CHAPTER 1

CODE OF ORDINANCES

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

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

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

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 "Ordinances" means the ordinances of the City of Jesup, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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

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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 Jesup, Iowa.

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

(Code of Iowa, Sec. 372.4)

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

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

Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

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CHAPTER 3

MUNICIPAL INFRACTIONS

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

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

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

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

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

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

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

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

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

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

1. Standard Civil Penalties.

   A. First offense – not to exceed $750.00

   B. Each repeat offense – not to exceed $1,000.00

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

2. Special Civil Penalties.

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

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

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

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

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

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

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

1. The name and address of the defendant.

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

3. The location and time of the infraction.

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

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

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

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

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

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

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

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no later than noon of the first day that is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

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

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

(Ord. 554 – Sep. 14 Supp.)

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

jointly with one or more other restricted donors, offer or make a gift or a series of gifts to a public official, public employee or candidate.

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

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CHAPTER 6

CITY ELECTIONS

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

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

6.07 ELECTION PRECINCTS. The City is divided into two precincts for voting in elections, which precincts are described as follows:

1. Precinct One (Buchanan County) shall consist of that portion of the City of Jesup that lies within Buchanan County.

2. Precinct Two shall consist of that portion of the City of Jesup that lies within Black Hawk County that is included in the following precinct in Black Hawk County:

Unincorporated Poyner Township Precinct Two and the entire incorporated City of Gilbertville, and Unincorporated Fox Township

and a part of the incorporated City of Jesup that is included in the following precinct in Black Hawk County described as:

That portion of Poyner Township bounded by a line commencing at the point Gilbertville Road intersects the east corporate limit of the City of Evansdale immediately to the south of Interstate 380, then proceeding southeasterly along Gilbertville Road until it intersects Indian Creek Road, then proceeding east along Indian Creek Road until it intersects the east boundary of Poyner Township, then proceeding first south and then in a clockwise manner along the boundary of Poyner Township to the point of origin;

And that portion of Fox Township which is bounded by a line commencing at the intersection of McStay Road and Dubuque Road and proceeding east along Dubuque Road until it intersects Wooster Road, then proceeding south along Wooster Road and its southern extension until it intersects Jubilee Road, then proceeding west along Jubilee Road until it intersects McStay Road, then proceeding north along McStay Road or its extension to the point of origin.

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

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

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

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

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

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

4. Change Fund. The finance officer is authorized to draw a warrant/check on the Utility Fund for establishing a change fund for the purpose of making change without commingling other funds to meet the requirements of the office. Said change fund shall be in the custody of the Clerk, who shall maintain the integrity of the fund.

5. Dishonored Checks. When a check, share draft, or draft is submitted for the payment of a bill and such check, share draft, or draft is not paid when presented to the bank, credit union, person, or corporation it was drawn on, the payor will be charged, in addition to all other applicable charges set out in this Code of Ordinances, for each time the check, share draft, or draft has been submitted or resubmitted to the

bank or credit union for payment and payment is refused. The amount of the charge shall be set, from time to time, by resolution of the City Council and shall be added to the bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by the Clerk or Deputy Clerk and by the Mayor or Mayor Pro Tem.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.22)

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CHAPTER 8

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 that 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 that are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure that 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 that 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 (30) 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)

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**
376	December 3, 1992	Jesup Urban Renewal Area
396	April 4, 1996	1996 Addition to the Jesup Urban Renewal Area
411	April 2, 1998	1998 Addition to the Jesup Urban Renewal Area
474	April 6, 2006	2006 Addition to the Jesup Urban Renewal Area

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CHAPTER 10

URBAN REVITALIZATION

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted designating Urban Revitalization Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**NAME OF AREA**
537	February 13, 2013	Jesup Urban Revitalization 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 two years.
(Code of Iowa, Sec. 376.2)

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
(Code of Iowa, Sec. 372.14[1])

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

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

4. Mayor's Veto. Sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. The Mayor may veto an ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.
(Code of Iowa, Sec. 380.5 & 380.6[2])

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

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

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

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

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

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

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

15.03 APPOINTMENTS. The Mayor shall appoint the Mayor Pro Tem and committee members, and the Mayor also appoints, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Police Chief
2. Library Board of Trustees
3. Zoning Board of Adjustment
4. Recreation Park Board
5. Head of Emergency Management
6. Ambulance Board
7. Ambulance Chief
8. Fire Chief

In addition, the Mayor recommends individuals for appointment by the Council for membership on the Planning and Zoning Commission.

15.04 COMPENSATION. The salary of the Mayor is $3,600.00 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 five Council members elected at large for overlapping terms of four years.

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

(Code of Iowa, Sec. 364.2[1], 384.16 & 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. 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 regular meetings of the Council shall be on the first and third Tuesday of each month at 7:00 p.m. in the Council Chambers of the Jesup City Hall. ***(Ord. 548 – Jan. 14 Supp.)***

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])

3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])

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

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

1. City Clerk
2. City Attorney
3. Planning and Zoning Commission
4. Water and Sewer System Superintendent
5. Public Works Director
6. Streets and City Maintenance Commissioner

17.06 COMPENSATION. The salary of each Council member is $1,200.00 per year, payable annually.
(Code of Iowa, Sec. 372.13[8])

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CHAPTER 18

CITY CLERK

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

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

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

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

18.03 PUBLICATION OF MINUTES. 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 this Code of Ordinances or law, the notice must be published at least once, not less than four (4) or more than twenty (20) days before the date of the election, hearing, or other action, unless otherwise provided by law.

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

2. Manner of Publication. A publication required by this Code of Ordinances or law must be in a newspaper published at least once weekly and having general circulation in the City.

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

4. Provide Copy. Furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of such officer's duty; furnish a copy to any citizen when requested upon payment of the fee set by Council resolution; under the direction of the Mayor or other authorized officer, affix the seal of the City to those public documents or instruments that by this 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 positions and the time at which they shall assume the duties of their offices.

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

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections in accordance with Chapter 376 of the *Code of Iowa*. ***(Ord. 554 – Sep. 14 Supp.)***

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

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 20

CITY ATTORNEY

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

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

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

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

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

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

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

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

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

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

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters. All requests for legal opinions shall be submitted through the Clerk.

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

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

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

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

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

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

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

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of eight resident members and one nonresident member. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident member is to be appointed by the Mayor with the approval of the County Board of Supervisors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Ch. 661)

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

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

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

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

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

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

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

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

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

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

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

21.08 EXPENDITURES. All money appropriated by the Council for the operation 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. The check-writing officer is the Clerk.

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

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

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22

PLANNING AND ZONING COMMISSION

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

22.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven members recommended by the Mayor for appointment 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)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof

until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

CHAPTER 23

RECREATION PARK BOARD

23.01 Recreation Park Board Created
23.02 Organization of Board
23.03 Duties of the Board
23.04 Rules
23.05 Penalties

23.01 RECREATION PARK BOARD CREATED. A Recreation Park Board is hereby created to plan, create, develop and oversee the Parker-Muncey Pioneer Park.

23.02 ORGANIZATION OF BOARD.

1. Membership. The Board shall consist of eight (8) members plus Stuart Parker and Pauline Parker or two (2) other persons designated by them or designated by their issue. Stuart Parker and Pauline Parker or their designees shall be ad hoc members of the Board with power to vote only on those matters that apply directly to Parker-Muncey Pioneer Park. The remaining eight members of the Board shall all be appointed by the Mayor with approval of the Council. Two persons shall be appointed from each of the four quadrants of the City, which quadrants are created by dividing the City by 6th Street and by the railroad tracks. The two persons appointed from any quadrant may be husband and wife. The members shall serve for four-year overlapping terms. The Mayor shall designate the terms of the first appointed members and shall designate the initial Chairperson and Vice Chairperson, and the Board shall elect its Chairperson and Vice Chairperson every year thereafter.

2. Compensation. Board members shall serve without compensation, but may receive their actual, reasonable expenses.

3. Officers. The Board may, in addition to electing a Chairperson and Vice Chairperson, elect a Secretary and such other officers as it deems advisable. All officers shall hold office for two (2) years or until the election of a successor to the office after the expiration of the two-year term or until the expiration of the person's term as a Board member, whichever shall first occur.

4. Quorum; Vacancies. Four (4) members, which may include Stuart Parker, Pauline Parker or their designees, shall constitute a quorum. The position of any Board member shall be vacant if he or she permanently moves outside of the City limits. The position of any Board member shall be deemed vacated if he or she is absent from five (5) successive quarterly meetings. Vacancies in the Board shall be filled by appointment, in the same manner as the original appointment, for the unexpired term for which the appointment is made.

5. Bylaws. The Board may adopt bylaws to regulate its operation.

6. Meetings. The Board shall establish a quarterly meeting date and time and shall meet at least quarterly and may hold special meetings as it determines necessary.

23.03 DUTIES OF THE BOARD.

1. In addition planning for the development and preservation of the pioneer theme in the newly created Parker-Muncey Pioneer Park, the Board shall preserve

and/or develop a portion of said park into a natural virgin prairie site, establish plans for long-range development of the park in a way which will enhance the area and serve the citizens of all ages.

2. The Board shall make written reports to the Council of its meetings.

3. The Board shall recommend to the Council an annual budget for expenditures for Parker-Muncey Pioneer Park. The Board shall recommend to the Council such other specific and general expenditures throughout the year that it deems advisable for the maintenance and development of said park; however, the Board shall not have the power to spend money or issue warrants or checks.

23.04 RULES. The Board shall have power to make rules and regulations for the use of Parker-Muncey Pioneer Park or for the conduct of recreation programs thereon, subject to the approval of the rules by the Council. Such rules shall be either posted at the park or otherwise publicized in a manner to provide adequate notice to the using public.

