee so paid; if surrendered more than three months but not more than six months after issuance, the refund shall be one half of the amount of the license fee so paid; if surrendered more than six months but not more than nine months after issuance, the refund shall be one fourth of the amount of the license fee so paid. No refunds shall be made, however, for any license surrendered more than nine months after issuance.

126.09 PROHIBITIONS AND RESTRICTIONS. No person, firm, corporation or association holding a license under this chapter shall permit the playing of juke boxes, as herein defined, between the hours of 2:00 a.m. and 7:00 a.m. of any day.

126.10 REVOCATION OF LICENSE. Every license issued under this chapter is subject to revocation should the licensee, directly or indirectly, permit the operation of any juke box or mechanical amusement device contrary to the provisions of this chapter or the laws of the State of Iowa. Said license may be revoked by the Council after written notice to the licensee, which notice shall specify the violations with which the licensee is charged, if after a hearing the licensee is found to be guilty of such violations. Twenty days' notice of the hearing shall be given the licensee. At such hearing the licensee and the licensee's attorney may present and submit evidence of witnesses in the licensee's defense.

126.11 GAMBLING DEVICES NOT PERMITTED. Nothing in this chapter shall in any way be construed to authorize, license or permit any gambling devices whatsoever, except those licensed by the State of Iowa, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the State of Iowa. If the Police Chief shall have reason to believe that any mechanical amusement device is used as a gambling device, such machine may be seized by the police and impounded, and if upon trial of the exhibitor for allowing it to be used as a gambling device, such exhibitor be found guilty, such machine shall be destroyed by the police.

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CHAPTER 127

SEXUALLY ORIENTED BUSINESSES

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127.01 PURPOSE. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of Atlantic, Iowa, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented business within the City. The provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

127.02 FINDINGS. Based on evidence of adverse secondary effects of adult uses presented to the City Council and on findings, interpretations, and narrowing constructions incorporated in both state and federal court cases, the City Council finds that the regulatory provisions of this chapter are within its constitutional power to enact, are designed to serve the City's substantial interest in preventing many of the negative secondary effects associated with sexually oriented adult uses, is narrowly tailored to that end, and provides reasonable alternative avenues of communication for sexually explicit messages within the City.

1. Sexually oriented business lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the unlicensed operators of the establishments.

2. Employees of sexually oriented businesses, as defined in this chapter, often engage in certain types of illicit sexual behavior.

3. Sexual acts, including masturbation, and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

4. Communities have suffered adverse aesthetic impacts caused by sexually oriented businesses, including sexually graphic and unsanitary litter in and around adult bookstores and other sexually oriented adult uses.

5. Person often frequent certain adult theatres, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex in or near the premises of such sexually oriented businesses, or for the purpose of purchasing or selling illicit drugs.

6. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and Shigella infections, chlamydial, myoplasmal and ureaplasmal infections, trichomoniasis and chancroid.

7. Men and women of all races are most likely to be infected by sexual contact.

8. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

9. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent duty on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the City.

10. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theatres.

11. Requiring licensees of sexually oriented business to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

12. The fact that an applicant for a license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.

13. The general health, safety, and welfare of the citizens of the City will be promoted by the enactment of this chapter.

127.03 JURISDICTION. The provisions of this chapter shall apply to all of the incorporated territory of Atlantic, Iowa.

127.04 DEFINITIONS. For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

1. Adult Arcade. Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized

by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas."

2. Adult Bookstore, Adult Novelty Store, Adult Video Store. A commercial establishment which has significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas."

B. Instruments, devices, or paraphernalia designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

The term "adult bookstore, adult novelty store, or adult video store" shall also include a commercial establishment, which regularly maintains one or more "adult arcade."

3. Adult Cabaret. A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.

4. Adult Motel. A motel, hotel, or similar commercial establishment which:

A. Offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, other photographic reproductions, or live performances which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.

B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours, or

C. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

5. Adult Motion Picture Theatre. A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

6. City Council. The City Council of Atlantic, Iowa.

7. Controlling Interest. The power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control, or power

to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

8. City. Atlantic, Iowa.

9. City Attorney. The City Attorney of Atlantic, Iowa.

10. City Clerk. The City Clerk for the City of Atlantic, Iowa.

11. Distinguished or Characterized by an Emphases On. The dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the exhibition or description of "Specified Sexual Activities" or "Specified Anatomical Areas," the films so described are those whose dominant or principal character and theme are the exhibition or description "specified sexual activities" or "specified anatomical areas."

12. Employ, Employee, and Employment. Any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

13. Establish or Establishment. The term or terms shall mean and include any of the following:

A. The opening or commencement of any sexually oriented business as a new business;

B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

C. The addition of any sexually oriented business to any other existing sexually oriented business.

14. Licensee. A person, in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an employee, it shall mean the person in whose name the sexually oriented business employee license has been issued.

15. Nudity or a State of Nudity. The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

16. Operate or Cause to Operate. The term or terms shall mean to cause to function or to put or keep in a state of doing business.

17. Operator. Any persons on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

18. Person. Any individual, proprietorship, partnership, corporation, association or other legal entity.

19. Regular Features of Regular Shows. A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

20. Semi-Nude or State of Semi-Nudity. A state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple and areola of the female breast, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided that the areola and nipple are not exposed in whole or in part.

21. Semi-Nude Model Studio. Any place where a person, who regularly appears in a state of semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

It is a defense to prosecution for any violation of this chapter that a person appearing semi-nude or in a state of semi-nudity did so in a modeling class operated:

A. By a private college, junior college, or university supported entirely or partly by taxation;

B. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

C. In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

(2) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

22. Sexually Oriented Entertainment Activity. The sale, rental, or exhibition, for any form of consideration, of books, films, videocassettes, magazines, periodicals, or live performances which are characterized by an emphasis on the exposure or display of specific sexual activity.

23. Specified Anatomical Areas. Human genitals, anus, cleft of the buttocks, or the nipple or areola of the female breast.

24. Specified Criminal Activity. Any of the following offenses:

A. Iowa Code § 728.2 (dissemination and exhibition of obscene materials to minors); Iowa Code § 728.3 (admitting minors to premises where obscene material is exhibited); Iowa Code § 728.4 (rental or sale of hard-core pornography); Iowa Code § 728.5 (public indecent exposure in certain establishments); Iowa Code § 728.12 (sexual exploitation of a minor); Iowa Code § 709.24 (sexual abuse); Iowa Code § 709.8 (lascivious acts with a

child); Iowa Code § 709.9 (indecent exposure); Iowa Code § 709.12 (indecent contact with a child); Iowa Code § 709.14 (lascivious conduct with a minor); Iowa Code § 709C.1 (criminal transmission of human immunodeficiency virus); Iowa Code § 711.4 (extortion); Iowa Code § 725.14 (prostitution, pimping, pandering, leasing premises for prostitution); criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses in other jurisdictions that, if the acts would have constituted any of the foregoing offenses, if the acts had been committed in Iowa; for which:

(1) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(2) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense; or

(3) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period.

B. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

25. Specified Sexual Activity. The term means any of the following:

A. Sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or

B. Excretory functions as a part of or in connection with any of the activities described in subsection A immediately preceding this statement.

26. Transfer of Ownership or Control. This term or terms shall mean any of the following:

A. The sale, lease, or sublease of the business;

B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

C. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership control.

27. Video Room. The room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

127.05 CLASSIFICATIONS. Sexually oriented businesses shall be classified as follows:

1. Adult bookstores, adult novelty stores, adult video stores;

2. Adult cabarets;

3. Adult motels;

4. Adult motion picture theatres;

5. Semi-nude model studios.

127.06 LICENSE REQUIRED: TEMPORARY LICENSE UPON APPLICATION.

1. It is unlawful for any person to operate a sexually oriented business in the City without a valid sexually oriented business license.

2. It is unlawful for any person to be an employee, as defined in this chapter, of a sexually oriented business in the City without a valid sexually oriented business employee license.

3. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City Clerk a completed application made on a form provided by the City Clerk. The application shall be signed by the applicant and notarized. An application shall be considered complete when it contains the information required in paragraphs A through F as follows:

A. The applicant's full name and any other names used in the preceding five (5) years.

B. Current business address or another mailing address of the applicant.

C. Written proof of age, in the form of a copy of a birth certificate and a picture identification document issued by a governmental agency.

D. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.

E. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.

F. A statement of whether the applicant has been convicted or has pled guilty or nolo contendere (no contest) to a specified criminal activity as defined in this chapter, and if so, the specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.

The information provided pursuant to paragraphs A through F of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the City Clerk within ten (10) working days of a change of circumstances that would render the information originally submitted as false or incomplete.

4. An application for a sexually oriented business license shall be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Section 127.20 of this chapter shall submit a diagram meeting the requirements of that section.

5. If a person who wishes to operate a sexually oriented business is an individual, he or she shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner, each other person who will manage, supervise, or control the premises, and each other person who will participate in decisions relating to management and control of the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 127.07 of this chapter and each applicant shall be considered a licensee, if a license is granted.

6. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the City Clerk on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order.

127.07 ISSUANCE OF LICENSE.

1. Upon the filing of a completed application under Section 127.06(3) for a sexually oriented business license, the City Clerk shall immediately issue a temporary license to the applicant. The temporary license shall expire upon the final decision of the City Council to deny or grant the license. Within twenty (20) days of the initial filing date of the completed application, the City Clerk shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The City Clerk shall approve the issuance of a license unless:

A. An applicant is less than eighteen (18) years of age.

B. An applicant has failed to provide information as required by Section 127.06 of this chapter for issuance of a license or has falsely answered a question or request for information on the application form.

C. The license application fee has not been paid.

D. An applicant has committed a violation of Section 127.09(1), Section 127.12(2), Section 127.20(1), (2), and (3) of this chapter within the previous year.

E. The sexually oriented business premises are not in compliance with the interior configuration requirements of this chapter.

F. An applicant has been convicted of a specified criminal activity, as defined by this chapter.

2. Upon the filing of a completed application for a sexually oriented business employee license, the City Clerk shall issue a temporary license to the applicant. The temporary license shall expire upon the final decision of the City Council to deny or grant the license. Within twenty (20) days of the initial filing date of the completed application, the City Clerk shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The City Clerk shall approve the issuance of a license unless:

A. An applicant is less than eighteen (18) years of age.

B. An applicant has failed to provide information as required by Section 127.06 of this chapter for issuance of a license or has falsely answered a question or request for information on the application form.

C. The license application fee has not been paid.

D. An applicant has committed a violation of 127.09(1), Section 127.12(2), Section 127.20(1), (2), and (3) of this chapter within the previous year.

E. An applicant has been convicted of a specified criminal activity, as defined by this chapter.

3. The license, if granted, shall state on its face:

A. The name of the person or persons to whom it is granted;

B. The number of the license issued to the licensee(s);

C. The expiration date**;** and

D. The address of the sexually oriented business, if the license is for a sexually oriented business.

The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business, so that it may be easily read at any time.

A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other City official performing functions connected with the enforcement of this chapter.

127.08 FEES.

1. Filing Fee Required. A filing fee, in accordance with the established fee schedule, shall be charged for each application for initial license and annual renewals to assist in deterring the costs of the administrative review. The applicant shall be held responsible for submitting the required fees upon submission of the completed application. No action shall be taken on any application until the required fee is paid in full.

2. Fee Schedule. The fee schedule shall be established by the City Council.

3. Fee Refund. Whether the request is granted or denied, the applicant shall not be entitled to a refund of the fee paid.

127.09 PERIODIC INSPECTIONS.

1. Sexually oriented businesses and sexually oriented business employees shall permit agents of the City to inspect, from time to time, on an occasional basis, the portions of the sexually oriented business premises where the patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section for purposes of license denial,

suspension, and/or revocation. This section shall be narrowly construed by the City to authorize reasonable inspection of the licensed premises pursuant to this chapter, hut not to authorize a harassing or excessive pattern of inspection.

2. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

127.10 EXPIRATION OF LICENSE.

1. Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Section 127.06 and Section 127.08 of this chapter.

2. Application for renewal should he made at least ninety (90) days before the expiration date. When made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

127.11 CAUSE FOR SUSPENSION.

1. The City shall issue a letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days, if the sexually oriented business licensee has violated this chapter or has knowingly allowed an employee to violate this chapter.

2. The City shall issue a letter of intent to suspend a sexually oriented business employee license for a period not to exceed thirty (30) days, if the employee has violated this chapter.