23.05 PENALTIES. Violation of a Board rule that has been approved by the Council may be cause for denial of use of a facility or participation in a program, but such denial that extends more than one day may be appealed to the Board or to the Council for a hearing. The violation may be prosecuted as a misdemeanor if a serious offense.

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CHAPTER 24

AMBULANCE BOARD OF DIRECTORS

24.01 Board of Directors Established
24.02 Chief of Ambulance Service
24.03 Powers and Duties
24.04 Compensation
24.05 Calls Outside Corporate Limits
24.06 Schedule of Fees
24.07 Payment

24.01 BOARD OF DIRECTORS ESTABLISHED. There is hereby established an Ambulance Board of Directors consisting of three members, to be appointed by the Mayor with the approval of the Council for staggered terms of three years. Terms shall expire on December 31 of the last year of the term, or until a successor shall have qualified. Nothing herein shall prevent a Board member from being appointed to succeed himself or herself. Vacancies shall be filled by appointment by the Mayor for the unexpired term. The Board shall meet once a month.

24.02 CHIEF OF AMBULANCE SERVICE. The members of the ambulance service shall elect a Chief in a manner as may be provided by its constitution or bylaws, but the election of the Chief shall be subject to the appointment by the Mayor and approval of the Council. The term of office for the Chief is one year. The Chief shall be the chief executive officer of the ambulance service and is subject to the authority and control of the Ambulance Board of Directors. The Chief shall not serve on the Ambulance Board any time during his or her term as Chief.

24.03 POWERS AND DUTIES. The Ambulance Board of Directors has the power and authority to adopt a constitution and bylaws, as they deem necessary, and such constitution and bylaws and any change or amendment to such constitution and bylaws, before being effective, must be approved by the Council. The Board further has the following power and authority:

1. To assist the Ambulance Chief and operation of the Ambulance Service;

2. To assist in recruiting personnel to serve voluntarily, and to maintain an accurate list of such persons;

3. To prescribe standards and training for emergency unit personnel, to seek and investigate methods of improvement of service and, with Council approval, to attend schools and courses and to designate unit members to attend;

4. To assist in the maintenance of the vehicles and equipment, to recommend to the Council the purchase of such items and equipment as they deem necessary for the proper operation of the service, authorized to incur expenditures within its allowed ambulance budget, subject to claim approval by the Council, as provided by law, and to accept the donation of funds and equipment;

5. To assist and supervise the Ambulance Chief in the formulation of the yearly budget;

6. To assist in the compilation of a comprehensive report of the status and operations of the service, including a complete inventory of equipment in July of each year and otherwise as may be required; and

7. To perform such other duties as may be referred to it by the Council.

(Subsections 1-7 – Ord. 541 – May 13 Supp.)

24.04 COMPENSATION. Members of the Ambulance Board of Directors and personnel of the Emergency Unit shall serve without compensation, except as approved by the Council and Mayor by resolution. Additionally, they may be reimbursed for actual expenses incurred in the performance of their duties. Members of the Emergency Unit are considered to be employees of the City while in the performance of ambulance duties for the purpose of the application of worker's compensation statutes.

24.05 CALLS OUTSIDE CORPORATE LIMITS. The service is authorized to respond to calls outside the corporate limits of the City and to transport patients to such locations as may be necessary, except that the Ambulance Board of Directors may establish policies, subject to Council approval, for response to such calls and for the routine transfer of patients.

24.06 SCHEDULE OF FEES. Maximum fees for the use of the ambulance service and reasonably related emergency services furnished within or without the City shall be established by resolution of the Council. They shall be adequate to cover all of the operating costs of the service, except replacement of vehicles.

24.07 PAYMENT. All ambulance fees and charges are due upon presentation of a statement for said fees and charges, and shall be paid to the Clerk. Actions for collection of same shall be brought in the name of the City in the same manner as other actions of law.

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CHAPTER 30

POLICE DEPARTMENT

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.4)

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

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

1. General. Perform all duties required of the Police Chief by law or ordinance.

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

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

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

(Code of Iowa, Sec. 321.266)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items that are capable of causing bodily harm which the arrested person may have within such person's control, to be disposed of according to law.

(Code of Iowa, Sec. 804.18)

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

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

CHAPTER 31

RESERVE PEACE OFFICERS

31.01 Establishment of Force
31.02 Training
31.03 Status of Reserve Officers
31.04 Carrying Weapons
31.05 Supplementary Capacity
31.06 Supervision of Officers
31.07 No Reduction of Regular Force
31.08 Compensation
31.09 Benefits When Injured
31.10 Liability and False Arrest Insurance
31.11 No Participation in Pension Fund or Retirement System

31.01 ESTABLISHMENT OF FORCE. A force of reserve peace officers is hereby established. 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.

31.02 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.

31.03 STATUS OF RESERVE OFFICERS. Reserve peace officers shall serve as peace officers on the orders and at the discretion 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 officer.

31.04 CARRYING WEAPONS. A member of the reserve force shall not carry a weapon in the line of duty until he or she 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.

31.05 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.

31.06 SUPERVISION OF OFFICERS. Reserve peace officers shall be subordinate to the Police Chief, shall not serve as peace officers unless under the direction of the Police Chief, and shall wear a uniform prescribed by the Police Chief, unless that superior officer 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.

31.07 NO REDUCTION OF REGULAR FORCE. There shall be no reduction of the authorized size of the regular law enforcement department of the City because of the establishment or utilization of reserve peace officers.

31.08 COMPENSATION. While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid 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.

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

31.10 LIABILITY AND FALSE ARREST INSURANCE. Liability and false arrest insurance shall be provided by the City to members of the reserve force while performing official duties in the same manner as for regular peace officers.

31.11 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM. This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of the State and of which regular peace officers may become members.

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Compensation
35.06 Election of Officers
35.07 Fire Chief: Duties
35.08 Obedience to Fire Chief
35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
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35.01 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

35.02 ORGANIZATION. The department consists of the Fire Chief and such other officers and personnel as may be authorized by the Council, with the maximum number of personnel not to exceed 35 active and 10 inactive persons.

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

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

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

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

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

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

35.06 ELECTION OF OFFICERS. The members of the fire department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of the Fire Chief shall be subject to the appointment by the Mayor and approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

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

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

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

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

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

5. Authority to Barricade. When in charge of a fire scene, place or erect ropes, guards, barricades or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the 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 other 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 that under law or ordinance may be necessary to be made and that is reasonably necessary to protect the public health, safety, and welfare.

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

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

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

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

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

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

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

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

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

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

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

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

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

35.14 SCHEDULE OF FEES. The amount of fees for use of the fire department and to whom those fees shall be charged shall be set by Council resolution.

35.15 PAYMENT. All Fire Department fees and charges are due upon presentation of a statement for said fees and charges and shall be paid to the Clerk. Actions for collection of same shall be brought in the name of the City and in the same manner as other actions of law.

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs
36.05 Notifications
36.06 Police Authority
36.07 Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.

2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.

3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused that that person.

36.05 NOTIFICATIONS.

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

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

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

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

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

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

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

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CHAPTER 40

PUBLIC PEACE

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

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])

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

1. Fighting. Engage in fighting or violent behavior in any public place or in or near any lawful assembly of persons, provided that participants in athletic contests may engage in such conduct that 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 that the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. Funeral or Memorial Service. Within 1,000 feet of the building or other location where a funeral or memorial service is being conducted, or within 1,000 feet of a funeral procession or burial:

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

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

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

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

(Code of Iowa, Sec. 723.5)

(Ord. 565 – Oct. 15 Supp.)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

40.06 EXCESSIVE NOISE.

1. No person operating or occupying a motor vehicle on any street, highway, alley, parking lot, or driveway, either public or private property, shall operate or permit the operation of any sound amplification system, including, but not limited to, any radio, tape player, compact disc player, loud speaker, or any other electrical device used for the amplification of sound from the motor vehicle so that the sound is plainly audible at a distance of 25 or more feet from the vehicle or, in the case of a motor vehicle on private property, beyond the property line. For the purpose of this section, "plainly audible" means any sound which clearly can be heard by unimpaired auditory senses based on a direct line of sight of 25 or more feet; however, words or

phrases need not be discernible and said sound shall include bass reverberation. Prohibitions contained in this section shall not be applicable to emergency or public safety vehicles, vehicles owned and operated by a government or any utility company, for sound emitted unavoidably during job-related operation, or any motor vehicle used in any authorized public activity.

2. Penalties for violations are as follows: first offense, $25.00; second offense, $50.00; third offense or more, $100.00. All fines do not include surcharge or court costs.

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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. ***(Ord. 544 – Sep. 13 Supp.)***

(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
42.07 Other Public Property Offenses

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

None of the above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property that has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

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

1. Chapter 21 – Library
   - A. Section 21.10 – Injury to Books or Property
   - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
   - A. Section 105.07 – Littering Prohibited
   - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
   - A. Section 135.01 – Removal of Warning Devices
   - B. Section 135.02 – Obstructing or Defacing
   - C. Section 135.03 – Placing Debris On
   - D. Section 135.04 – Playing In
   - E. Section 135.05 – Traveling on Barricaded Street or Alley
   - F. Section 135.08 – Burning Prohibited
   - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
   - A. Section 136.11 – Interference with Sidewalk Improvements
   - B. Section 136.15 – Fires or Fuel on Sidewalks
   - C. Section 136.16 – Defacing
   - D. Section 136.17 – Debris on Sidewalks

E. Section 136.18 – Merchandise Display

F. Section 136.19 – Sales Stands

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CHAPTER 43

DRUG PARAPHERNALIA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

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

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

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

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

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

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

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

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

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

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

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

9. Descriptive Materials. Descriptive materials accompanying the object explaining or depicting its use.

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

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

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

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

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

15. Expert Testimony. Expert testimony concerning its use.

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

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

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CHAPTER 44

FIREARMS AND WEAPONS

44.01 Firearm or Weapon-Free Zones
44.02 Definitions
44.03 Detection
44.04 Penalties

44.01 FIREARM OR WEAPON-FREE ZONES. Municipal buildings owned, leased, or occupied by the City are declared to be firearm/weapon-free zones. It is unlawful for any person, except a peace officer, member of the Armed Forces of the United States, or the National Guard, a person in the service of the United States, or Correctional Officer serving in an institution under authority of the Iowa Department of Corrections to carry, possess or display any weapon or firearm within any municipal building.