127.12 CAUSE FOR REVOCATION.

1. The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, if the respective licensee commits two (2) or more violations within a twelve (12) month period.

2. The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license if:

A. The licensee knowingly gave false information in the application for a sexually oriented business license or sexually oriented business employee license;

B. The licensee knowingly engaged in possession, use, or sale of controlled substances on the premises,

C. The licensee knowingly engaged in prostitution on the premises;

D. The licensee knowingly operated the sexually oriented business during a period of time when the license was suspended;

E. The licensee knowingly engaged in any specified sexual activity to occur in or on the licensed premises.

3. A business licensee shall he liable for the acts of an employee only pursuant to the standard established in Section 127.21 of this chapter.

127.13 NATURE OF REVOCATION. When, after the notice and hearing procedure described in Section 127.14 of this chapter, the City Clerk revokes a license, the revocation shall continue for two (2) years and the licensee shall not be issued a sexually oriented business license or sexually oriented employee license for two (2) years from the date revocation becomes effective, provided that, if the conditions or Section 127.14(2) of this chapter are met, a provisional license will be granted pursuant to that section. If, subsequent to revocation, the City Clerk finds that the basis for the revocation pursuant to Section 127.12(2)(A) of this chapter has been corrected or abated, the applicant shall he granted a license, if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsections 127.12(2)(B), (C), (D), or (E) of this chapter, an applicant may not be granted another license until at least two (2) years have elapsed.

127.14 RIGHT TO HEARING PRIOR TO DENIAL, SUSPENSION, REVOCATION: PROMPT JUDICIAL REVIEW; RIGHT TO PROVISIONAL LICENSE PENDING JUDICIAL REVIEW.

1. If facts exist that warrant the denial, suspension, or revocation of a license under this chapter, the City Clerk shall notify the applicant or licensee (respondent) in writing of the intent to deny, suspend, or revoke the license, including the grounds thereof, by personal delivery, or by certified mail. The notification shall be directed to the most current business address or other mailing address on file with the City Clerk for the respondent. Within ten (10) working days of the receipt of such notice, the respondent may submit a written request to the City Clerk for a hearing before the City Council to refute the grounds alleged by the City Clerk for denial, suspension, or revocation of the license.

Within five (5) days of the receipt of respondent's written response, the City Clerk shall notify respondent in writing of the hearing date on respondent's denial, suspension, or revocation proceeding. Within twenty (20) working days of the receipt of respondent's written response, the City Council shall conduct a hearing at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the City's witnesses. The City Clerk shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice. The City Council shall issue a written decision within five (5) days after the hearing. If the decision is to deny, suspend, or revoke the license, it shall state the reasons for such action, and the denial, suspension, or revocation shall become final for purposes of appeal immediately, but shall not take effect or be enforced until thirty (30) days thereafter. If the decision is to grant the license, the City Clerk shall immediately issue a license to the respondent.

If the respondent does not request a hearing within ten (10) business days of receiving the City Clerk's notice of intent to deny, suspend, or revoke the license, the license shall be deemed denied, suspended, or revoked, as applicable.

2. An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to challenge or appeal such action or seek a declaration of rights concerning such action and/or concerning this chapter, upon factual grounds or constitutional grounds or

both, to a court of law within thirty (30) days after issuance of the City Council's written decision. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin or seek a declaration of rights concerning this chapter or the City Clerk's denial, suspension, or revocation, the City Clerk shall immediately issue the aggrieved party a provisional license. The City shall supply the court with any documents, reports, or transcripts relevant to the lawsuit within fifteen (15) days after receiving notice of the lawsuit. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire only upon the court's entry of a judgment on the merits of the aggrieved party's action to appeal, challenge, restrain, or otherwise enjoin or seek a declaration of rights concerning this chapter or the City's denial, suspension, or revocation of a license under this chapter.

If in the alternative, the aggrieved party does not wish to bear the burden of initiating a court action, he or she may, within thirty (30) days after the City Council's written decision is issued, elect to require the City to file a declaratory action in a court of competent jurisdiction, seeking a declaration that the denial, suspension, or revocation is valid and that the ordinance is constitutionally sound. Such an election must be made in writing and be delivered to the City Attorney's Office within thirty (30) days of issuance of the City Council's written decision. Upon the delivery of the election notice to the City Attorney's Office, the City shall immediately issue the aggrieved party a provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire only upon the court's entry of a judgment on the merits of the validity of this chapter and the City's denial, suspension, or revocation decision.

This section shall be liberally construed to permit the uninterrupted operation of the sexually oriented business or the uninterrupted employment of the sexually oriented business employee during the course of any court action challenging this chapter of an adverse licensing decision under this chapter until the court of law rules upon all the aggrieved party's factual and or constitutional claims.

127.15 TRANSFER OF LICENSE. A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

127.16 HOURS OF OPERATION. No sexually oriented business, except for an adult motel, shall be or remain open for business between 2:00 a.m. and 6:00 a.m. on a weekday, or between 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a sexually oriented business which holds a liquor license or retail beer permit entitling the holder to sell alcoholic liquor or beer on Sunday may remain open between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

127.17 LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

1. It shall be the duty of the operator of a sexually oriented business to:

   A. Post conspicuous signs stating that no loitering is permitted on such property;

B. Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every two (2) hours or inspecting such property by use of video camera and monitors; and

C. Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering.

If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within a manager's station or at a cash register where an employer is regularly present.

2. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

127.18 VIOLATIONS AND PENALTIES. Any firm, entity, or corporation who violates any of the provisions of this chapter and continues to operate after the revocation of their license, shall be guilty of a municipal infraction and shall be subject to penalties in the amount of one thousand dollars ($1,000.00) for each day of operation after revocation.

The aforementioned penalties are not exclusive nor restrictive, and the City of Atlantic, Iowa shall have the power and authority to seek and obtain civil relief through the judicial system, including but not limited to injunctive relief, to enforce and facilitate the provisions of this ordinance.

127.19 APPLICABILITY TO EXISTING BUSINESSES. The provision of this chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such business or activities were established or commenced before, on, or after the effective date of this chapter. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of one hundred eighty (180) days following the effective date of this chapter. Within said one hundred eighty (180) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this chapter. Within said one hundred eighty (180) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter.

127.20 REGULATIONS CONCERNING LIVE PUBLIC NUDITY ON PREMISES.

1. It shall be a violation of this chapter for a licensee required to obtain a sales tax permit to knowingly or intentionally violate Iowa Code § 728.5. It shall be a violation for any person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity.

2. It shall be a violation of this chapter for an employee to knowingly and intentionally appear semi-nude in a sexually oriented business unless the employee, while semi-nude, shall be at least six (6) feet from any patron or customer and on a stage at least two (2) feet from the floor.

3. It shall be a violation of this chapter for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally receive any pay or gratuity directly from any patron or customer or for any patron or customer to knowingly or

intentionally pay or give any gratuity directly to any employee, while said employee is semi-nude in a sexually oriented business.

4. It shall be a violation of this chapter for an employee, while semi-nude in a sexually oriented business, to knowingly or intentionally touch a customer or the clothing of a customer or for a customer to knowingly and intentionally touch an employee or the clothing of an employee, while said employee is semi-nude in a sexually oriented business.

A sign, in a form to be prescribed by the City Council and summarizing the provisions of Paragraphs 1 through 4 of this section, shall he posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry into the inside of the building.

127.21 EMPLOYEE LICENSE VIOLATION IMPUTED TO BUSINESS LICENSEE. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the business premises, knew or reasonably should have known that such act was occurring and failed to prevent such act. It shall be a defense to liability under this chapter that the person to whom the violative act is imputed was powerless to prevent the act.

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CHAPTER 128

HOTEL/MOTEL TAX

128.01 Definitions
128.02 Tax Imposed
128.03 Tax Exemptions
128.04 Collection
128.05 Use of Revenues

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

(Code of Iowa, Sec. 423A.2)

1. "Lodging" means rooms, apartments, or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, or manufactured or mobile home which is tangible personal property, or in a tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. Lodging does not include rooms that are not used for sleeping accommodations.

2. "Renting" or "rent" means a transfer of possession or control of lodging for a fixed or indeterminate term for consideration and includes any kind of direct or indirect charge for such lodging or its use.

3. "Sales price" means the consideration for renting of lodging and means the same as the term is defined in Section 423.1 of the *Code of Iowa*.

128.02 TAX IMPOSED. There is hereby imposed a four percent (4%) local hotel and motel tax upon the sales price from the renting of lodging within the corporate limits of the City.

(Code of Iowa, Sec. 423A.4)

128.03 TAX EXEMPTION. There is exempted from the provisions of this chapter and from the computation of any amount of tax imposed by Section 128.02 all of the exemptions set forth in Section 423A.5 of the *Code of Iowa*.

128.04 COLLECTION. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.

(Code of Iowa, Sec. 423A.6)

128.05 USE OF REVENUES. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City and shall be used as follows:

(Code of Iowa, Sec. 423A.7)

1. At least fifty percent (50%) of the revenue derived from the hotel and motel tax shall be spent for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating, or maintaining of recreation, convention, cultural, or entertainment facilities including but not limited to memorial buildings, halls and monuments, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities located at those recreation, convention, cultural, or

entertainment facilities or the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the City for those recreation, convention, cultural, or entertainment facilities; or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.

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

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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
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

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 321.369)

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

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

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

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

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

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any street or alley in the City, whether or not the street has curb and gutter and whether or not it is paved.

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, nor resurfacing of any improved street or alley surface begun, until such backfill is inspected and approved by the City. The permit

holder/property owner shall provide the City with notice at least 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 Fee. A permit fee of twenty-five dollars ($25.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

13. Permit Exemptions. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in the amount of one thousand dollars ($1,000.00) to guarantee such compliance.

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 wood 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[1c])

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, and only after first making arrangements

for such prompt removal at the owner's cost of the accumulation within a reasonably short time.

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

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
136.10 Failure to Repair or Barricade
136.11 Interference with Sidewalk Improvements
136.12 Awnings
136.13 Encroaching Steps
136.14 Openings and Enclosures
136.15 Fires and Fuel on Sidewalks
136.16 Defacing
136.17 Debris on Sidewalks
136.18 Merchandise Display
136.19 Sales Stands
136.20 Sidewalk Policy

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 other than those under contract with the City shall construct or reconstruct any sidewalk without having first obtained a permit therefor in accordance with the following:

1. Application. The application for a permit required by this section shall be upon a form furnished by the City and shall contain the name of the owner of the property, a description of the lot, lots or parcels of ground in front of which the sidewalk is to be built, a statement that the sidewalk will be constructed in accordance with this chapter, and the plans and specifications then in force, and that the sidewalk will be constructed at sidewalk grades as furnished by the City.

2. Fee. A fee of ten dollars ($10.00) shall accompany each application.

3. Approval. If the Public Works Director or the Council finds that the application for a permit required by this section conforms to the requirements of this chapter, the application shall be approved.

4. Issuance. The Clerk, upon notice from the Public Works Director or the Council of the approval of an application for a permit required by this section and the payment of the permit fee, shall issue such permit.

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, sand, or cinders 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 four (4) 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 four (4) 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) one foot from 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.

(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 other 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.

136.20 SIDEWALK POLICY. In addition to the other requirements of this chapter, it is the policy of the City of Atlantic, Iowa, regarding the building, maintenance, repair, and replacement of sidewalks as follows:

1. Street Projects. In accordance with 136.06 of this Code, the City will pay for the cost of any and all new sidewalk construction, including any and all labor and materials on both sides of the street, as part and parcel of any new street construction. This provision does not apply to the subdivisions addressed in paragraph 4 herein.

2. Maintenance, Replacement and Reconstruction of Sidewalks. In addition to 136.04 of this chapter, the abutting property owner will pay for any and all base material, bed and cement required for the maintenance, replacement and reconstruction of the sidewalk. The City shall pay for any and all labor associated with the project. Should any abutting property owner refuse to comply with the above City policy, the City may make a determination of need and assess the abutting property owners of the sidewalk project for labor and materials pursuant to the special assessment procedures established in Chapter 384, Division IV, *Code of Iowa*.

3. New Sidewalk Improvements on Existing Properties. The abutting property owner shall provide the materials for new sidewalk improvements on existing properties. The City shall pay for any and all labor on the sidewalk project. Should any abutting property owner refuse to comply with the above City policy, the City may make a determination of need and assess the abutting property owners of the sidewalk project for labor and materials pursuant to the special assessment procedures established in Chapter 384, Division IV, *Code of Iowa*.

4. New Sidewalk Improvements in New and Existing Subdivisions. The subdivision owner or developer shall provide both materials and labor for new sidewalk improvements on subdivided properties. Subdivision owners or developers shall install sidewalks according to this chapter and maintain these sidewalks in proper condition, free from breakage and damage. All sidewalks in a given subdivision must be completed prior to the acceptance of the subdivision by the City. Should any subdivision owner or developer refuse to comply with the above City policy, the City may either deny acceptance of the subdivision or make a determination of necessity in accordance with Chapter 166.20 of this Code of Ordinances and assess the subdivision owner and/or subsequent abutting property owners for labor and materials pursuant to the special assessment procedures established in Chapter 384, Division IV, *Code of Iowa*.

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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 or alley or portion thereof, 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 or alley 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 or alley, or portion thereof, shall be vacated unless the Council finds that:

1. Public Use. The street or alley 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.

(Code of Iowa, Sec. 364.15)

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, or portion thereof, 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])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets and/or alleys and remain in full force and effect.

ORDINANCE NO.	ADOPTED
480	June 18, 1969
490	February 4, 1970
542	May 1, 1974
552	October 2, 1974
579	May 5, 1976
770	February 3, 1993
804	December 6, 1995
857	January 2, 2002
906	September 5, 2007
911	December 19, 2007

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
474	January 7, 1969
485	July 16, 1969
496	May 6, 1970
Chapter 23, Article IV, Div. 2, 1970 Code	December 7, 1970
Chapter 23, Article V, Div. 4, 1970 Code	December 7, 1970
518	July 11, 1972
580	May 19, 1976
593	June 1, 1977
601	June 17, 1978
602	June 17, 1978
632	August 1, 1979

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names
139.04 Official Street Name Map
139.05 Revision of Street Name Map

139.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Atlantic, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 140

CONTROLLED ACCESS FACILITIES

140.01 Exercise of Police Power
140.02 Definition
140.03 Right of Access Limited
140.04 Access Controls Imposed
140.05 Unlawful Use of Controlled Access Facility
140.06 Parking Restricted

140.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, *Code of Iowa*, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

140.02 DEFINITION. The term "controlled access facility" means a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air or view by reason of the fact that their property abuts upon such controlled access facility or for any other reason.

(Code of Iowa, Sec. 306A.2)

140.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to, from or across any controlled access facility to or from abutting lands, except at such designated points as may be 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-44. On the Primary Road System extension improvement, Project No. FN-44, U.S. Highway No. 6, within the City, described as follows:

Beginning at the west corporation line, Station 1270+09.0; thence northeasterly to Station 1286+87.5 = Station 95+76.5; thence easterly to Station 121+00.0 = Station 21+00.0; thence easterly to Station 56+13.0 = Station 954+77.7, Pine Street; thence easterly to the east corporation line, Station 973+50.9

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. FN-44 on file in the office of the Clerk.

2. Project No. V-83-2. On the Primary Road System extension improvement, Project No. V-83-2, Iowa Highway No. 83, within the City, described as follows:

Beginning at the west corporation line; thence easterly approximately 0.71 mile on Second Street to Poplar Street; thence southerly approximately 0.36 mile on Poplar Street to Seventh Street,

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as Project No. V-83-2 on file in the office of the Clerk.

140.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.

2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.

3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation section or line.

4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

140.06 PARKING RESTRICTED. The parking of vehicles on or along controlled access facilities is restricted as follows:

1. Minor Street Approaches. Parking shall be prohibited on all minor street approaches for a distance of thirty-five (35) feet in advance of the stop sign.

2. Minor Street Exits. Parking shall be prohibited on the exit side of a minor street for a distance of thirty-five (35) feet.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 Definition of Unsafe
145.03 Remedy Concerning Unsafe Buildings

145.01 ENFORCEMENT OFFICER. The Building Official is responsible for the enforcement of this chapter. The Mayor shall appoint a person to be the Building Official or designate some other officer to carry out the duties of the Building Official, in either case, subject to Council approval.

145.02 DEFINITION OF UNSAFE. All buildings or structures that 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, as specified in this chapter or any other ordinance, 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. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

2. Whenever any portion of a building, or any member, appurtenance, or permanent ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of 20 pounds per square foot.

3. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

4. Whenever the building or structure, or any portion thereof, because of: (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to collapse partially or completely.

5. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

6. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-fourth of the base, unless otherwise intentionally designed to do so.

7. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50

percent damage or deterioration of its non-supporting members, or of its enclosing or outside walls or coverings.

8. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become: (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals, or immoral persons; or (iii) a place that enables persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. Whenever a building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, including lack of paint so as to expose wood to rotting, dilapidation, decay, damage, faulty construction, or arrangement, inadequate light, air, or sanitation facilities, or otherwise as determined by the County Health Officer to be unsanitary, unfit for human habitation, or in such condition that is likely to cause sickness or disease.

10. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections, or heating apparatus, or other cause, is determined by the State Fire Marshal or City Fire Chief to be a fire hazard.

11. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

12. 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.

13. Whenever any deficiencies exist which are required to be provided for residential tenancies under Chapter 562A of the *Code of Iowa*.

145.03 REMEDY CONCERNING UNSAFE BUILDINGS. The Building Official 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 Building Official 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 90 days from date of notice, unless otherwise stipulated by the Building Official. 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 Building Official. Notice shall be served upon the owner by certified mail, with return receipt requested. If the letter is returned as refused or undeliverable, the law considers notice to have been given, and this section is satisfied. Where there is no record of the owner, the notice may be made by an ordinance. The designated period within which the owner or person in charge is required to comply with the order of the Building Official shall begin as of the date the owner receives such notice. However, such notice shall, except in cases of immediate danger, state that the person notified may request a hearing before the Council concerning the determination that the building be repaired, removed, or demolished, and such request shall be made at least

three days before the deadline set in the notice, if less than 15 days were set, at least ten days if over 21 days were set.

1. Posting of Signs. The Building Official shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF ATLANTIC, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the Building Official, and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

2. 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 City Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the Building Official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

3. Costs. Costs incurred under subsection 2 above shall be paid out of the City Treasury. Such costs shall be charged to the owner of the premises involved and levied against the land on which the building or structure is located, and shall be collected in the manner provided in Section 364.12(3h) of the *Code of Iowa*.

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CHAPTER 146

FIRE ZONE

146.01 Fire Zone Established
146.02 Plans Submitted
146.03 Buildings Prohibited
146.04 Reconstruction Prohibited
146.05 Special Permit
146.06 Removal of Buildings
146.07 Storage of Materials Restricted

146.01 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

> *The west one-half (½) of Block 46; all of Block 47; the west one-half (½) of Block 35; all of Block 34; all of Block 33; all of Block 28; all of Block 27; all of Block 26; all of Block 15; all of Block 14; all of Block 13; all of Block 8; all of Block 7; all of Block 6; all of Block 110; all of Block 70; all of Block 71; all that fractional block designated as Hotel Block; the east one-half (½) of Block 9; the east one-half (½) of Block 12; the east one-half (½) of Block 29; the east one-half (½) of Block 32; all in the original plat of the City.*

146.02 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 Fire Chief, who shall, if in accordance with the provisions of this chapter, issue a certification for the proposed work. A $100.00 fee shall be charged for the certification.

146.03 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.

146.04 RECONSTRUCTION PROHIBITED. Whenever any wooden or combustible building or structure or any noncombustible building stands within the Fire Zone and is damaged by fire or other casualty to the extent of fifty percent (50%) or more of its value, exclusive of foundation, it shall not be repaired or rebuilt, but shall be taken down and removed within sixty (60) days after the date of the fire or other casualty; and no person shall repair or rebuild any such damaged building or structure. The owner thereof shall remove any such damaged building or structure within thirty (30) days after notice to do so from the Fire Chief.

146.05 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.

146.06 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 Fire Chief 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 Fire Chief shall cause the same to be removed or taken down. The Fire Chief 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.

146.07 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any pile of rubbish, explosives 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 Fire Chief, 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 147

ELECTRICAL CODE

147.01 Short Title
147.02 Adoption of National Electrical Code
147.03 Purpose
147.04 Electrical Contractor's License
147.05 Conflicts with Law
147.06 Penalties for Violations
147.07 Administrative Provisions
147.08 Advisory Board

147.01 SHORT TITLE. This chapter shall be known as the City of Atlantic, Iowa, Electrical Code, and may be cited as such, and will be referred to herein as "this chapter."

147.02 ADOPTION OF NATIONAL ELECTRICAL CODE. There is hereby adopted by the City the certain code known as the *National Electrical Code*, latest printed edition, as published by the National Fire Protection Association (NFPA). An official copy of such code shall be maintained on file in the office of the City Clerk, and an additional official copy shall be maintained at the City Library, subject to the Library's terms and conditions.

147.03 PURPOSE. The purpose of this chapter is to regulate and govern the practice and materials used in the installation, maintenance, extension, and alteration of all wiring, fixtures, appliances and appurtenances in connection with various electrical systems in the City; to provide for the issuance of permits and the collection of permit fees; and to provide for the enactment and enforcement of each and all of the regulations, provisions, penalties, conditions, and terms of said *Electrical Code* as hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions, and changes, if any, as prescribed elsewhere in this chapter or by resolution of the Council.

147.04 ELECTRICAL CONTRACTOR'S LICENSE. Subject to subsection 147.07(11), no person shall engage in the activity or represent himself or herself to the public as engaging in the activity of installing, altering, maintaining, or repairing any electrical equipment within the City of Atlantic, Iowa, without first obtaining from the State of Iowa an electrical contractor's license pursuant to the *Code of Iowa.*

147.05 CONFLICTS OF LAW. In the event of any conflict between the provisions of this chapter and any other applicable City ordinance, rule, or regulation, the provisions of this chapter shall prevail and be controlling.

147.06 PENALTIES FOR VIOLATIONS. Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and be subject to punishment as prescribed by resolution of the Council. Each day that such violation shall continue shall be deemed a separate offense.

147.07 ADMINISTRATIVE PROVISIONS.

1. Department. The City department known as the Code Enforcement Department ("Department") is established to facilitate the enforcement of this chapter.

2. Duties. It shall be the duty of the Department to enforce the provisions of the *Electrical Code*, with periodic updates thereof to be applied within a reasonable time after adoption, publication, and assimilation into commonly used engineering and architectural software programs. Projects covered in an issued electrical permit shall be completed under the standards in effect at the time of the approval and used to prepare the specifications relied upon in obtaining the permit.

3. Supervision. The Department shall be under the direct supervision of the City Administrator, or his or her agent.

4. Employees. Subject to Council approval, the Mayor may appoint a code enforcement officer and as many other employees as is necessary to ensure the enforcement of this chapter. Nothing herein shall prevent the Council from entering into a joint sharing agreement with other government subdivisions to provide for the appointment of a shared code enforcement officer and the employment of persons thereto for the purpose of enforcing this chapter. Alternatively, the Council, by resolution, may enter into a contract with an individual, or a public or private organization for the purpose of having said individual or organization serve as the code enforcement officer, to perform all other acts necessary for the enforcement of this chapter and in conformance with other ordinances or resolutions of the City, and State and Federal laws.

5. Limitations on Employees. No officer or employee connected with the Code Enforcement Department shall be financially interested in furnishing labor, materials, or appliances for the construction, alteration, or maintenance of any structure unless he or she is the owner of such structure. No officer or employee shall engage in any work which is inconsistent with his or her duties or the interests of the Department.

6. Records. The code enforcement official shall keep records of the business of the Department, and such records shall be open to public inspection.

7. Permit Application. To obtain a permit, the applicant shall first file an application in writing on a form furnished by the Department for that purpose. Such application shall: (i) identify and describe the work to be covered by the permit for which application is made; (ii) describe the premises on which the proposed work is to be done by legal description or street address; (iii) indicate the use and occupancy for which the proposed work is intended; (iv) be accompanied by construction documents and other information as the Department may require; (v) state the valuation of the proposed work; (vi) be signed by the applicant, or the applicant's authorized agent; and (vii) give such other data and information as required by the Department.

8. Time Limitation of Application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 calendar days after the date of filing, unless such application has been pursued in good faith or a permit has been issued. The Department may issue one or more extensions of time for additional periods of time, not to exceed 90 days each. Extensions shall be requested in writing and good cause demonstrated.