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

1. "Firearm" means any device or instrument designed to propel, or used in the propulsion of any bullet, shot, pellet, slug, BB, dart or other projectile by the action of an explosive, or by mechanical or electrical means, within or connected to the device or instrument. The term includes pistols, revolvers, derringers, handguns, pellet guns, rifles, shotguns, muskets or other devices which can expel or may be readily converted to expel any form of projectile so as to strike an object or a person.

2. "Municipal building" means any structure, dwelling, garage, or shelter owned, leased, or otherwise occupied by the City and used for any municipal or public purposes by the City.

3. "Weapon" means and includes all weapons as defined or described in Sections 724.1 and 724.4 of *Code of Iowa*, as amended.

44.03 DETECTION. Persons entering any municipal building may, upon probable cause to believe they are carrying or in possession of a weapon or firearm, be subject to metal detection testing or personal search.

44.04 PENALTIES. Any person violating the provisions of this chapter shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a municipal infraction with a fine not to exceed $750.00.

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

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

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

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

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

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

(Ord. 555 – Sep. 14 Supp.)

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a 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 that a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

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

D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room that is not designed, set aside, or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (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, that are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has

access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

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

2. Curfew Established. While school is in session, it is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 10:00 p.m. and 5:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of 12:01 a.m. and 5:00 a.m. on Friday and Saturday. While school is not in session, 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 12:01 a.m. and 5:00 a.m. on 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, within one hour after the end or before the beginning of work;

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

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

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

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

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

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

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

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

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

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

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

6. Penalties.

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

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

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

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

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* or who lawfully offers for sale or sells cigarettes or tobacco products. ***(Ord. 551 – Sep. 14 Supp.)***

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

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

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

46.04 MINORS IN BILLIARD ROOMS. It is unlawful for any person who keeps a billiard hall where beer 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 under eighteen (18) years of age to remain in such hall or to take part in any of the games known as billiards or pool.

(Code of Iowa, Sec. 726.9)

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CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering
47.05 Parks Closed
47.06 Camping

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

(Code of Iowa, Sec. 364.12)

47.02 USE OF DRIVES REQUIRED. No person shall drive any car, cycle or other vehicle, or ride or lead any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the City.

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between sunset and sunrise.

47.06 CAMPING. No person shall camp in any portion of a park except by special permit through the Clerk's office.

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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 51)**

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

9. Weeds, Brush. Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard. **(See also Chapter 52)**

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

11. 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.

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. 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.

† **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.

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])

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 one hundred dollars ($100.00), 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 3 of this Code of Ordinances.

CHAPTER 51

JUNK AND JUNK VEHICLES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within a garage or other enclosed structure.

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

CHAPTER 52

WEED CONTROL

52.01 Duty of Owner to Cut
52.02 Street Commissioner to Cut
52.03 Notice to Property Owners to Cut
52.04 Costs of Cutting
52.05 Assessment of Costs
52.06 Procedure for Making and Levying Special Assessment

52.01 DUTY OF OWNER TO CUT. All weeds and grasses in excess of eight inches in length are deemed to constitute a health, safety, and fire hazard, and the owner of any lots or parcels of ground shall cut or otherwise destroy all such weeds and grasses on the owner's lots or parcels of ground.

52.02 STREET COMMISSIONER TO CUT. In the event of the failure of the owner of a lot or parcel of ground to comply with the above section, it shall be the duty of the Street Commissioner to cause the same to be done.

52.03 NOTICE TO PROPERTY OWNERS TO CUT. At least five days before the Street Commissioner shall cut or destroy any weeds or grasses as provided in Section 52.02, notice shall be served on the property owner by certified mail, notifying the property owner that unless the weeds or grasses are cut or destroyed before the dates stated in the notice, the City will cut or destroy such weeds or grasses and assess the costs thereof to the owner of the lot or parcel of ground.

52.04 COSTS OF CUTTING. Whenever the Street Commissioner does any work under the provisions of Section 52.02, said official shall charge an hourly rate in an amount set by resolution of the Council for such work.

52.05 ASSESSMENT OF COSTS. If the property owner does not cut or destroy the weeds or grasses before the date stated in the notice, the City may assess the costs against the property for collection in the same manner as a property tax. In addition to assessing the costs in the same manner as a property tax, the City may also seek reimbursement for the costs of cutting or destroying the weeds by a civil action for damages against the property owner.

52.06 PROCEDURE FOR MAKING AND LEVYING SPECIAL ASSESSMENT. The procedures for making and levying a special assessment pursuant to this chapter and for an appeal of the assessment are the same procedures as provided in Chapters 384.59 - 384.75 and Chapters 384.72 - 384.75, *Code of Iowa*.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect
55.03 Livestock Neglect
55.04 Abandonment of Cats and Dogs
55.05 Livestock
55.06 At Large Prohibited
55.07 Damage or Interference
55.08 Annoyance or Disturbance
55.09 Vicious Dogs
55.10 Rabies Vaccination
55.11 Owner's Duty
55.12 Confinement
55.13 At Large: Impoundment
55.14 Disposition of Animals
55.15 Pet Awards Prohibited

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

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

2. "Animal" means a nonhuman vertebrate.

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

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

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

A. The sale or offer for sale of goods or services.

B. A recruitment for employment or membership in an organization.

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

5. "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.

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

7. "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)

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

9. "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.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 351.33)

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

(Code of Iowa, Sec. 351.38)

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

(Code of Iowa, Sec. 351.39)

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

55.14 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.15 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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

   A. A prize for participating in a game.

   B. A prize for participating in a fair.

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

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

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

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

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

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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 "Jesup 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 schoolhouse.

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

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

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

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes
61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Obstructing View at Intersections

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

1. 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 – Radar 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 of train.

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 321.450 – Hazardous materials transportation.
149. Section 321.454 – Width of vehicles.
150. Section 321.455 – Projecting loads on passenger vehicles.
151. Section 321.456 – Height of vehicles; permits.
152. Section 321.457 – Maximum length.
153. Section 321.458 – Loading beyond front.
154. Section 321.460 – Spilling loads on highways.
155. Section 321.461 – Trailers and towed vehicles.
156. Section 321.462 – Drawbars and safety chains.
157. Section 321.463 – Maximum gross weight.

158. Section 321.465 – Weighing vehicles and removal of excess.

159. 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. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

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

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

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

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries, and Parking Lots
63.04 Special Speed Zones
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

1. Business District – 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 PARKS, CEMETERIES, AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public park, cemetery, or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

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

(Code of Iowa, Sec. 321.290)

1. Special 25 MPH Speed Zones. A speed in excess of 25 miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. Twelfth Street from the north end of the street to South Street.

   B. Hawkeye Road from the northern end of the street to South Street.

2. Special 35 MPH Speed Zones. A speed in excess of 35 miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. North Street for eastbound traffic from First Street east to the water tower.

B. North Street for eastbound traffic from a point 400 feet east of Tenth Street to the east City limits.

C. County Road D22, also known as South Street, from a point 286 feet west of the west line of First Street extended east to a point 435 feet east of the east line of Twelfth Street extended.

3. Special 45 MPH Speed Zones. A speed in excess of 45 miles per hour is unlawful on any of the following designated streets or parts thereof.

A. County Road D22, also known as South Street, from Hawkeye Road to a point 286 feet west of the west line of First Street extended.

B. County Road D22, also known as South Street, from a point 435 feet east of the east line of Twelfth Street extended, east to the east City limits.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections **64.02 U-Turns**

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

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within the business district, at the following designated intersections and at intersections where there are automatic traffic signals.

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

1. At the intersection of Young Street and Main Street;

2. At the intersection of Young Street and Sixth Street;

3. At the intersection of Young Street and Fifth Street.

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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

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

(Code of Iowa, Sec. 321.345)

1. First Street. Vehicles traveling south on First Street shall stop at James Street and South Street. ***(Ord. 547 – Dec. 13 Supp.)***

2. First Street. Vehicles traveling north on First Street shall stop at James Street and North Street. ***(Ord. 547 – Dec. 13 Supp.)***

3. Christopher Circle. Vehicles traveling south on Christopher Circle shall stop at Hawley Street.

4. Second Street. Vehicles traveling north on Second Street shall stop at Ann Street and Douglas Street. ***(Ord. 547 – Dec. 13 Supp.)***

5. Second Street. Vehicles traveling south on Second Street shall stop at Ann Street.

6. Third Street. Vehicles traveling north on Third Street shall stop at South Street, Douglas Street, Hawley Street, and Prospect Street. ***(Ord. 547 – Dec. 13 Supp.)***

7. Third Street. Vehicles traveling south on Third Street shall stop at Hawley Street and South Street.

8. Hopkins Street. Vehicles traveling north on Hopkins Street shall stop at Prospect Street.

9. Fourth Street. Vehicles traveling north on Fourth Street shall stop at Purdy Street, Stevens Street, Douglas Street, Hawley Street, Church Street, and Prospect Street. ***(Ord. 547 – Dec. 13 Supp.)***

10. Fourth Street. Vehicles traveling south on Fourth Street shall stop at Church Street, Hawley Street, Young Street, Stevens Street, Purdy Street, and South Street. ***(Ord. 547 – Dec. 13 Supp.)***

11. Fifth Street. Vehicles traveling north on Fifth Street shall stop at Purdy Street, Hawley Street, and Prospect Street.