9. Permits Required. Any owner, contractor, master, or authorized agent who intends to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical system, the installation of which is regulated by this chapter, or to cause any

such work to be done, shall first make application to the Department and obtain the required permit.

10. Permit Exemptions. Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City. Permits shall not be required for: (i) minor repair work, defined as the repair or replacement of existing electrical apparatus or equipment, including but not limited to wires, cables, switches, receptacles, outlets, fuses, circuit breakers, and fixtures, of the same size and type for which no changes in wiring are made, but does not include any new electrical installation of the expansion or extension of any circuit; (ii) electrical equipment used for radio and television transmissions (but are required equipment and wiring for a power supply and the installations of towers and antennas); (iii) the installation of any temporary system required for the testing or servicing or electrical equipment or apparatus; or (iv) if all of the following conditions apply:

A. Installation is under the direct supervision of a licensed electrician;

B. Installation does not involve work within a new or existing switchboard or panelboard;

C. The line to ground installation does not exceed 30 amperes; and

D. The line to ground installation does not exceed 277 volts single phase.

11. Permit Issuance. An electrical permit shall only be issued to a State-licensed electrical contractor, provided that, at the discretion of the Department and subject to the requirements of the State Electrical Inspection Program, a homeowner, landlord, or commercial property owner may be issued a permit and perform electrical work on the premises in which said person resides, leases out, or operates a business out of.

12. Permit Fees. The amount to be charged for the issuance of permits and the performance of inspections as required by the technical code(s) contained in this chapter shall be determined by resolution of the Council from time to time and be on file in and with the Department. Said fees shall be made payable to the City Treasurer, accompany the application for a permit, and be deposited in the City's general services fund.

13. Right of Entry. Where it is necessary to make an inspection to enforce the provisions of the adopted Code(s), or where the code enforcement officer has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary or in violation of the adopted Code(s) and which makes the structure or premises unsafe, dangerous, or hazardous, the code enforcement officer is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the adopted Code(s), provided that such structure or premises is occupied, that credentials be presented to the occupant, and entry requested. If such structure or premises is unoccupied, the code enforcement officer shall first make a reasonable effort to locate the owner or other person having charge, control, or possession of the structure or premises and request entry. If entry is refused, the code enforcement officer shall have recourse to the remedies provided by law to secure entry.

14. Stop Work Order. Upon notice from the Department that work on any building or structure is being performed contrary to the provisions of this chapter or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to the owner's agent or to the person doing the work, and shall state the conditions under which the work may be resumed. Where an emergency situation exists, no written notice shall be required to be given by the Department.

147.08 ADVISORY BOARD. There is hereby established an advisory board, the purposes of which are to oversee and monitor the implementation of this chapter, and to make recommendations to the Council pertaining to this chapter and to the future implementation of other technical codes. The Mayor shall appoint, subject to Council approval by a majority vote, five members for staggered terms of three years, except to fill vacancies. All members of the advisory board shall be bona fide citizens and residents of the City and over the age of 21 years.

CHAPTER 148

PROPERTY MAINTENANCE CODES

148.01 Purpose
148.02 Enforcement
148.03 Review and Appeal
148.04 Property Conditions Prohibited
148.05 Property Conditions Enumerated
148.06 Emergency Abatement Measures

148.01 PURPOSE. The purpose of this chapter is to designate the responsibilities of persons for exterior maintenance of buildings, structures, and property within the City, to define nuisances as a result of the failure to perform such maintenance, and to provide for the abatement of such nuisances in order to provide for the preservation of the safety, health, and welfare of the citizens of the City.

148.02 ENFORCEMENT. Any person designated by the City Administrator to enforce this chapter shall be known as the Property Maintenance Official. The Property Maintenance Official shall be responsible for the enforcement of this chapter and shall have all the necessary authority to carry out such enforcement. The provisions of this chapter may be enforced as municipal infractions in compliance with and as authorized by Chapter 4 of this Code of Ordinances or through nuisance abatement procedure as outlined in Chapter 50 of this Code of Ordinances.

148.03 REVIEW AND APPEAL. Review and appeal shall be to the courts of Iowa with no further hearing or review by the City Council or administrative bodies.

148.04 PROPERTY CONDITIONS PROHIBITED. It is unlawful for any property to remain in such condition of deterioration or disrepair that it causes visual blight, or is detrimental to nearby properties or poses a threat to safety, health and welfare of others.

148.05 PROPERTY CONDITIONS ENUMERATED. The following subsections include, but do not limit, the conditions that are deemed to be prohibited property conditions in the City:

1. Any building, principal or accessory structure, driveway, sidewalk, walkway, alley, equipment or other property or portion thereof with an exterior maintained in such a condition of deterioration, disrepair as to constitute a hazard to persons or property, or that constitutes visual blight, or is detrimental to nearby property values.

2. Whenever any portion or member or appurtenance thereof is likely to fail, become detached or dislodged, or to collapse or injure persons or damage property.

3. Buildings that are abandoned, partially destroyed, or left in an unreasonable state of partial construction. An "unreasonable state of partial construction" is defined as any unfinished building or structure that has been in the course of construction following the expiration of the original building permit or where the appearance or other conditions of said unfinished building or structure constitutes visual blight, or is detrimental to nearby properties.

4. Any exterior stairway, deck, porch, patio, awning, balcony or canopy (including any appurtenances attached thereto) which is not structurally sound, is in

disrepair, or is without proper anchorage or not capable of supporting the imposed loads.

5. Unpainted buildings or structures and those having dry rot, warping, or termite infestation. Any building or structure on which the condition of existing paint or preventative treatment other than paint has become so deteriorated as to permit substantial decay, checking, cracking, peeling, chalking, dry rot, warping, or termite infestation. Paint used shall be painted in a color or colors compatible with the remainder of the building or colors found in similar buildings or structures within the City.

6. Buildings with missing doors or windows containing broken glass or no glass at all where the window is a type which normally contains glass. Plywood or other materials used to cover such window space or doors, if permitted under this Code, shall be painted in a color or colors compatible with the remainder of the building.

7. Buildings or structures containing areas allowing for the exposure of the interior to the elements, animals or vermin.

8. Keeping, storing, depositing, or accumulation on the premises for an unreasonable period of time dirt, sand, gravel, concrete, construction materials or items of a similar nature that constitutes visual blight, or is detrimental to nearby properties, except when used for current excavation, construction or demolition projects for which an active building permit has been obtained or for projects not requiring permits, where such conditions persist less than a year following identification.

9. Rodent and Vermin Harborage. All structures, equipment, exterior property, vegetation found to have rodent and vermin harborage or infestation. Where rodents and vermin are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent and vermin harborage and prevent re-infestation.

10. Graffiti that remains on the exterior of any building and which is visible from a public street, alley, or any adjoining property. Graffiti means, without limitation, any letter, word, name, symbol, slogan, message, drawing, picture, writing, or other mark of any kind visible to the public that is drawn, painted, chiseled, scratched or etched on any structure. Structure includes, but is not limited to, any wall, bridge, fence, gate, or other accessory structure or use as defined in Section 17.020 of the City's Zoning Ordinance. This definition does not include artistic stenciling or legal signage placed on a property with the permission of the owner of the property, or government sponsored murals.

148.06 EMERGENCY ABATEMENT MEASURES. Notwithstanding any other provisions of this chapter, whenever in the judgment of the Property Maintenance Official any nuisance is an immediate and imminent threat to health, safety, and property, the Property Maintenance Official may, with or without prior notice as required within, order the nuisance abated and costs assessed against the property for collection in the same manner as a property tax. However, prior to such assessment, the City shall give the property owner notice as provided by the *Code of Iowa* and this Code of Ordinances.

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Map

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned 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 MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

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CHAPTER 151

TREES

151.01 Definitions
151.02 Authority of Forester
151.03 Duties of Forester
151.04 Planting Restrictions
151.05 Duty to Trim Trees
151.06 Trimming Trees to Be Supervised
151.07 Disease Control
151.08 Inspection and Removal
151.09 Anchorage Prohibited

151.01 DEFINITIONS. For use in this chapter, the following words are defined:

1. "Forester" means the Street Superintendent, who serves as City Forester for the City, or a delegated authority.

2. "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.

3. "Public place" means a place to which the general public has a right to resort including public park land and land owned by the City.

4. "Public right-of-way" means all of the land lying between property lines on either side of all public streets and alleys, including public easements and grants to the City.

5. "Tree Committee" means a volunteer group of citizens who will give advice and evaluation to the Forester on tree resource needs on public property in the City.

151.02 AUTHORITY OF FORESTER. The Forester has jurisdiction over all trees and shrubs on the public right-of-way, parks and cemeteries within the City in order to provide orderly tree and shrub planting, to protect the health of all trees and shrubs from outbreaks of harmful insects, diseases and environmental problems, and to require trees and shrubs to be maintained in a manner to protect public safety.

151.03 DUTIES OF FORESTER. The Forester has the following specific duties:

1. Trimming and Removal. Prevent the indiscriminate trimming or removal of trees and shrubs within the public right-of-way.

2. Planting Regulations. Regulate and locate new planting of trees and shrubs in the public right-of-way in accordance with the public right-of-way tree and shrub planting regulations approved by the Council and on file in the office of the Forester.

3. Compliance. Order persons to comply with the duties placed upon them by this chapter.

4. Supervision. Supervise all work by City employees or contractors in the trimming, preservation, planting or removal of trees or shrubs in the public right-of-way.

151.04 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 six (6) feet in width. Trees shall not be planted closer than thirty (30) feet from street intersections (property lines extended), six (6) feet from driveways or three (3) feet from the sidewalk or curb line.

3. Prohibited Trees. No person shall plant the following tree species in the road right-of-way: cotton bearing poplar trees, cottonwood, boxelder, Siberian elm, Russian olive, silver maple, tree of heaven, mulberry, willow or evergreen.

4. Planting of Ash Trees Prohibited. No person shall plant or allow to be planted the ash tree species in any and all City-owned property including but not limited to City rights-of-way, parking, streets, and recreational areas.

151.05 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 fourteen (14) feet above the surface of the street and seven (7) 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])

151.06 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.05, it is unlawful for any person to remove, prune, cut, molest, break, deface, destroy, spray, repair or do surgery work on any tree or shrub located in the public right-of-way unless permission has been obtained from the property owner immediately adjacent or from the Forester; nor shall any person remove, prune, cut, molest, break, deface, destroy, spray, repair or do surgery work on any tree or shrub located in public places unless permission shall first have been obtained from the Forester. No person shall be given permission to top or dehorn a public tree, except under emergency conditions prior to removal.

151.07 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.

151.08 INSPECTION AND REMOVAL. The Forester shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be infected with or damaged by any disease or insect or disease pests, and 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, and that danger to other trees within the City is imminent, the Forester shall immediately cause such condition to be corrected by treatment or removal so as to destroy or prevent as fully as possible the spread of the disease or the insect or disease pests.

151.09 ANCHORAGE PROHIBITED. No person is permitted to hitch or fasten any animal to any tree or shrub on public right-of-way or on public property, or to nail, tie or in

any manner fasten any card, sign, poster, board or other article to any tree or shrub which is located upon the public right-of-way or public place within the City.

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CHAPTER 152

OUTDOOR SOLID OR LIQUID FUEL HEATING DEVICES

152.01 Outdoor Heating Devices Banned **152.02 Penalty and Enforcement**

152.01 OUTDOOR HEATING DEVICES BANNED. Outdoor solid or fuel-heating devices or outdoor solid or liquid fuel-fired heating devices constructed or installed after the effective date of this chapter, including replacements of outdoor solid and liquid fuel-fired heating devices constructed or installed prior to that date, shall be considered a public nuisance within the City of Atlantic and are hereby banned. For purposes of this chapter, an outdoor solid or liquid fuel-fired heating device shall include any outdoor device or structure designed for solid or liquid fuel combustion and for the purpose of providing indoor heat including but not limited to combination fuel furnaces or boilers which burn solid, liquid or liquid fuel.

152.02 PENALTY AND ENFORCEMENT. The penalty for violation of any provision of this chapter shall be as hereinafter provided, together with the cost of prosecution and any penalty assessment. Penalty for violation of this chapter shall constitute a municipal infraction subject to the civil penalties as found in Chapter 4 of this Code of Ordinances

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CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Purpose
160.02 Definitions
160.03 Applicable Lands
160.04 Compliance
160.05 Abrogation and Greater Restrictions
160.06 Interpretation
160.07 Warning and Disclaimer of Liability
160.08 Flood Plain Management Standards
160.09 Administration
160.10 Flood Plain Development Permit Required
160.11 Application for Permit
160.12 Action on Application
160.13 Construction and Use to Be as Provided in Application and Plans
160.14 Variances
160.15 Factors Upon Which the Decision to Grant Variances Shall be Based
160.16 Conditions Attached to Variances
160.17 Nonconforming Uses
160.18 Amendments
160.19 Penalties for Violation

160.01 PURPOSE. Pursuant to Chapter 364 of the *Code of Iowa*, as amended, the City is authorized to exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City or of its residents, and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Restrict Use. 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.

2. Vulnerable Uses Protected. 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.

3. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

4. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 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" means the flood having one percent chance of being equaled or exceeded in any given year. (See "100-year flood.")

2. "Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

3. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

4. "Existing construction" means any structure for which the start of construction commenced before the effective date of the community's Flood Insurance Rate Map and may also be referred to as "existing structure."

5. "Existing factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the flood plain management regulations adopted by the community.

6. "Expansion of existing factory-built home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

7. "Factory-built home" means any structure designed for residential use which is wholly or in substantial part made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation on a building site. For the purpose of this chapter, factory-built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

9. "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

10. "Flood elevation" means 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 floodwaters related to the occurrence of the 100-year flood.

11. "Flood Insurance Rate Map (FIRM)" means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

12. "Flood plain" means any land area susceptible to being inundated by water as a result of a flood.

13. "Flood plain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of flood plains, including but not limited to emergency preparedness plans, flood control works, floodproofing and flood plain management regulations.

14. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities which will reduce or eliminate flood damage to such structures.

15. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one foot.

16. "Floodway fringe" means those portions of the flood plain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. "Historic structure" means any structure that is:

A. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing in the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved State program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.

18. "Lowest floor" means 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 160.08(4)(A); and

B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage; and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one foot above the 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. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

20. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the

pouring of concrete pads) is completed on or after the effective date of the flood plain management regulations adopted by the community.

21. "100-Year Flood" means a flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

22. "Recreational vehicle" means a vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

23. "Special flood hazard area" means 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.

24. "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.

25. "Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks and other similar uses.

26. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

27. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial

damage" regardless of the actual repair work performed. The term does not, however, include either: (i) any project for improvement of a structure to correct existing violations of State of local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or (ii) any alteration of a historic structure, provided the alteration will not preclude the structure's continued designation of a historic structure.

B. Any addition which increases the original floor area of a building by twenty-five (25) percent or more.

All additions constructed after August 5, 1986, shall be added to any proposed addition in determining whether the total increase in original floor space would exceed twenty-five percent.

28. "Variance" means a grant of relief by a community from the terms of the flood plain management regulations.

29. "Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

160.03 APPLICABLE LANDS. This chapter applies to all lands and uses that have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Cass County and Incorporated Areas, City of Atlantic, Panels 19029C0170D and 0190D, dated January 6, 2011, which were prepared as part of the Cass County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the 100-year flood shall be considered as having significant flood hazards. Where uncertainty exists with respect to the precise location of the 100-year flood boundary, the location shall be determined on the basis of the 100-year flood elevation at the particular site in question. The Flood Insurance Study for Cass County is hereby adopted by reference and is made a part hereof as though fully set forth herein for the purpose of administering flood plain management regulations.

160.04 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.

160.05 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. Any ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

160.06 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.

160.07 WARNING AND DISCLAIMER OF LIABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated special flood hazard areas will be free from flooding or flood

damages. This chapter shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

160.08 FLOOD PLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards. Where 100-year flood data has not been provided in the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data.

1. All Development. All development within the special flood hazard areas 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 foot above the 100-year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one foot 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 City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Nonresidential Buildings. All new or substantially improved nonresidential buildings shall have the lowest floor (including basement) elevated a minimum of one 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 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 National Geodetic Vertical Datum) 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 that 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. The following specific requirements (or their equivalent) shall be met:

(1) Over-the-top ties shall be provided at each of the four corners of the factory-built home, with two (2) additional ties per side at intermediate locations and factory-built homes less than fifty (50) feet long requiring one additional tie per side;

(2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points and factory-built homes less than fifty (50) feet long requiring four (4) additional ties per side;

(3) All components of the anchoring system shall be capable of carrying a force of 4800 pounds.

(4) Any additions to factory-built homes shall be similarly anchored.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one foot above the 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 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 Flammable Materials and Equipment. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one foot above the 100-year flood level. Other material and equipment must either be similarly elevated or: (i) not subject to major flood damage and anchored to prevent movement due to flood waters; or (ii) readily removable from the area within the time available after flood warning.

8. Flood Control Structures. 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 three feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood within the altered or relocated portion.

10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 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 Special Flood Hazard Area.

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 (1) 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 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 and are not ready for highway use must satisfy requirements of Section 160.08(5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Special Floodway Provisions. In addition to the foregoing management standards, uses within a floodway must meet the following applicable standards. The floodway is that portion of the flood plain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. No use shall be permitted in the floodway that would result in any increase in the 100-year flood level. Consideration of the effects of any

development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

B. All uses within the floodway shall:

(1) Be consistent with the need to minimize flood damage.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

C. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.

D. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable General Flood Plain Standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of materials or equipment that are buoyant, flammable, explosive, or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.

G. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.09 ADMINISTRATION. The Public Works Director shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to, the following:

1. Review all flood plain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all flood plain development permit 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 flood plain construction.

3. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.

4. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been floodproofed.

5. Notify adjacent communities and/or 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.

160.10 FLOOD PLAIN DEVELOPMENT PERMIT REQUIRED. A Flood Plain Development Permit issued by the Administrator shall be secured prior to any flood plain development (any manmade 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.

160.11 APPLICATION FOR PERMIT. Application for a Flood Plain Development Permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Work To Be Done. Description of the work to be covered by the permit for which application is to be made.

2. Location. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.

3. Use or Occupancy. Indication of the use or occupancy for which the proposed work is intended.

4. Flood Elevation. Elevation of the 100-year flood.

5. Floor Elevation. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

6. Cost of Improvement. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

7. Other. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.12 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Council.

160.13 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Flood Plain Development Permits, issued 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, 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.

160.14 VARIANCES. The 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. Cause. 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. Prohibited. Variances shall not be issued within any designated floodway if any increase in flood levels during the 100-year flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

3. Required To Afford Relief. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Notice To Applicant. 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 $25.00 for $100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

160.15 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the Council 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 lands 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 community.

6. The requirements of the facility for a flood plain 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 flood plain 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.

160.16 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.15, the Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

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 purposes of this chapter.

5. Floodproofing measures.

160.17 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, except unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing State or local health,

sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.18 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 from the Department of Natural Resources.

160.19 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter, or failure to comply with any of the requirements contained herein, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any requirements thereof shall upon conviction be fined not more than five hundred dollars ($500.00) and/or imprisoned for not more than thirty (30) days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violation(s).

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CHAPTER 165

ZONING REGULATIONS

EDITOR'S NOTE

Ordinance No. 749 entitled "1991 Zoning Ordinance of the City of Atlantic, Iowa," adopted by Ordinance No. 753 on October 16, 1991, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect. The following ordinances have been adopted amending the Zoning Regulations of the City.

ORDINANCE	ADOPTED	SUBJECT
691	December 5, 1984	Zoning Map
692	December 5, 1984	Zoning Map
695	February 6, 1985	Zoning Map
705	April 16, 1986	Zoning Map
706	April 16, 1986	Zoning Map
745	March 6, 1991	Zoning Map
747	April 17, 1991	Zoning Map
748	April 17, 1991	Zoning Map
762	May 20, 1992	Zoning Map
763	May 20, 1992	I-1 Permitted Use and C-1 Conditional Use
765	July 1, 1992	Zoning Map
766	July 15, 1992	I-1 and I-2 Conditional Use
768	January 20, 1993	Bed & Breakfast Expanded Services
769	February 3, 1993	Zoning Map
775	September 15, 1993	C-3 Conditional Use
782	April 20, 1994	Zoning Map
787	May 18, 1994	C-3 Permitted Use
788	May 18, 1994	Zoning Map
794	November 16, 1994	Zoning Map
796	November 2, 1994	Zoning Map
805		
808	May 1, 1996	Zoning Map
810	May 15, 1996	R-5 Residential District
813	June 19, 1996	Zoning Map
814	June 5, 1996	Zoning Map
818	September 25, 1996	Zoning Map
819	November 20, 1996	Churches Conditional Use in C-3
825	February 19, 1997	Zoning Map
826	February 19, 1997	Zoning Map
829	August 20, 1997	Zoning Map
832	September 17, 1997	Setback Requirements
844	January 5, 2000	Zoning Map
845	March 15, 2000	Allowance for Repairs – Industrial Districts
849	October 4, 2000	Fences, Walls and Hedges
851	March 21, 2001	Zoning Map

ORDINANCE	ADOPTED	SUBJECT
852	June 6, 2001	Zoning Map
863	March 19, 2003	Zoning Map
866	October 15, 2003	Zoning Map
868	January 7, 2004	Zoning Map
878	November 17, 2004	Architectural Design Standards – Residential Structures
882	January 5, 2005	Zoning Map
884	January 19, 2005	Board of Adjustment Creation
888	August 17, 2005	Zoning Map
896	June 7, 2006	Zoning Map
897	December 6, 2006	Zoning Map
902	February 21, 2007	Zoning Map
907	July 18, 2007	Zoning Map
944	February 20, 2013	Zoning Map

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CHAPTER 166

SUBDIVISION REGULATIONS

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166.28 Misrepresentations as to Construction, Supervision or Inspection of Improvements
166.29 Changes and Amendments

166.01 PURPOSE. These regulations are adopted in order to safeguard the best interests of the City and to assist the subdivider in coordinating development plans with the aims and purposes of the City at large. It is the purpose of these regulations to prevent the unregulated, piecemeal development of new subdivisions which in turn might cause undesirable and costly traffic circulation patterns and disrupt the unified scheme of community development as set forth in the approved comprehensive plan for the City. In order to accomplish the foregoing, all subdivision of land submitted for approval to the Commission shall, in all respects, fully comply with the regulations and requirements for the platting of land within the City pursuant to the authority stipulated in Chapter 354 of the *Code of Iowa*, which regulations the Council deems necessary for the health, safety and general welfare of all residents.

166.02 JURISDICTION. The regulations in this chapter governing plats and the subdivision of land apply to all lands within the corporate limits of the City and, pursuant to Section 354.9 of the *Code of Iowa*, the unincorporated area within two (2) miles of its limits, including those lands delineated as flood hazard areas on the Official Zoning Map.

166.03 DEFINITIONS. For use in this chapter, the following words and terms are defined:

1. "Alley" means a public right-of-way which affords a secondary means of access to abutting property.

2. "Block" means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

3. "Commission" means the City Planning and Zoning Commission.

4. "Comprehensive Plan" means the groups of maps, charts and texts that make up the comprehensive long-range plan of the City.

5. "Cul-de-sac" means a minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movements.

6. "Design standards" means the specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things the optimum minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

7. "Easement" means a grant of the right to use a strip of land for specific purposes by the general public, a corporation or certain persons including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewers or storm drainage ways and gas lines.

8. "Elevation" means the height of land as determined by mean sea level data.

9. "Final plat" means a drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by the County for purposes of recording.

10. "Lot" means a portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

11. "Parks and playgrounds" means the public lands and open spaces in the City dedicated or reserved for recreation purposes.

12. "Percentage of grade on street centerline" means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each one hundred (100) feet of horizontal distance.

13. "Pedestrian way" means a public or private right-of-way across a block or within a block to provide access, to be used by pedestrians and which may be used for the installation of utility lines.

14. "Preliminary plat" means a tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.

15. "Protective covenants" means contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

16. "Sketch plan" means an informal plan describing the proposed subdivision development, drawn prior to the preliminary plat application.

17. "Street" means a public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

A. "Thoroughfare" or "arterial street" means a street used primarily for heavy traffic and serving as an arterial trafficway between the various districts of the community, as shown on the Comprehensive Plan.

B. "Collector street" means a street that carries traffic from minor streets to the major system of thoroughfares and highways, including the principal entrance streets of residential districts, as shown on the Comprehensive Plan.

C. "Minor street" means a street used primarily for access to abutting properties.

D. "Marginal access street" means a minor street which is parallel and adjacent to a thoroughfare or highway and which provides access to abutting properties and protection from through traffic.