12. Fifth Street. Vehicles traveling south on Fifth Street shall stop at Hawley Street, Young Street, Purdy Street, and South Street.

13. Sixth Street. Vehicles traveling north on Sixth Street shall stop at North Street.

14. Sixth Street. Vehicles traveling south on Sixth Street shall stop at South Street.

15. Seventh Street. Vehicles traveling north on Seventh Street shall stop at North Street.

16. Seventh Street. Vehicles traveling south on Seventh Street shall stop at Young Street and South Street.

17. Curve Street. Vehicles traveling north on Curve Street shall stop at Sixth Street.

18. Curve Street. Vehicles traveling south on Curve Street shall stop at Seventh Street.

19. Main Street. Vehicles traveling north on Main Street shall stop at Douglas Street, Hawley Street, and North Street.

20. Main Street. Vehicles traveling south on Main Street shall stop at Hawley Street, Young Street, Douglas Street, and South Street.

21. Eighth Street. Vehicles traveling north on Eighth Street shall stop at Tegeler Street and Hawley Street.

22. Eighth Street. Vehicles traveling south on Eighth Street shall stop at Hawley Street and South Street.

23. Ninth Street. Vehicles traveling north on Ninth Street shall stop at Hawley Street.

24. Ninth Street. Vehicles traveling south on Ninth Street shall stop at Hawley Street and South Street.

25. Ninth Street. Vehicles traveling north on 9th Street shall stop at Stevens Street. ***(Ord. 560 – June 15 Supp.)***

26. Ninth Street. Vehicles traveling south on 9th Street shall stop at Stevens Street. ***(Ord. 560 – June 15 Supp.)***

27. Twelfth Street. Vehicles traveling south on Twelfth Street shall stop at South Street.

28. Thirteenth Street. Vehicles traveling south on Thirteenth Street shall stop at Hawley Street.

29. Tegeler Street. Vehicles traveling west on Tegeler Street shall stop at Main Street.

30. Purdy Street. Vehicles traveling east on Purdy Street shall stop at Sixth Street and Main Street.

31. Purdy Street. Vehicles traveling west on Purdy Street shall stop at Sixth Street and Third Street.

32. Stevens Street. Vehicles traveling east on Stevens Street shall stop at Fifth Street, Sixth Street, Main Street, and Tenth Street.

33. Stevens Street. Vehicles traveling west on Stevens Street shall stop at Tenth Street, Main Street, Sixth Street, Fifth Street, and Third Street.
(Ord. 547 – Dec. 13 Supp.)

34. Douglas Street. Vehicles traveling east on Douglas Street shall stop at Sixth Street and Main Street.

35. Douglas Street. Vehicles traveling west on Douglas Street shall stop at Main Street and Sixth Street.

36. Young Street. Vehicles traveling east on Young Street shall stop at Fifth Street, Sixth Street, and Main Street.

37. Young Street. Vehicles traveling west on Young Street shall stop at Main Street, Sixth Street, Fifth Street, and First Street.

38. Hawley Street. Vehicles traveling east on Hawley Street shall stop at Sixth Street and Main Street.

39. Hawley Street. Vehicles traveling west on Hawley Street shall stop at Main Street, Sixth Street, and First Street.

40. Ainsworth Street. Vehicles traveling east on Ainsworth Street shall stop at Fourth Street, Main Street, and Tenth Street.

41. Ainsworth Street. Vehicles traveling west on Ainsworth Street shall stop at Tenth Street and Main Street.

42. Church Street. Vehicles traveling east on Church Street shall stop at Fifth Street, Sixth Street, Main Street, and Tenth Street.

43. Church Street. Vehicles traveling west on Church Street shall stop at Tenth Street, Main Street, Sixth Street, and Fifth Street.

44. Prospect Street. Vehicles traveling east on Prospect Street shall stop at Sixth Street, Main Street, and Tenth Street.

45. Prospect Street. Vehicles traveling west on Prospect Street shall stop at Tenth Street, Main Street, Sixth Street, and First Street.

46. Duroe Street. Vehicles traveling east on Duroe Street shall stop at Tenth Street.

47. Duroe Street. Vehicles traveling west on Duroe Street shall stop at Tenth Street and Main Street.

48. Dohrmann Street. Vehicles traveling east on Dohrmann Street shall stop at Tenth Street.

49. Dohrmann Street. Vehicles traveling west on Dohrmann Street shall stop at Main Street.

50. North Street. Vehicles traveling east on North Street shall stop at Main Street.

51. North Street. Vehicles traveling west on North Street shall stop at Main Street.

52. James Street. Vehicles traveling east on James Street shall stop at Third Street. ***(Ord. 547 – Dec. 13 Supp.)***

53. Ann Street. Vehicles traveling east on Ann Street shall stop at Third Street and Main Street. ***(Ord. 547 – Dec. 13 Supp.)***

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

(Code of Iowa, Sec. 321.345)

1. Fifth Street. Vehicles traveling north on Fifth Street shall yield at Douglas Street.

2. Seventh Street. Vehicles traveling north on Seventh Street shall yield at Church Street and Prospect Street.

3. Seventh Street. Vehicles traveling south on Seventh Street shall yield at Prospect Street and Church Street.

4. Douglas Street. Vehicles traveling east on Douglas Street shall yield at Tenth Street.

5. Young Street. Vehicles traveling west on Young Street shall yield at Tenth Street.

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. School crossing zone on Sixth Street at the north side of its intersection with Stevens Street.

2. School crossing zone on Sixth Street at the north side of its intersection with Prospect Street.

3. School crossing zone on Stevens Street between Sixth Street and Main Street.

4. School crossing zone on Prospect Street at the east side of its intersection with Fifth 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)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets
66.04 Load Limits on Bridges
66.05 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

1. Hawley Street, from Sixth Street to the east corporate line shall have a load limit of eight (8) tons.

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

(Code of Iowa, Sec. 321.471)

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

1. Truck Routes Designated. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon the following streets within the City and none other:

(Code of Iowa, Sec. 321.473)

A. Sixth Street from South Street to North Street;

B. Douglas Street from Fifth Street to Tenth Street;

C. Main Street from Douglas Street to Young Street;

D. All of Twelfth Street;

E. Young Street from Main Street to Ninth Street;

F. Fifth Street from Douglas Street to the east/west alley between Stevens Street and Douglas Street;

G. All of Hawkeye Road.

2. Deliveries off Truck Route. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing
67.04 Use of Sidewalks

67.01 WALKING IN STREET. Pedestrians shall at all times when walking on or along a street, walk on the left side of the street.

(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(Code of Iowa, Sec. 321.328)

67.04 USE OF SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. Upon the following streets and alleys vehicular traffic, other than permitted cross traffic, shall move only in the indicated direction when appropriate signs are in place.

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

– NONE –

○ ○ ○ ○ ○ ○ ○ ○ ○ ○

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 Permit Parking
69.10 Parking Limited to Two Hours
69.11 Parking Limited to Thirty Minutes
69.12 Parking Limited to Fifteen Minutes
69.13 Snow Emergency

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. Young Street, from Fifth Street to Main Street on the north side.

2. Seventh Street (between Hawley Street and Young Street) from 25 feet south of west alley to Young Street, on west side.

69.04 ANGLE PARKING – MANNER. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle or the load thereon, when said vehicle is parked within a diagonal parking district, shall extend into the roadway more than a distance of 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 48 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale;

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

3. Advertising. Displaying advertising;

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

69.06 PARKING PROHIBITED. No one shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. Crosswalk. On a crosswalk and within twenty (20) feet of 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 that is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])

4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])

5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])

6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358[11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic

conditions require, the Council may cause curbs to be painted with a yellow color and erect no parking or standing signs.

(Code of Iowa, Sec. 321.358[13])

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

(Code of Iowa, Sec. 321.360)

15. Public Alleys. No person shall park a vehicle in any public alley within the Business District or fire limits of the City except that parking is allowed in the east-west alley between Hawley Street on the north and Young Street on the south and Sixth Street on the east and Fifth Street on the west from the west line of Sixth Street west a distance of 20 feet for the purpose of loading and unloading animals, material, or freight for a period of 30 minutes.

16. Private Alleys. No person shall park a vehicle in any private alley within the Business District or fire limits of the City in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.

17. 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])

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

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

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

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

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

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

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

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

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

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

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

B. A person shall not interfere with a wheelchair parking cone that is properly placed under the provisions of Section 321L.2A(1) of the *Code of Iowa*.

5. Locations. The following areas are designated as persons with disabilities parking zones:

A. Young Street, on the north side, from Sixth Street to a point 30 feet east of the east side of Sixth Street.

B. Stevens Street, on the north side, from Sixth Street 145 feet east of Sixth Street to 170 feet east of Sixth Street.

C. Young Street, on the south side, commencing approximately 137 feet west of Main Street to a point approximately 162 feet west of Main Street.

D. Young Street, on the north side, commencing approximately 135 feet east of Sixth Street to a point approximately 143 feet east of Sixth Street.

E. Young Street, on the north side, commencing approximately 158 feet west of Sixth Street to a point approximately 169 feet west of Sixth Street.

(Ord. 534 – Dec. 12 Supp.)

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. Sixth Street, on both sides, from Stevens Street to Purdy Street.

2. Hawley Street, on the north side, from Seventh Street to Main Street.

3. (Repealed by Ordinance No. 550 – Apr. 14 Supp.)