18. "Street width" means the shortest distance between lines of lots delineating the street right-of-way.

19. "Subdivision" means a described tract of land which is to be or has been divided into three (3) or more lots or parcels, any of which resultant parcels is less than five (5) acres in area, and three hundred (300) feet in width, for the purpose of transfer of ownership or building development or, if dedication of a public street is involved, any division of a parcel of land. The term includes resubdivision and where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

20. "Subdivider" means any person commencing proceedings under this chapter to effect a subdivision of land.

21. "Tangent" means a straight line which is perpendicular to the radius of a curve where a tangent meets a curve.

22. "Vertical curve" means the surface curvature on a street, road or highway centerline located between lines of different percentage of grade.

166.04 APPLICATION OF REGULATIONS. Any plat made for a subdivision or part thereof lying within the jurisdiction of this chapter shall be prepared, presented for approval and recorded as herein prescribed. The regulations contained herein apply to the subdivisions of a lot, tract or parcel of land into three (3) or more lots, tracts or other divisions of land for the purpose of sale or building development, whether immediate or future, including the resubdivision or replatting of land or lots, or if a new street is involved, any division of land. Division of land in tracts of five (5) acres or larger in area and three hundred (300) feet in width are exempt from the requirements of these regulations.

166.05 APPROVALS NECESSARY FOR ACCEPTANCE OF PLATS. Before any plat is recorded or is of any validity, it shall be approved by the Council and filed with the Clerk, as having fulfilled the requirements of this chapter.

166.06 COMPLIANCE. No plat of any subdivision shall be entitled to record in the County Recorder's office or County Auditor's office or have any validity until the plat thereof has been prepared, approved and acknowledged in the manner prescribed by this chapter. The Recorder's office shall be presented the original copy of the plat or a facsimile of the same including material.

166.07 BUILDING PERMITS. No building permits shall be issued by the City for the construction of any building, structure or improvement to the land or to any lot in a subdivision until all requirements of this chapter have been fully complied with.

166.08 SKETCH PLAN REQUIRED. Prior to the filing of any application for conditional approval of the preliminary plat, the subdivider shall submit for review with the planning staff subdivision sketch plans which shall contain the following information:

1. Tract boundaries;

2. North point;

3. Description of nature and purpose of tract;

4. Zoning and streets on and adjacent to the tract;

5. Significant topographical and physical features;

6. Proposed general street, lot and utilities layout.

Such sketch plan shall be considered as submitted for informal and confidential discussion between the subdivider and the staff. Submission of a subdivision sketch plan does not constitute formal filing of a plat with the City. As far as may be practical on the basis of a sketch plan, the staff will informally advise the subdivider as promptly as possible of the extent to which the proposed subdivision conforms to the design standards of this chapter and will discuss possible plan modifications necessary to ensure conformance.

166.09 PROCEDURE FOR APPROVAL OF PRELIMINARY PLAT. The procedure for the approval of a preliminary plat is as follows:

1. Filing. Application to appear before the Commission shall be filed at least fifteen (15) days prior to the regular monthly meeting.

2. Filing Fee. The applicant may prepare a preliminary plat which shall conform to the requirements of this chapter and shall file with the Clerk an application for approval of the preliminary plat. A cash fee of seventy-five dollars ($75.00) plus twenty dollars ($20.00) for each lot up to a maximum of seven hundred fifty dollars ($750.00) shall be required to cover City expenses in making the necessary studies for the approval of such plat. Each final plat submitted, other than the first as a part of the approved preliminary, shall require an additional seventy-five dollars ($75.00)

3. Referral of Preliminary Plat. The applicant at the time of filing with the Clerk shall provide to the City six (6) prints of the preliminary plat and six (6) copies of sheets of data accompanying the plat. If satisfactory, two (2) copies of everything shall be retained for the Commission, and two (2) copies given to the Clerk for the Council and one (1) copy for the Public Works Director and one (1) copy for the Zoning Administrator.

4. Additional Referrals. Under each of the following conditions, one (1) additional copy of every document shall be required in filing and shall be transmitted to the official referred to, with advice to the effect that any recommendations for consideration by the Commission in acting on the plat should be received within fifteen (15) days after the date of filing.

A. When such land abuts a County highway, the County Highway Engineer;

B. When such land abuts a State trunk highway, the State Highway Commissioner;

C. When such land lies within the limits of the floodway and/or the flood fringe areas of the flood plain district, the State Department of Natural Resources.

5. Report of Public Works Director. Prior to the public hearing, the Public Works Director shall submit a report to the Commission before the hearing on the preliminary plat. This report shall be on the feasibility of street location,

construction, drainage problems, etc., conformity to the Comprehensive Plan and other planning problems which may occur.

6. Public Hearing. A public hearing shall be held by the Commission after the filing of the preliminary plat. This hearing shall be held if possible at the next regular meeting of the Commission, but not earlier than twenty (20) days after the filing of the preliminary plat. Notice of said hearing shall be published in the official City newspaper at least four (4) days prior to the hearing. The newspaper notice shall include an easily understood description of the area to be subdivided. The cost of the notice shall be paid by the subdivider in addition to the cash fee for other expenses. In addition, the Clerk shall notify by U.S. mail the subdivider and the record owners of the property immediately adjoining the lands within the plat not less than ten (10) days prior to the date of the meeting.

7. Action by Commission. After consideration of all hearings, reports, comments and suggestions, the Commission shall, within forty (40) days after the public hearing, recommend, in writing, to the Council stating its reason therefor either that the preliminary plat be granted approval subject to certain conditions, if any, or that the preliminary plat be disapproved. A copy of the recommendations shall be sent to the Council and to the applicant with notice to the applicant of the date when it will be considered by the Council.

8. Council Action. The Council shall consider the preliminary plat at its next meeting following receipt of the Commission's recommendations. The Council shall either approve or disapprove the preliminary plat. The Clerk shall notify the applicant in writing of the Council's action stating the conditions of approval or reasons for disapproval of the preliminary plat. If approval is given, the Clerk shall send the applicant one (1) copy of the preliminary plat marked with any required revisions.

9. Conditional Approval. Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed to be an expression of approval to the layout submitted on the preliminary plat and act as an authorization and guide to proceed with the preparation of the final plat. This approval of the preliminary plat shall be effective for a period of six (6) months, unless an extension is granted by the Council. The subdivider may file a final plat limited to such portion of the preliminary plat which the subdivider proposes to record and develop at the time, provided that such portion must conform to all requirements of this chapter.

166.10 PROCEDURE FOR APPROVAL OF FINAL PLAT. The procedure for approval of a final plat is as follows:

1. Preparation of Final Plat. After approval of the preliminary plat by the Commission and Council, the plat may then be prepared in final form, and both survey and plat shall conform to the preliminary plat as approved, including the required modifications.

2. Information and Requirements Necessary for Recording. Final plat shall contain all the information and requirements necessary for recording with the County Recorder and Auditor, including accurate dimensions previously submitted and approved in the preliminary plat, which information accurately delineates and defines the subdivision included in such final plat.

3. Filing and Referral of Final Plat. The final plat and at least six (6) prints thereof, with required data accompanying each, shall be filed with the Clerk within twelve (12) months after the date of approval of the preliminary plat. The final plat shall be submitted, along with written application for approval of the final plat, at least fifteen (15) days prior to a Commission meeting at which consideration is requested. The Clerk shall retain the original and two (2) prints for Commission use. One (1) print each shall immediately be forwarded to the Zoning Administrator, Public Works Director and other designated officials for review. They will prepare comments prior to the next meeting of the Commission. The Zoning Administrator shall check the final plat and accompanying data for any conditions or modifications of the preliminary plat, and shall also check the plat and survey for required accuracy.

4. Action by Commission. Approval or disapproval of the plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the Commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Commission.

5. Approval of the Council. After a review and approval of the final plat by the Commission, such final plat, together with the recommendations of the Commission, shall be submitted to the Council for approval. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, alleys, easements or other public ways and parks or other open spaces dedicated to public purposes. Failure of the Council to act on the application within sixty (60) days shall be deemed as approval. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person applying for such approval.

6. Final Plat Recording. Upon final approval of the final plat by the Council, the subdivider shall record it with the County Recorder and Auditor within one hundred (100) days after the date of approval; otherwise, the approval of the final plat is null and void. The subdivider shall, immediately upon recording, furnish the Clerk with a tracing and four (4) prints thereof.

166.11 PRELIMINARY PLAT REQUIREMENTS. A preliminary plat shall be clearly and legibly drawn on tracing paper, tracing cloth or mylar of good quality and all prints or copies thereof shall be clear and legible. The size of the tracing thereof should be the same as the size to be used for the final plat. It shall be at a scale of at least one hundred (100) feet to one (1) inch, showing clearly all details thereof. A preliminary plat and accompanying material as needed shall show the following:

1. The proposed name of the subdivision, which shall not duplicate or resemble existing subdivision names in the County.

2. Names and addresses of the owners, lien holders, subdivider, surveyor or engineer and designer.

3. Sufficient description to define the location of and boundary of the land to be divided and the location and names of all existing subdivisions, streets (and street widths) and unsubdivided property and ownership adjoining the proposed subdivision, between it and the nearest existing streets and for a distance of not less than one hundred fifty (150) feet beyond the boundaries of the subdivision; zoning on

and adjacent to the subdivisions; and photographs, when required by the Commission, identifying camera location, directions of views and key numbers.

4. A proximity map to illustrate the approximate area of coverage within the section or sections located.

5. A sketch map, approximately to scale, clearly indicating an ultimate street and block layout for the entire ownership, when only a portion is proposed to be subdivided first.

6. Locations, names, widths and existing and proposed finished grades of all streets, highways, major thoroughfares and alleys.

7. Lot lines with approximate dimensions and the square foot areas of lots that are not rectangular.

8. Radii of all curves.

9. Designation of areas which, before improvements, are subject to inundation or stream water overflow, and location of all water courses and drainage ditches. For the purpose of information only, a contour line denoting the flood plain district boundary, the outline of the flood fringe and floodway of areas of the flood plain district, the present shore lines, water elevation and the date of survey as pursuant to Iowa statutes.

10. Proposed uses of the lots and parcels, proposed building setback (front yard) lines, minimum areas for building sites, other area requirements and bulk and height requirements or restrictions, and an outline of proposed deed restrictions.

11. Designation of proposed public streets, rights-of-way, easements and other areas proposed to be dedicated for public purposes, and their purposes.

12. Locations and types of existing structures, locations of large trees and other ground cover.

13. Location and approximate sizes and grades of existing and proposed water, sewer, gas, telephone and electric lines, sidewalks, curbs, gutters, roadway, paving, tree planting and other landscaping.

14. A profile showing existing and proposed centerline grades of streets, sidewalks and gutters and containing notations as to gradient and vertical curvatures.

15. Statement of the improvements proposed to be made or installed and of the estimated time of completion of improvements.

16. Present and proposed contour intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater unless the Commission waives this requirement.

166.12 FINAL PLAT REQUIREMENTS. The final plat shall be prepared for recording purposes in accordance with provisions of State statutes and applicable County regulations. The following information, procedures and data are required for final plats:

1. All information, except topographic data and sewer locations required by the County surveyor and County Recorder and Auditor.

2. The dimensions, size and scale of the final plat shall be as required in the County in filing with the County Recorder and Auditor.

3. Municipal, township, County or section lines accurately tied to the lines of the subdivision by distance and angles.

4. The name of the subdivision, scale, north arrow and date.

5. Location by section, township, range, County and State, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in seventy-five hundred (7500) feet.

6. The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments of the nearest established street lines, including true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner lot, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. Permanent markers are deemed to be iron markers, as approved by the County surveyor. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

7. The size of material used in the makeup of the final plat shall measure twenty (20) by thirty (30) inches from outer edge to outer edge and the scale shall be at least one hundred (100) feet to one (1) inch. The type of material shall be as stipulated in State statutes.

8. Subdivision boundary lines, side and center lines of streets and other rights-of-way, lines of easement, lot lines, lines of all other sites and of all reservations, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves.

9. Names and widths of streets and other rights-of-way.

10. Widths and purposes of easements.

11. Block numbers, consecutive.

12. Lot numbers, consecutive, starting with the figure “1” in each block.

13. Dedication of any sites, in addition to streets, rights-of-way and easements, and the purpose.

14. Owner’s statement offering streets, rights-of-way, and public areas for dedication to the public.

15. Owner’s power of attorney to subdivider, if owner is not the subdivider.

16. Certificate of title or abstract showing ownership.

17. Other data, certificates, affidavits and endorsements that may be required by the Commission or by the Council.

18. Final plan of all improvements to be installed by the subdivider, with grades and profiles for same as approved by the Public Works Director.

19. Certificate by the Public Works Director that all required improvements have been satisfactorily installed or that, in lieu thereof, a certified check, running to the City, in an amount sufficient to cover the cost of completion of all required improvements, has been posted.

20. Restrictive covenants, if any, in form for recording. On the plat shall be written an instrument of dedication which shall be signed and acknowledged by the owner of the land. If the plat contains areas within the flood plain, restrictive deed covenants shall be filed to provide that the flood plain areas be left essentially in the state shown on the plat and that no improvements be made in the flood plain areas in violation of Chapter 160 of this Code of Ordinances.

21. Soil borings, if required by the Public Works Director.

22. A statement of dedication signed, acknowledged and witnessed as required by law for recording conveyances. The dedication may read substantially as follows: "We, the undersigned, certify that we are the sole interested parties in the tract of land described in the foregoing surveyor's certificate, which is written on the plat on which this instrument is written, that we have caused the same to be surveyed and platted as _____ Subdivision as shown on said plat and that we do hereby grant and dedicate to the public for public use forever the streets, alleys, avenues, park sites, walks, easements and limited accesses as shown thereon.

23. Attachments, as follows:

A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;

B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

C. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

D. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from

certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

E. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

24. In every plat, whether residential, commercial, industrial or planned, the subdivider may be required as a prerequisite to approval of the plat to convey to the City a maximum of five percent (5%) of the land to be platted for public use as parks and playgrounds.

166.13 GENERAL DESIGN STANDARDS. General design requirements are as follows:

1. Compliance with City Plans and Regulations. General design, street pattern, street widths, proposed private and public areas, facilities and uses and proposed density of population shall conform to applicable plans, ordinances and regulations, including major thoroughfare plan, land use plan, other portions of the Comprehensive Plan, building and zoning regulations and other applicable regulations, and the official map adopted by reference.

2. Preservation of Natural Features. Valuable topographic and scenic features and ground cover shall be preserved and retained to the maximum extent possible. Drainage shall be provided for in the subdivision by adequate storm drains or by maintenance of natural drainage channels.

166.14 STREETS AND THOROUGHFARES. Design standards for streets and thoroughfares are as follows:

1. Conformance to Comprehensive Plan. The arrangements, character, extent, width, grade and location of all streets shall conform to the 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 uses of the land to be served by such streets. Where such is not shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall either:

A. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or

B. Conform to a plan for the neighborhood approved or adopted by the Commission or Council to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

2. Street Pattern. The street pattern shall be adequate to serve platted lots when developed and shall not be such as to obstruct the development of adjoining unsubdivided lands in conformity with the Comprehensive Plan and platting.

3. Arrangement of Minor Streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.

4. Subdivisions Abutting Proposed Arterial Streets. 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 non-access 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 which will afford separation of through and local traffic.

5. Subdivisions Bordering on Railroad Right-of-ways and Limited Access Highways. 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 separation.

6. Street Jogs. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet are prohibited.

7. Street Intersections. Streets shall intersect or intercept each other at right angles with variations of not more than ten degrees (10°) permitted when considered necessary as topography permits and (except for cul-de-sac streets) shall be extended to perimeter of the subdivision.

8. Street Names. Names of streets which are extensions of existing streets shall be the same. No street names shall be used which will duplicate or be confused with the names of separate existing streets. Street names shall be subject to the approval of the Council.

9. Curb Lines at Street Corners. At residential street corners the curb lines (or lines designating outside edges of roadways) shall be connected by a circular arc having a radius of not less than twenty (20) feet. At business and industrial corners, these lines shall be similarly connected by arcs or their equivalent chords according to standards approved by the Council.

10. Half-Width Streets. Half-width streets are prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations. Where an existing half-width street adjoins a portion of the boundary of a proposed subdivision, street dedication in a width needed to make this a full-width street may be required.

11. Street Width. Streets for residential development, when of a length of one thousand, three hundred (1,300) feet or more and dead-end streets when of a length of eight hundred (800) feet or more, the right-of-way shall not be less than sixty-six (66) feet in width. Cul-de-sac streets shall be less than five hundred (500) feet in length, wherever possible. The roadway diameter of the cul-de-sac shall be not less than one hundred (100) feet and the street property line diameter not less than one hundred twenty (120) feet.

12. Street Access. Unlimited access to railroads, trunk highways and major thoroughfares including all limited access trafficways shall be discouraged. Local service streets parallel to any such facility or the rearing of lots upon its right-of-way line with intersections at infrequent intervals only, four or less per mile, and at regular spacings shall be encouraged.

13. Subdivisions Abutting Public Water. Subdivisions abutting or including a lake, river or stream, the water of which is public water subject to the control of the State as provided by law, shall provide public access roads or public open space of at

least sixty-six (66) feet wide to the low water mark at not more than one-half (½) mile intervals measured along the lake, river or stream shoreline.

14. Minimum Rights-of-Way. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be shown in the Comprehensive Plan and where not shown therein, the minimum right-of-way width for streets, arterial highways or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

Classification	Desirable	Acceptable
Urban Expressway		138 feet
Principal Arterial Highway	104 feet	74-80 feet
Minor Arterial Highway	80 feet	75 feet
Collector Streets	80 feet	66 feet
Local Streets		66 feet
Marginal Service Access Roads		66 feet
Alley		20 feet
Pedestrian Way		10 feet
Where existing or anticipated traffic on principal and minor arterial highways warrants greater widths of rights-of-way, these shall be required.		

15. Street Grades. The grades in all streets, arterial highways, collector streets, minor streets and alleys in any subdivision shall not be greater than the maximum grades as determined by Iowa State highway standards and criteria and the Public Works Director. In addition, there shall be a minimum grade on all streets and arterial highways of not less than one-half (½) of one (1) percent.

16. Street Alignment. The horizontal and vertical alignment standards on all streets shall be as follows:

HORIZONTAL: RADII OF CENTERLINE		
	Desirable	Minimum Acceptable
Urban Expressway	as required by the State Highway Department	
Principal Arterial Highway	800 feet	500 feet
Minor Arterial Highway	800 feet	500 feet
Collector Street	500 feet	300 feet
Local Street	500 feet	100 feet

TANGENT BETWEEN ALL REVERSED CURVES	
	Minimum Acceptable
Urban Expressway	as required by the State Highway Department
Principal Arterial Highway	100 feet
Minor Arterial Highway	100 feet
Collector Street	50 feet
Local Street	50 feet
VERTICAL:	
All changes in street grades shall be connected by vertical parabolic curves of such length as follows:	
Principal or Minor Arterial Highways	Thirty (30) times the algebraic difference in the percent of grade of the two adjacent slopes
Collector or Local Streets	Twenty (20) times the algebraic difference in the percent of grade of the two adjacent slopes

17. Dedication of Streets. All proposed streets shall be offered for dedication as public streets, except that private streets may be permitted, following approval of the variance application, within the boundaries of property under one ownership.

166.15 ALLEYS. Design standards for alleys are as follows:

1. Alley Required. Alleys may be required at the rear of lots to be used for multiple dwellings, commercial, industrial and institutional purposes, lots fronting trunk highways and major thoroughfares and lots needing a secondary means of access.

2. Alley Width. Alleys shall be not less than twenty (20) feet in width.

3. Alley Intersections and Alignment. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

4. Dead-end Alleys. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead end, as determined by the Commission.

5. Council May Require Alley. The Commission may recommend, and the Council may require, the placement of alleys in subdivision developments where they would be essential for utilities, service access or health and general welfare.

166.16 EASEMENTS. Easement requirements are as follows:

1. General. Easements for public utilities shall be provided and centered along the rear and side lot lines where needed to include at least five (5) feet from each

abutting lot. The easements shall be ten (10) feet in width and shall be aligned from block to block.

2. Water Course, Drainage Way, Channel or Stream. Where a subdivision is traversed by a water course, drainage way, channel or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Commission may deem the most adequate, conforming substantially with the lines of such water course shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the Commission.

166.17 BLOCKS. Design standards for blocks are as follows:

1. Design Considerations. The lengths, widths and shapes of blocks, and lots within blocks, shall be determined with due regard to the following:

A. Provision of adequate building sites suitable to the special needs of the principal and all required accessory uses.

B. Zoning requirements as to lot sizes and dimensions, and provisions regulating off-street parking and loading spaces.

C. Limitations and opportunities of topography.

2. Block Dimensions. Residential blocks shall normally be of sufficient width for two tiers of lots. Block lengths shall be determined by circulation and other needs. Where residential blocks with lots deeper than three hundred (300) feet are proposed, a reservation for a future street through the middle of the block, longitudinally, may be required.

3. Pedestrian Crosswalks. Pedestrian crosswalks, not less than ten (10) feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities. In blocks over seven hundred (700) feet in length, the Commission may require at or near the middle of the block, a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

166.18 LOTS. Design standards for lots are as follows:

1. Design Considerations. 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.

2. Lot Dimensions. Lot dimensions shall conform to the requirements of the zoning ordinance.

3. Side Lines of Lots. Ordinarily side lines of lots shall be at right angles to straight street lines and radial to curved street lines.

4. Double Frontage and Reverse Frontage Lots. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome special 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.

5. Lots to Access on Public Streets. 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 for purposes of firefighting, utilities and other public and quasi-public services.

166.19 REQUIRED IMPROVEMENTS GENERALLY. General requirements regarding improvements are as follows:

1. Agreement for Completion of Improvements. Before a final plat is approved by the Council, the owner and subdivider of the land covered by the said plat shall execute and submit to the Council an agreement, which shall be binding on the heirs, personal representatives and assigns of the owner and subdivider, that said owner and subdivider will cause no private construction to be made on said plat or file or cause to be filed any application for building permits for such construction until all improvements required under this chapter have been made or arranged for in the manner following, with respect to the streets to which the lots sought to be constructed have access.

2. Surety Required. Prior to the making of such required improvements, the owner or subdivider shall deposit with the Clerk an amount equal to one and one-half (1½) times the City's estimated cost of such improvements, either in cash or an indemnity bond, with sureties satisfactory to the City, conditioned upon the payment of all construction costs incurred in the making of such improvements and all expense incurred by the City for engineering and legal fees and other expense in connection with the making of such improvements.

3. Certificate of Completion. The subdivider shall submit with the final plat or at the time of completion of improvements, if bonded, a certificate of completion of construction of required improvements. Such certificates shall be prepared by a registered engineer and shall include a statement of the inspection and approval of the same by the Public Works Director for land within the City and by the State Highway Commissioner for State trunk highways. Drawings showing all improvements built shall be filed with the Clerk.

4. Drainage Requirements. No final plat shall be approved on land subject to flooding or containing poor drainage facilities and on land which would make adequate drainage of the streets or roads and lots impossible. However, if the subdivider does the following—agrees to make improvements which will assure that each lot contains a flood-free site for location of a dwelling or structure; designs roads so that the finished surface is not more than two (2) feet below the regulatory flood protection elevation; locates or designs public utilities and facilities, such as sewer, gas, electrical and water systems to provide protection to the regulatory flood protection elevation; and undertakes other measures which, in the opinion of the Public Works Director, will make the area suitable for use without interfering with the flow of water under flood conditions—then the final plat of the subdivision may be approved.

5. Inspection of Improvements. All of the required improvements to be installed under the provisions of these regulations shall be inspected during the course of their construction by the City's engineer. All of the inspection costs pursuant thereto shall be paid by the owner or subdivider in the manner prescribed in subsection 2 above.

6. Maintenance Surety. The subdivider shall furnish a performance bond with one year warranty against defective materials and workmanship as to all improvements which the subdivider is required to install.

166.20 STREET IMPROVEMENTS. Following are the required street improvements:

1. Grading. The full width of the right-of-way shall be graded, including the sub-grade of the areas to be paved, in accordance with standards and specifications for street construction as approved by the Council and recommendations of the Public Works Director.

2. Street Surfacing. All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the Council and recommendation of the Public Works Director. Generally streets shall be paved with P.C. concrete with the exception of areas zoned "R-5" High Density Affordable Family Residential District. In such districts, the type of paving surface and its specifications shall be negotiated between the City and the subdivider.