4. Church Street, on the south side, from Sixth Street to the nearest alley to the east.

5. Main Street, on the east side, from Ainsworth Street to North Street.

6. Fifth Street, on the east side, from Prospect Street, south 100 feet.

7. Seventh Street, on the east side, between Young Street and Hawley Street from the alley on the east side, north 94 feet, between the hours of 7:00 a.m. to 5:00 p.m.

8. Seventh Street, on the west side, between Young Street and Hawley Street from the alley on the west side, south 25 feet.

9. Seventh Street, on the west side, between Young Street and Hawley Street from the alley on the west side, north 15 feet.

10. Sixth Street, on the east side, from Purdy Street, south 50 feet.

11. Seventh Street, on the east side, between Hawley Street and Ainsworth Street from a point 10 feet south of the fire station driveway to a point 10 feet north of the ambulance building driveway.

12. Sixth Street, on the east side, from Stevens Street north to alley, during the hours of 7:00 a.m. to 11:00 a.m. Monday through Friday.

13. Main Street, on both sides, from the south curb of Douglas Street to a point 30 feet south therefrom; and from the north curb of Douglas Street to a point 30 feet north therefrom.

14. Douglas Street, on both sides, from the east curb of Main Street to a point 30 feet east therefrom; and from the west curb of Main Street to a point 30 feet west therefrom. Semi trailers shall not be permitted to be unhooked and/or dollied down at any time on any portion of Douglas Street.

15. Young Street, on both sides, from Fifth Street to Main Street, during the hours of 2:30 a.m. to 5:30 a.m., November 1 through April 1.

16. Main Street, on both sides, from Hawley Street to Young Street, during the hours of 2:30 a.m. to 5:30 a.m., November 1 through April 1.

17. Stevens Street, on the north side, commencing at a point 200 feet east of the east curb of Main Street and ending at a point 320 feet east of the east curb of Main Street from 2:45 p.m. until 3:15 p.m. Monday through Friday.

18. Prospect Street, on the south side, from Fifth Street to Sixth Street, during the hours of 8:00 a.m. to 4:00 p.m. while school is in session. Prospect Street, on the north side, from Sixth Street, west 175 feet. ***(Ord. 550 - Apr. 14 Supp.)***

19. Eighth Street, on the west side, from Hawley Street to Young Street.

20. Hawley Street, on the south side, from Sixth Street to a point 100 feet east of Sixth Street except for persons using the library building.

21. Sixth Street, on the east side, from Hawley Street south a distance of 85 feet, except that parking shall be permitted on the east side of Sixth Street between 65 feet south of Hawley Street and 85 feet south of Hawley for a period of 5 minutes for purposes of using the library book drop only.

69.09 PERMIT PARKING.

1. Establishment. The Police Chief is authorized to issue an annual parking permit for a fee in an amount set by resolution of the Council for parking in the locations set out herein. Applicants for the permit must show good cause for the issuance of the permit. The determination of whether good cause has been shown shall be in the sole discretion of the Police Chief.

2. Placard. The Police Chief may issue removable windshield placards upon the grant of a permit. The placard shall be in a design determined by the Police Chief and the color or design may be changed annually at the discretion of the Police Chief to aid in the enforcement of this section. The Police Chief shall determine the number of

placards to issue to any permit holder. The windshield placard shall be displayed in a motor vehicle parked in a designated permit parking location.

3. Permit Parking Space Location. Parking by permit only shall be permitted in the following area:

A. Sixth Street, on the east side, abutting the residence at 255 Sixth Street.

69.10 PARKING LIMITED TO TWO HOURS. It is unlawful to park any vehicle for a continuous period of more than two hours between the hours of 8:00 a.m. and 5:00 p.m. on each weekday except Saturday upon the following designated streets:

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

1. Sixth Street, on the east side, from Young Street to Hawley Street.

69.11 PARKING LIMITED TO THIRTY MINUTES. It is unlawful to park any vehicle for a continuous period of more than thirty (30) minutes upon the following designated streets:

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

1. Prospect Street, on the north side, from Fourth Street to 175 feet west of Sixth Street, during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday.

(Ord. 550 - Apr. 14 Supp.)

2. Prospect Street, on the south side, from Fifth Street to Sixth Street, during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday.

3. Sixth Street, on both sides, from Prospect Street to North Street, during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday.

69.12 PARKING LIMITED TO FIFTEEN MINUTES. It is unlawful to park any vehicle for a continuous period of more than fifteen (15) minutes upon the following designated streets:

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

1. Young Street, on the north side, from Main Street to Eighth Street during the hours of 8:00 a.m. to 5:00 p.m.

2. Church Street, on the north side, from a point approximately 69 feet east of the east edge of the existing sidewalk on the east side of Sixth Street to a point approximately 97 feet, 11 inches east of the east edge of said sidewalk.

69.13 SNOW EMERGENCY.

1. Parking Prohibited. No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said street, alley, or parking area and the snow has ceased to fall. The parking prohibition shall not go into effect until two hours after a snow emergency has been declared in accordance with this section. 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 storm, except as above provided upon streets which have been fully opened. Such emergency may be extended or shortened when conditions warrant.

2. Proclamation. When weather forecasts or occurrences indicate the need, the Mayor or Police Chief (or in the absence or unavailability of the Mayor, the Mayor Pro Tem) shall proclaim a snow emergency and request all available news media to publicize the proclamation and applicable parking restrictions.

3. When it is declared that a snow emergency is in effect, it is unlawful for the driver of any vehicle to impede or block traffic on any City street.

4. Any police officer of the Jesup Police Department, the Street Commissioner, or the Street Commissioner's designee shall be authorized to cause the towing of vehicles blocking traffic or parking on a City street during a snow emergency in violation of this section. The owner of the vehicle shall pay the costs of towing and storage occasioned by the removal of the vehicle.

5. In any proceeding for violation of this section, the registration plate displayed on a motor vehicle involved in such violation shall constitute in evidence a *prima facie* presumption that the registered owner of such motor vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred.

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars ($25.00) for snow emergency parking violations and fifteen dollars ($15.00) for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars ($5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00).

(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:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of the Traffic Code, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 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 one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand two hundred (1,200) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. ***(Ord. 533 – Sep. 12 Supp.)***

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

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but 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 has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. "Off-road utility vehicle" includes the following vehicles:

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

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

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

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

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Ord. 552 – Sep. 14 Supp.)

4. "Snowmobile" means a motorized vehicle that weighs less than one thousand (1,000) pounds, that uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (48) inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle 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 that have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

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

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

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

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

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

(1) The crossing is made at an angle of approximately 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)

CHAPTER 76

BICYCLE REGULATIONS

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

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

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

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

(Code of Iowa, Sec. 321.234)

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

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

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

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

76.05 BICYCLE PATHS. Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front 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])

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of 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.

CHAPTER 77

SKATEBOARDS

77.01 Purpose
77.02 Definitions
77.03 Operation Prohibited
77.04 Use on Sidewalks
77.05 Use on Streets

77.01 PURPOSE. The purpose of this chapter is to provide reasonable rules and regulations for the use and operation of skateboards, and to establish areas where the use and operation of same are prohibited for the protection, safety and general welfare of the public in the City.

77.02 DEFINITIONS. For use within this chapter, the word "skateboard" means a foot, motor, or wind propelled vehicle consisting of a board equipped with two or more wheels tandem and guided by the user or rider standing on same and pushing same with foot power operating with motor or wind power.

77.03 OPERATION PROHIBITED. Skateboards are prohibited in public parks and on the following streets and sidewalks within the corporate limits of the City:

1. Upon the sidewalks along both sides of the following streets within the Business District of the City:

   A. Sixth Street from Stevens Street to Hawley Street.

   B. Main Street from Stevens Street to Hawley Street.

   C. Seventh Street from Young Street to Hawley Street.

   D. Douglas Street from Fifth Street to Main Street.

   E. Young Street from Fifth Street to Main Street.

2. Upon the following streets within the City:

   A. Sixth Street from South Street to North Street.

   B. Main Street from South Street to North Street.

   C. Hawley Street from First Street to east City limits.

   D. Douglas Street from Fifth Street to Tenth Street.

   E. Stevens Street from Fifth Street to Main Street.

   F. Young Street from Fifth Street to Main Street.

   G. Seventh Street from Young Street to Hawley Street.

   H. South Street from County Road V-65 to Hawkeye Road.

   I. North Street from First Street to Tenth Street.

3. Upon any of the City-maintained parking facilities or driveways maintained by the City.

4. Upon any public park properties.

77.04 USE ON SIDEWALKS. Whenever any person is using a skateboard upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

77.05 USE ON STREETS. Anyone using or operating skateboards in the street shall:

1. Observe all traffic control devices and be subject to all duties applicable to the use of vehicles on streets as required by statute or ordinance.

2. Stay as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

CHAPTER 78

GOLF CARTS

78.01 Purpose
78.02 Definitions
78.03 Operation of Roadways, Streets, or Highways
78.04 Equipment Required
78.05 Unlawful Operation
78.06 Permits and Permit Holders
78.07 City Celebration Waiver
78.08 Penalty

78.01 PURPOSE. The purpose of this chapter is to permit and regulate the operation of golf carts within the City.

78.02 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Golf cart" means a three- or four-wheeled recreational vehicle generally used for transportation of persons in the sport of golf that is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds.

2. "Operate" means to ride in or on, other than as a passenger, use or control the operation of a golf cart in any manner, whether or not the golf cart is moving.

3. "Operator" means a person who operates or is in actual physical control of a golf cart.

4. "Roadway" means that portion of a highway improved, designated or ordinarily used for vehicular travel.

5. "Street" or "highway" means that 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 the purpose of vehicular travel.