3. Storm Water Drainage. Storm sewers, culverts, storm water inlets, storm water detention basins and other drainage facilities will be required where they are necessary to insure adequate storm water drainage for the subdivision. Where required, such drainage facilities shall be constructed in accordance with the standards and specifications for street construction as approved by the Council and Public Works Director.

4. Street Trees. Street trees shall be planted in conformance with the standards and specifications as approved by the Council and Public Works Director.

5. Street Signs. Street signs of the standard design approved by the Council shall be installed at each street intersection.

6. Street Lighting. A street lighting system, where proposed or required, shall be of a design and standard recommended by the Commission and approved by the Council and the Public Works Director.

7. Curb and Gutter. Curb and gutter shall be required on all streets, with the exception of areas zoned "R-5" High Density Affordable Family Residential District. In such districts, curb and gutter shall be required only where it is deemed necessary by the Council for proper drainage of storm water. All curb and gutter shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Public Works Director.

8. Sidewalks. Sidewalks may be required by the Council if they are considered necessary for the general welfare and safety of the community. Sidewalks shall be constructed to the grade approved by the Council after receiving the report and recommendations of the Public Works Director.

166.21 SANITARY SEWER IMPROVEMENTS. Sanitary sewers shall be installed as required by standards and specifications as required and approved by the Council.

1. Accessibility of Public Sanitary Sewer. Where a public sanitary sewer is within five hundred (500) feet of the subdivision, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system and require to make the sewer accessible to

each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the Council and the State Department of Health and the construction subject to the supervision of the Public Works Director.

2. Sanitary Sewer Not Available. Where sanitary sewers are not available, other facilities, as approved by the Council and State Department of Health, must be provided for the adequate disposal of sanitary wastes.

3. Storm Water Disposal. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the Council and to the supervision of the Public Works Director.

166.22 PUBLIC UTILITIES. Public utility requirements are as follows:

1. Buried Utility Lines. All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines and services constructed within the confines of and providing service to customers in a newly platted residential area shall be buried underground, unless the Council specifically finds, after study and recommendation by the Commission, that:

A. The placing of utilities underground would not be compatible with the development planned;

B. The additional cost of burying such utilities would create an undue financial hardship; or

C. Topographical, soil or any other conditions make the underground installation unreasonable or impractical.

2. Location of Utility Lines on Overhead Poles. All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles. The Commission may recommend, and the Council shall require, that the type of overhead pole used be of a quality and durability aesthetically in conformance with the nature of the residential development.

3. Placement of Conduits and Cables. Where telephone, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways, in such a manner so as not to conflict with other underground services.

4. Drainage and Underground Utility Easements. All drainages and other underground utility installations which traverse privately owned property shall be protected by easements.

5. Written Record from Utilities Required. The subdivider is responsible for complying with the requirements of this section and shall submit to the Commission a written record from the utilities showing that the necessary arrangements with the utility involved for the installation of said facilities have been made.

166.23 VARIANCES GENERALLY. The Council may grant a variance from the regulations contained in this chapter following a finding that all of the following conditions exist:

1. Special Circumstances Must Exist. There are special circumstances or conditions affecting said property such that the strict application of the provisions of these regulations would deprive the applicant of the reasonable use of land.

2. Variance Necessary for Substantial Property Right. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

3. Variance Must Not be Detrimental to Public Welfare. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

4. Criteria For Variance. In making this finding, the Council shall consider the nature of the proposed use of land, the existing use of land, and that it shall not be in any conflict with any zoning ordinance, in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. In granting a variance as herein provided, the Council shall prescribe only conditions that it deems desirable or necessary to the public interest, and such variances and waivers may be granted only by the majority vote of the Council.

166.24 SPECIAL APPLICATION REQUIREMENTS FOR VARIANCES. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Commission and Council, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Commission and Council in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. In all cases where applications for variance are submitted for conditional approval along with the preliminary plat, the action on such conditional approval shall issue from the Council. Where a petition for variance is not involved, the Commission may grant conditional approval subject to procedural requirements stated in this chapter.

166.25 REGISTERED LAND SURVEYS. It is the intention of this chapter that all registered land surveys in the City should be presented to the Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats and that the Commission shall first approve the arrangements, sizes and relationships of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless such approvals have been obtained from the Commission and Council in accordance with the standards set forth herein, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts unless so approved.

166.26 SALE OF LOTS FROM UNRECORDED PLATS. It is unlawful to sell, trade or otherwise convey or offer to sell, trade or otherwise convey any lot or parcel of land as a part of or in conformity with any plan, plat or replat of any subdivision or portion of the City unless said plan, plat or replat has first been recorded in the office of the County Recorder.

166.27 RECEIVING OR RECORDING UNAPPROVED PLATS. It is unlawful to receive or record in any public office any plans, plats or replats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter unless the same shall bear thereon, by endorsement or otherwise, the approval of the Commission and the Council.

166.28 MISREPRESENTATIONS AS TO CONSTRUCTION, SUPER-VISION OR INSPECTION OF IMPROVEMENTS. It is unlawful for any person owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets or alleys of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the Council, or has been supervised or inspected by the City when such improvements have not been so constructed, supervised or inspected.

166.29 CHANGES AND AMENDMENTS. Any regulations or provisions of this chapter may be changed and amended from time to time by the Council; provided, however, such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been published at least once, not less than four (4) or more than twenty (20) days before the date of the hearing.

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CHAPTER 167

AIRPORT TALL STRUCTURE ZONING REGULATIONS

167.01 Definitions
167.02 Airport Zones
167.03 Airport Zone Height Limitations
167.04 Use Restrictions
167.05 Nonconforming Uses
167.06 Permits
167.07 Enforcement
167.08 Board of Adjustment
167.09 Appeals
167.10 Judicial Review
167.11 Penalties
167.12 Conflicting Regulations

167.01 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Airport" means the Atlantic Municipal Airport.

2. "Airport elevation" means the highest point of an airport's usable landing area measured in feet above mean sea level.

3. "Approach surface" means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 167.03 of this chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

4. "Approach, transitional, horizontal, and conical zones" means those zones as set forth in Section 167.02 of this chapter.

5. "Board of Adjustment" means a board consisting of five (5) members appointed by the City Council/Board of Supervisors as provided in Chapter 329.12 of the *Code of Iowa*.

6. "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

7. "Hazard to air navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

8. "Height" means for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

9. "Horizontal surface" means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

10. "Nonconforming use" means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provision of this chapter or any amendment thereto.

11. "Nonprecision instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal

guidance, or area type navigation equipment for which a straight-in nonprecision instrument approach procedure has been approved or planned.

12. "Obstruction" means any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in Section 167.03 of this chapter.

13. "Person" means an individual, firm, partnership, corporation, company, association, joint stock association or governmental entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

14. "Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 167.02 of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

15. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

16. "Structure" means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

17. "Transitional surfaces" means those surfaces which extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

18. "Tree" means any object of natural growth.

19. "Utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

20. "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures.

21. "Larger than utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

167.02 AIRPORT ZONES. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Municipal Airport. Such zones are shown on the Municipal Airport Zoning Map, which is made a part hereof by reference. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility Runway Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Utility Runway Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

3. Runway Larger Than Utility Visual Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

4. Runway Larger than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

5. Horizontal Zone. The horizontal zone is established by swinging arcs of five thousand (5,000) feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

6. Conical Zone. The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

167.03 AIRPORT ZONE HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility Runway Visual Approach Zone. Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

2. Utility Runway Nonprecision Instrument Approach Zone. Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

3. Runway Larger Than Utility Visual Approach Zone. Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the

primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

4. Runway Larger than Utility With a Visibility Minimum Greater Than 3/4 Mile Nonprecision Instrument Approach Zone. Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

5. Transitional Zones. Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,165 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.

6. Horizontal Zone. Established at 150 feet above the airport elevation or at a height of 1,315 feet above mean sea level.

7. Conical Zone. Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

No structure shall be erected in the City or County that raises the published Minimum Descent Altitude of Decision Height for an instrument approach to any runway, nor shall any structure be erected that causes the Minimum Obstruction Clearance Altitude or Minimum En Route Altitude to be increased on any Federal Airway in the City or County.

167.04 USE RESTRICTIONS. Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

167.05 NONCONFORMING USES.

1. Regulations Not Retroactive. The regulations prescribed in this chapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of the ordinance codified in this chapter, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the ordinance codified in this chapter and which is completed within one (1) year thereafter.

2. Marking and Lighting. Notwithstanding the preceding subsection, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Atlantic Municipal Airport.

167.06 PERMITS.

1. Future Uses. No permit is required for the construction or alteration of any structure or growth of any tree if the height of said structure or tree falls into the following categories:

A. No permit is required for any structure or growth of any tree up to a height of 50 feet above the surface of the land.

B. In the area lying within the limits of the horizontal zone and conical zone, no permit is required for any structure or growth of any trees less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

C. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit is required for any structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zone.

D. In the area lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit is required for any structure or growth of any tree less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

E. In addition, in any of the individual areas described in subsections B, C and D above, no permit shall be required for any tree or structure which—regardless of its proposed vertical height above the ground—does not extend to as great a height above sea level as any of the natural terrain located directly between the location of the proposed tree or structure and any portion of the existing or proposed airport runways.

The foregoing exceptions shall not be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this chapter except as set forth in subsection A. A permit is required when the construction or alteration of any structure or growth of any tree exceeds the height limitations of the foregoing exceptions as set forth in subsections A, B, C or D above. An application for a permit shall indicate the purpose for which the permit is desired, with sufficient information to allow it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter

shall be granted unless a variance has been approved in accordance with subsection 3 of this section.

2. Existing Uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of the ordinance codified in this chapter or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

3. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree or use property not in accordance with the regulations prescribed in this chapter, may apply to the Board of Adjustment for a variance from such regulations. However, no such variance shall be granted unless the Board finds, based upon written advice from the Federal Aviation Administration that:

A. In an application to permit any structure, tree or use of land to exceed the height or use limitations of this chapter, that such structure, tree or use of land would not obstruct landing and takeoff of aircraft at the airport.

B. In an application to permit a use of land otherwise prohibited herein, that such use would not be incompatible with airport operations.

An applicant for a variance hereunder shall, as part of the application submitted to the Board, file the required written advice of the FAA. No application for a variance hereunder shall be set for hearing by the Board until such advice has been filed. Such advice shall not be binding upon the Board of Adjustment, but shall be one of the factors considered by the Board when reaching its decision.

4. Obstruction Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain at the owner's expense such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Municipal Airport, at its own expense, to install, operate and maintain the necessary markings and lights.

167.07 ENFORCEMENT. It is the duty of the Airport Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Airport Zoning Administrator upon a form published for that purpose. Applications required by this chapter to be submitted to the Airport Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the Airport Zoning Administrator.

167.08 BOARD OF ADJUSTMENT.

1. There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Administrator in the enforcement of this chapter; (2) to hear and decide special exceptions to the terms of

this chapter upon which such Board of Adjustment under such regulations may be required to pass; and (3) to hear and decide specific variances.

2. The Board of Adjustment shall consist of five (5) members appointed by the City Council/Board of Supervisors and each shall serve for a term of five (5) years until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of five (5) years, one for a term of four (4) years, one for a term of three (3) years, one for a term of two (2) years and one for a term of one (1) year. Members shall be removable by the appointing authority for cause, upon written charges after a public hearing.

3. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this chapter. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson, or in the absence of the Chairperson, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Airport Zoning Administrator and on due cause shown.

4. The Board of Adjustment shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this chapter.

5. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Airport Zoning Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect variation to this chapter.

167.09 APPEALS.

1. Any person aggrieved or any taxpayer affected by any decision of the Airport Zoning Administrator made in the administration of this chapter may appeal to the Board of Adjustment.

2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Airport Zoning Administrator a notice of appeal specifying the grounds thereof. The Airport Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Airport Zoning Administrator certifies to appeal the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would in the opinion of the Airport Zoning Administrator cause imminent peril to life or property. In such case, proceedings shall not be stayed except by the order of the Board of Adjustment on notice to the Airport Zoning Administrator and on due cause shown.

4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a

reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

5. The Board of Adjustment may, in conformity with the provision of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination as may be appropriate under the circumstances.

167.10 JUDICIAL REVIEW. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Section 414.15 of the *Code of Iowa*

167.11 PENALTIES. Each violation of this chapter or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor, and shall be punishable by the fine of not more than one hundred dollars ($100.00) or imprisonment for not more than 30 days or both; and each day a violation continues to exist shall constitute a separate offense.

167.12 CONFLICTING REGULATIONS. Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict be with respect to height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.