78.03 OPERATION OF ROADWAYS, STREETS OR HIGHWAYS.

1. Golf carts shall not be operated on State Highway 939 (South Street) or North Street other than to make a direct crossing.

2. Golf carts may be operated on the streets of the City after first obtaining a permit as provided herein. Persons who obtain a permit as required below are authorized to operate a motorized golf cart on roadways (or portions thereof) within the City.

3. The operation of the golf carts on City streets is to be only by persons possessing a valid driver's license and 18 years of age or older.

4. It is unlawful for any parent, guardian, or other person having the care, custody and control of a minor under the age of 18 years to knowingly permit or allow such a minor to violate the provisions of this chapter.

5. The operation of golf carts on City streets is to be only from sunrise to sunset. They shall not be operated when visibility is such that there is insufficient light to clearly see person and vehicles at a distance of 500 feet.

6. The number of occupants in the motorized golf cart may not exceed the design occupant load.

78.04 EQUIPMENT REQUIRED.

1. Golf carts shall be equipped with a bicycle safety flag and reflective slow moving vehicle signage for operation on City streets.

2. Golf carts shall be equipped with adequate brakes to be operated on City streets.

3. Golf carts shall be in good mechanical condition and thoroughly safe for transportation of passengers.

4. Motorized golf carts shall be equipped with a mirror to provide the driver with adequate vision from behind.

78.05 UNLAWFUL OPERATION. A person shall not drive or operate a golf cart:

1. In a careless, reckless, or negligent manner as to endanger the person or property of another or cause injury or damage thereto.

2. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

3. In or on any park, playground, or sidewalk or upon any public property except with the permission of the governing body thereof. Jesup Golf and Country Club golf course is exempt from this requirement.

78.06 PERMITS AND PERMIT HOLDERS. For the persons who wish to operate golf carts as mode of transportation within the City, the following shall apply.

1. An application for a permit shall be made on a form supplied by the City.

2. The application shall contain the name and address of the applicant and the make, model, year, and serial number of the golf cart.

3. The applicant shall provide a valid driver's license issued by the Iowa Department of Transportation and be 18 years of age or older on the date of issuance.

4. The applicant shall provide and maintain an owner's policy of liability insurance which is issued by an insurance carrier authorized to do business in the State of Iowa to or for the benefit of the person named in the policy as insured and insuring the person named as insured and any person using the golf cart with the express or implied permission of the named insured against loss from liability imposed by the law for damages arising out of the ownership, maintenance or use of an insured golf cart in the amounts not less than the minimum limits specified for motor vehicles in Section 321A.21 of the *Code of Iowa*.

5. The annual cost for such a permit shall be set by resolution of the Council and is payable at the time the permit is granted. Permits may be granted for one year and will be valid from January 1 through December 31. Permits may be purchased at any time during the year, but will be valid only through December 31.

6. All permits shall be issued for a specific motorized golf cart, except as otherwise stated. Permit holders will be issued a number and will purchase three-inch minimum reflective numbers affixed to the left side of the golf cart near the front.

7. The permit may be suspended or revoked upon finding evidence that the permit holder has violated the conditions of the permit or has abused the privilege of being a permit holder. There will be no refund of the license fee.

78.07 CITY CELEBRATION WAIVER. This permit provision will be waived for golf carts used by officials, workers, and volunteers of the City Celebration.

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

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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 fees in the amounts set by resolution of the Council, plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

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

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

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

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

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for 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 of Crossings
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 that owns, operates, drives, or controls a railroad train.

2. "Railroad train" means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 WARNING SIGNALS. (Repealed by Ordinance No. 566 – Oct. 15 Supp.)

81.03 OBSTRUCTION OF CROSSINGS.

1. A railroad corporation or its employees shall not operate any train in such a manner as to prevent vehicular use of the following named streets for a period of time in excess of five minutes: First Street, Sixth Street and Main Street running north and south, except that said five-minute limitation shall not apply:

A. When necessary to comply with signals affecting the safety of the movement of trains;

B. When necessary to avoid striking any object or person on the track;

C. When the train is disabled;

D. When necessary to comply with governmental safety regulations.

2. A railroad corporation or its employees shall not operate any train in such a manner as to prevent vehicular use of any highway, street, or alley, except as set forth in subsection 1 of this section, for a period of time in excess of ten minutes, except:

A. When necessary to comply with signals affecting the safety of the movement of trains;

B. When necessary to avoid striking any object or person on the track;

C. When the train is disabled;

D. When necessary to comply with governmental safety regulations.

3. Any officer or employee of a railroad corporation violating any of the provisions of this section shall, upon conviction, be guilty of a misdemeanor and punished accordingly. An employee shall not be guilty of such violation if said action was necessary to comply with the direct order or instructions of the railroad corporation or its supervisors. Such guilt shall then be with the railroad corporation.

81.04 CROSSING MAINTENANCE. Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943])
(Code of Iowa, Sec. 364.11)

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CHAPTER 90

WATER SERVICE SYSTEM

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

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.

2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

3. "Superintendent" means the Public Works Director of the City or any duly authorized assistant, agent or representative.

4. "Water main" means a water supply pipe provided for public or community use.

5. "Water service pipe" means the pipe from the water main to the building served.

6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

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

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

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

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

90.05 CONNECTION PERMIT.

1. No connection to the public water system shall be made without first obtaining a permit from the City. The application for the permit shall be filed in writing at the office of the City Clerk. The permit shall include a legal description of the property, the name and address of the owner, and the name and address of the person who will perform the work.

2. The person making the application shall pay a fee in an amount set by resolution of the Council to the Clerk to cover the cost of issuing the permit, supervising the work, and for partial reimbursement to the City for making water treatment and distribution facilities available.

3. The permit holder shall notify the Superintendent 24 hours prior to making the connection. The Superintendent shall inspect the work prior to backfilling. The Superintendent shall approve or disapprove the work. If said official does not approve the work, the permit holder shall immediately correct the work so that it will meet with approval. Should any work not be corrected to meet with the approval of the Superintendent within 10 days of being notified of the disapproval, the Superintendent shall have the work completed and the Council shall assess the cost to the property owner.

4. All connections to the public water system shall comply with Parts 2 and 3 of Section 5010 of the Statewide Urban Design and Specifications (SUDAS).

5. Work shall be completed within six months after the permit is issued. The Superintendent may revoke the permit at any time for any violation of this chapter and require the work to the stopped.

6. A separate permit shall be required for the connection of each principal structure. Separate permits shall also be required for connection to accessory structures if not serviced through the principal structure.

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

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

90.08 EXCAVATIONS. All trench work, excavation, and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

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

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

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the

Superintendent and unless provision is made so that each house, building, or premises may be shut off independently of the other.

2. Sizes and Location of Taps. One-inch and smaller corporation valves shall be tapped at 45 degrees above horizontal at a minimum distance of 18 inches from pipe bell or other corporation. Larger than one-inch corporation valves shall be tapped horizontal at a minimum distance of 24 inches from pipe bell or other corporation. All taps shall comply with the requirements of the Statewide Urban Design and Specifications (SUDAS).

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main.

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

90.10 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall comply with the requirements of the Statewide Urban Design and Specifications (SUDAS). Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

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

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

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

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

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

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

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

90.17 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

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

90.19 EXTENSION OF WATER LINES. The City will construct extensions to its water mains to points within its current service area at no cost to the customer or developer. The cost of any water main extensions beyond the current service area shall be borne solely by the customer or developer. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

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CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems; Exception
91.04 Location of Meters
91.05 Meter Setting
91.06 Meter Repairs
91.07 Right of Entry
91.08 Meter Installation Fee

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

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

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

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

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

91.06 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order, the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

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

91.08 METER INSTALLATION FEE. The City will provide at no cost to the customer a single meter for each building or premises. The customer shall be charged a fee for each additional meter in accordance with the schedule of fees adopted by resolution of the Council.

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CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Notice to Discontinue Service
92.05 Service for Construction
92.06 Use by City
92.07 Estimated Bills
92.08 Billing for Water Service
92.09 Service Discontinued
92.10 Lien for Nonpayment
92.11 Lien Exemption
92.12 Lien Notice
92.13 Customer Deposits
92.14 Multiple Dwelling Units
92.15 Fee for Miscellaneous Service Calls

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not. The City may adjust charges or defer payments for water service and sewer services where in its judgment such adjustment or deferral is warranted. The City delegates to the Water Superintendent the authority to adjust charges in those cases that meet specific conditions set out in and established by resolution of the City Council. In cases that do not meet the conditions necessary to allow the Water Superintendent to adjust the customer's water service and sewer service charges, a customer may apply in writing to the City Council for consideration of an adjustment or deferral.

(Code of Iowa, Sec. 384.84)

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

(Code of Iowa, Sec. 384.84)

1. Each water account will be charged a monthly water service fee, prorated in days, as specified in the following chart:

Beginning	07/01/2015	07/01/2016	07/01/2017	07/01/2018	07/01/2019
1 meter	$10.67	$10.99	$11.32	$11.66	$12.01
2 meters	$12.79	$13.18	$13.57	$13.98	$14.40
Each Additional	$2.12	$2.19	$2.25	$2.32	$2.39

Residential customers with a second meter on March 27, 2013 shall be billed at the one meter rate for as long as that account remains active.

In addition, water shall be charged a rate of 1,000 gallons, prorated to the nearest 100 gallons, as specified in the following chart:

Beginning	07/01/2015	07/01/2016	07/01/2017	07/01/2018	07/01/2019
0-25,000 gallons	$3.82	$3.93	$4.05	$4.17	$4.30
25,001-50,000 gallons	$3.25	$3.35	$3.45	$3.55	$3.66
50,001-100,000 gallons	$2.67	$2.75	$2.83	$2.92	$3.01
> 100,000 gallons	$2.10	$2.16	$2.23	$2.29	$2.36

2. Bulk water, defined as water from supplies other than standard residential or commercial metered services, such as hydrants, stand pipes, or other temporary

connections shall be charged a rate per 1,000 gallons, prorated to the nearest 100 gallons as specified in the following chart:

Beginning	07/01/2015	07/01/2016	07/01/2017	07/01/2018	07/01/2019
	$4.78	$4.92	$5.07	$5.22	$5.38

(Ord. 562 – July 15 Supp.)

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

(Code of Iowa, Sec. 364.4 & 384.84)

92.04 NOTICE TO DISCONTINUE SERVICE. Any customer desiring to discontinue the water service to said customer's premises for any reason must give notice of discontinuance in writing at the business office of the water system; otherwise, the customer shall remain liable for the minimum bill, for all water uses, and service rendered by the City until said notice is received by the City.

92.05 SERVICE FOR CONSTRUCTION. Water for building or construction purposes will be furnished by meter measurement, and will be billed at the end of construction at the rate established in Section 92.02.

92.06 USE BY CITY. Special terms and conditions may be made where water is used by the City or community for public purposes such as fire extinguishment, public parks, etc.

92.07 ESTIMATED BILLS. Where a meter has ceased to register, or meter reading could not be obtained, the quantity of water consumed may be estimated.

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

(Code of Iowa, Sec. 384.84)

1. Meters Read. Water meters shall be read by the City on a monthly basis near the end of each month.

2. Bills Issued. The Clerk shall prepare, date, and issue bills for combined service accounts on or before the sixth day of each month.

3. Bills Payable. Bills for combined service accounts shall be due and payable at the City offices by the twentieth day of each month or the next business day if the office is closed on the twentieth.

4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty charge of $10.00 shall be added to each account delinquent greater than $30.00.

(Ord. 562 – July 15 Supp.)

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

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges and miscellaneous charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance. The Superintendent shall post on the tenth day of each month a notice of discontinuance at the building or premises of all account holders who have not requested a hearing in writing. On the following business day, the Superintendent shall shut off the supply of water to all account holders who are delinquent.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord. If the customer is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property. ***(Ord. 531 – Sep. 12 Supp.)***

3. Hearing. If a hearing is requested prior to the tenth day of the month, the Council shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. When the water supply to an account holder has been discontinued for nonpayment of delinquent payments, a charge as set by resolution of the Council will be made for reconnection of water service, but the reconnection will not be made until after all delinquent bills and other charges, if any, owned by the customer have been paid.

(Ord. 562 – July 15 Supp.)

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

(Code of Iowa, Sec. 384.84)

92.11 LIEN EXEMPTION.

(Code of Iowa, Sec. 384.84)

1. Water Service Exemption. The lien for nonpayment shall not apply to charges for water service to a residential or commercial rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are

paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

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

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

(Ord. 545 – Sep. 13 Supp.)

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

(Code of Iowa, Sec. 384.84)

92.13 CUSTOMER DEPOSITS. A deposit in an amount set by resolution of the Council is required for all tenants. Upon discontinuance or disconnection of the water service, such deposit shall be applied to any outstanding bill and the balance returned to the customer within 45 days of the discontinuance or disconnection, without interest.

92.14 MULTIPLE DWELLING UNITS.

1. Service Charge. Multiple dwelling units, including mobile home courts, may be serviced from a single meter. Rates for water metered shall be in accordance with Section 92.02 of this chapter.

2. Defined. For the purpose of this section, a dwelling unit is defined as a self-contained living facility (i.e., including kitchen and bath), such as an apartment or a licensed independent mobile home space, including those dwelling units being serviced by one meter which also serves one or several businesses.

92.15 FEE FOR MISCELLANEOUS SERVICE CALLS. For service calls made by a customer to the City relating to the water system, there shall be a charge of as set by resolution of the City Council to the customer for time spent by City employees after normal business hours (including, but not limited to, all hours spent during the weekends or holidays). The charge shall only be imposed if the service call relates to that portion of the water system which the customer is responsible for under 90.11 of this Code of Ordinances. The charges shall commence at that time that it was first determined that the service call in fact related to that portion of the water system which the customer is responsible for.

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CHAPTER 93

WATER RATIONING

93.01 Emergency Declaration
93.02 Rationing
93.03 Increased Rates
93.04 Adjustment of Increased Rates
93.05 Prohibited and Restricted Water Usage
93.06 Reduced Service Flow

93.01 EMERGENCY DECLARATION. The Council may declare by resolution a public emergency when it finds the water supply in the municipal system has become depleted because of drought or mechanical failure.

93.02 RATIONING. In the event of such declaration, water may be rationed until the emergency is declared as no longer existing by public notice and the requirements for which are as follows:

1. Allocation. Each customer should be allocated an amount of water equal to the customer's average consumption for the billing period prior to the effective date of the declared emergency.

2. Appeal and Adjustment. Any customer may file a written appeal within ten (10) days following notice of the allocation with the Superintendent, requesting an adjustment of the amount thereof.

3. Adjustment Factors. For single-family residential customers, the base allocation may be increased to the actual average consumption for the previous winter period during the months of November to April, inclusive. For commercial, industrial, institutional, and multi-family residential use, such allocation may be increased using the same such factors as are applicable to single-family residential customers and in addition thereto other factors, such as production, service, and occupancy data.

93.03 INCREASED RATES. In addition to the regular rates for water consumption, a customer shall be liable for payment of $20.00 per 1,000 gallons consumed in excess of the allocation.

93.04 ADJUSTMENT OF INCREASED RATES. Upon written application to the Superintendent, a customer may be granted an adjustment because of mechanical malfunction, but a customer in such case must be free from any contributory negligence and also prove that such defect or failure was repaired without delay and evidenced in the form of a reputable plumber's receipted invoice. Any adjustment shall be limited to the billing period immediately preceding such repair. Such adjustment and the amount thereof shall be discretionary upon the part of the Superintendent.

93.05 PROHIBITED AND RESTRICTED WATER USAGE. During the duration of such emergency, the following water usages are prohibited and restricted.

1. Restricted Hours. Between the hours of 8:00 a.m. and 8:00 p.m., there shall be no outdoor use of water.

2. Limited Use. The irrigation by the use of water in areas containing flowers, vegetable gardens, shrub trees less than 4 years old, new seeding, or sod is prohibited,

except once each week for not more than five minutes during the hours of 8:00 p.m. and 8:00 a.m.

3. Absolute Prohibition. No water may be used for washing vehicles of any character and description or for private swimming pools, wading pools, or other outdoor impoundment, excepting therefrom commercial establishments.

93.06 REDUCED SERVICE FLOW. Subject to written notice and opportunity for hearing, the Superintendent may reduce the flow of water to any customer when it appears to the Superintendent that the customer is using water not in accordance with the provisions of this chapter.

CHAPTER 94

PUBLIC WATER WELLS

94.01 Purpose
94.02 Definitions
94.03 Prohibited Installations – Primary Zone
94.04 Prohibited Installations – Secondary Zone
94.05 Exceptions
94.06 Administration
94.07 Separation Distances

94.01 PURPOSE. The purpose of this chapter is to insure the supply of and avoid any risk of damage to the safe and sanitary drinking water of the City by the establishment of wellhead protection zones within close proximity of each wellhead and to designate and regulate land uses, facilities and activities, using, producing, handling, or retailing hazardous waste material within each zone.

94.02 DEFINITIONS. The following words and phrases have the meanings given in this section unless clearly stated otherwise.

1. "Hazardous waste or material" means a hazardous substance as defined in 42 U.S.C. Section 9601 of the Federal Comprehensive Environmental Response, Compensation, and Liability Act and any element, compound, mixture, solution or substance designated pursuant to 40 C.F.R. Section 302.4.

2. "Primary wellhead protection zone" means an area within a 200-foot radius of each wellhead in the City.

3. "Secondary wellhead protection zone" means an area between a 200-foot radius and a ½-mile radius of each wellhead within the City.

4. "Wellhead" means the upper terminal of a public supply water well, including adapters, ports, seals, valves, and any other attachments.

94.03 PROHIBITED INSTALLATIONS – PRIMARY ZONE. Except as provided in Section 94.05, the following land uses, facilities, or activities are prohibited within primary wellhead protection zones:

1. Asphalt products manufacturing plants.

2. Automobile, truck or boat sales, service station, rental, paint, maintenance, or repair.

3. Building materials and products sales.

4. Cemeteries.

5. Chemical storage, sales, processing, or manufacturing.

6. Dry cleaning establishments.

7. Dumping sites of garbage, refuse, trash, or demolition material, or the disposal of septage or sludge.

8. Electronic circuit assembly plants.

9. Electroplating plants.

10. Fertilizer manufacturing or storage plants.
11. Highway or road salt storage areas.
12. Industrial liquid waste storage areas.
13. Junk yards and auto graveyards.
14. Manmade pits, ponds, lagoons, or retention or impoundment areas.
15. Metal reduction and refinement plants.
16. Motor freight terminals.
17. Paint products manufacturing.
18. Pest control service.
19. Petroleum product processing and storage above or underground.
20. Photography processing.
21. Plastic manufacturing.
22. Printing and publishing establishments.
23. Pulp and paper manufacturing.
24. Storage, manufacturing, or disposal of toxic or hazardous waste.
25. Wood products manufacturing and preservation.
26. Wood, coal, or fuel yards.

No person shall store, discharge or cause or permit the discharge of a hazardous waste or material to the soils, groundwater, or surface water within the primary zone. Any person knowing or having evidence of a discharge shall report such information to the City Clerk.

94.04 PROHIBITED INSTALLATION – SECONDARY ZONE. Except as provided in Section 94.05, no person shall discharge or cause or permit the discharge of a hazardous waste or material to the soils, groundwater, or surface water within the secondary zone. Any person knowing or having evidence of a discharge shall report such information to the City Clerk.

1. Feedlots or other concentrated animal facilities are prohibited within the secondary zone.

2. Waste treatment plants, percolation ponds, dredge, spoil, deposits and similar facilities are prohibited within the secondary zone.

94.05 EXCEPTIONS. Any of the land uses, facilities, or activities identified in Sections 94.03 and 94.04 lawfully in existence within a wellhead protection zone on January 1, 1992, may continue to exist on the parcel upon which it is located. The transportation of any hazardous waste or material through the wellhead protection zones is accepted providing the transporting vehicle is in transit.

94.06 ADMINISTRATION. The enforcement and administration of this chapter, including but not limited to those applicable to nonconforming uses, exceptions, enforcement, and penalties shall be the same as provided in the existing zoning ordinance for the City, as the same is presently enacted or which may, from time to time, be amended.

94.07 SEPARATION DISTANCES. In addition to the land use prohibitions set out above, no land uses, facilities or activities of the following enumerated type shall be located within the distances set forth in Table A from a wellhead within the City:

TABLE A – SEPARATION DISTANCES

SOURCE OF CONTAMINATION	REQUIRED MINIMUM DISTANCE FROM WELL	
	Deep Well[1]	Shallow Well[1]
WASTEWATER STRUCTURES:		
Point of Discharge to Ground Surface:		
Sanitary and industrial discharges	400 feet	400 feet
Water treatment plant wastes	50 feet	50 feet
Well house floor drains	5 feet	5 feet
Sewers and Drains[2]:		
Sanitary and storm sewers, drains	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Sewer force mains	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if water main or sanitary sewer pipe	0 – 75 feet: prohibited 75 – 400 feet if water main pipe 400 – 1000 feet if water main or sanitary sewer main pipe
Water plant treatment process wastes that are treated onsite	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Water plant wastes to sanitary sewer	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to sewers	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer pipe	0 – 25 feet: prohibited 25 – 75 feet if water main pipe 75 – 200 feet if sanitary sewer main pipe
Well house floor drains to surface	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer pipe	0 – 5 feet: prohibited 5 – 50 feet if sanitary sewer main pipe
Land Disposal of Treated Wastes:		
Irrigation of wastewater	200 feet	400 feet
Land application of solid wastes[3]	200 feet	400 feet
Other:		
Cesspools & earth pit privies	200 feet	400 feet
Concrete vaults & septic tanks	100 feet	200 feet
Lagoons	400 feet	1000 feet
Mechanical wastewater treatment plants	200 feet	400 feet
Soil absorption fields	200 feet	400 feet
CHEMICALS:		
Chemical application to ground surface	100 feet	200 feet
Chemical & mineral storage above ground	100 feet	200 feet
Chemical & mineral storage on or under ground	200 feet	400 feet
Transmission pipelines (such as fertilizer, liquid petroleum, or anhydrous ammonia)	200 feet	400 feet
ANIMALS:		
Animal pasturage	50 feet	50 feet
Animal enclosure	200 feet	400 feet
Earthen silage storage trench or pit	100 feet	200 feet
Animal Wastes:		
Land application of liquid or slurry	200 feet	400 feet
Land application of solids	200 feet	400 feet
Solids stockpile	200 feet	400 feet
Storage basin or lagoon	400 feet	1000 feet
Storage tank	200 feet	400 feet
MISCELLANEOUS:		
Basements, pits, sumps	10 feet	10 feet
Cemeteries	200 feet	200 feet
Cisterns	50 feet	100 feet
Flowing streams or other surface water bodies	50 feet	50 feet
Railroads	100 feet	200 feet
Private wells	200 feet	400 feet
Solid waste landfills and disposal sites[4]	1000 feet	1000 feet

[Footnotes to Table are on following page.]

[1] Deep and shallow wells, as defined in 567-40.2 (455B): A deep well is a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least 5 feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn. A shallow well is a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

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

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

[4] Solid waste means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties
95.10 Extension of Sewer Lines

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 degrees (20º) C, expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste that is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

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

15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and 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 that 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 24-hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer that carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Public Works Director of the City or any authorized deputy, agent, or representative.

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

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

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

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

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

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

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

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

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within six (6) months after date of official notice from the City to do so provided that said public sewer is located within two hundred (200) feet (61 meters) 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 Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

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

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

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3, and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

95.10 EXTENSION OF SEWER LINES. The City will construct extensions to its sewer mains to points within its current service area at no cost to the customer or developer. The cost of any sewer main extensions beyond the current service area shall be borne solely by the customer or developer. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title or interest therein.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Connection Permit
96.02 Plumber Required
96.03 Excavations
96.04 Connection Requirements
96.05 Interceptors Required
96.06 Sewer Tap
96.07 Inspection Required
96.08 Property Owner's Responsibility
96.09 Abatement of Violations

96.01 CONNECTION PERMIT.

1. No connection to the public sanitary sewer system shall be made without first obtaining a permit from the City. The application for the permit shall be filed in writing at the office of the City Clerk. The permit shall include a legal description of the property, the name and address of the owner, and the name and address of the person who will perform the work.

2. The person making the application shall pay a fee in an amount set by resolution of the Council to the Clerk to cover the cost of issuing the permit, supervising the work, and for partial reimbursement to the City for making wastewater collection and treatment facilities available.

3. The permit holder shall notify the Superintendent 24 hours prior to making the connection. The Superintendent shall inspect the work prior to backfilling. The Superintendent shall approve or disapprove the work. If said official does not approve the work, the permit holder shall immediately correct the work so that it will meet with approval. Should any work not be corrected to meet with the approval of the Superintendent within 10 days of being notified of the disapproval, the Superintendent shall have the work completed and the Council shall assess the cost to the property owner.

4. All connection to the public sanitary sewer system shall comply with Parts 2 and 3 of Section 4010 of the Statewide Urban Design and Specifications (SUDAS).

5. Work shall be completed within six months after the permit is issued. The Superintendent may revoke the permit at any time for any violation of this chapter and require the work to the stopped.

6. A separate permit shall be required for the connection of each principal structure. Separate permits shall also be required for connection to accessory structures if not serviced through the principal structure.

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

96.03 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.

2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation and connection of the building sewer to the public sewer shall conform to the requirements of the *State Plumbing Code*, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

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

5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.

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

A. Recommended grade at one-fourth (1/4) inch per foot.

B. Minimum grade of one-eighth (1/8) inch per foot.

C. Minimum velocity of 2.00 feet per second with the sewer half full.

D. Any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with approved fittings.

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

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

9. Pipe Specifications. Building sewer pipe shall comply with the requirements of the Statewide Urban Design and Specifications (SUDAS).

10. Bearing Walls. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall that might thereby be weakened.

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

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

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

1. Design and Location. All interceptors shall be of a type and capacity as specified in the *State Plumbing Code*, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

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

96.07 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as

all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid under ground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

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

96.09 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines, whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within 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])

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
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97.05 Restricted Discharges; Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

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

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

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

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 350 parts per million by weight of suspended solids, or (c) 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. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to 300 parts per million by weight, or (b) reduce the suspended solids to 350 parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150º) F (65º C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or 600 milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances that may solidify or become viscous at temperatures between 32º F and 150º F (0º to 65º 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 that may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials that exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance that, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials, or substances that react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances that are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES – POWERS. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing

facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

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

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

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted
99.08 Fee for Miscellaneous Service Calls

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Sewer services shall be furnished at the following rates within the City:

(Code of Iowa, Sec. 384.84)

1. Each sewer account will be charged a monthly sewer service fee as specified in the following chart:

Beginning	07/01/2015	07/01/2016	07/01/2017	07/01/2018	07/01/2019
Each	$15.65	$17.06	$18.60	$20.27	$22.09

In addition, sewer shall be charged a rate per 1,000 gallons, prorated to the nearest 100 gallons, as specified in the following chart:

Beginning	07/01/2015	07/01/2016	07/01/2017	07/01/2018	07/01/2019
0-25,000 gallons	$3.37	$3.67	$4.00	$4.36	$4.75
25,001-50,000 gallons	$2.86	$3.12	$3.40	$3.71	$4.04
50,001-100,000 gallons	$2.36	$2.57	$2.80	$3.05	$3.33
> 100,000 gallons	$1.85	$2.02	$2.20	$2.40	$2.61

(Ord. 563 – July 15 Supp.)

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges by metering the water system at the customer's expense or residential contributors only who do not have a metered water service may pay a flat rate as specified in the following chart:

(Code of Iowa, Sec. 384.84)

Beginning	07/01/2015	07/01/2016	07/01/2017	07/01/2018	07/01/2019
1 Family	$26.70	$29.10	$31.72	$34.58	$37.69
2 Families	$53.40	$58.21	$63.44	$69.15	$75.38
Each Additional	$26.70	$29.10	$31.72	$34.58	$37.69

(Ord. 563 – July 15 Supp.)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.08 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.09 if the combined service account becomes delinquent, and the provisions contained in Section 92.12 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. Except as provided for in Section 92.11 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. ***(Ord. 531 – Sep. 12 Supp.)***

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate, and cost as established by the Council.

99.08 FEE FOR MISCELLANEOUS SERVICE CALLS. For service calls made by a person to the City relating to the sewer system, there shall be a charge as set by resolution of the City Council to the person requesting the service for time spent after normal business hours (including all time spent on weekends and holidays), if the service call relates to that portion of the sewer system which the person is responsible for under 95.05 of this Code of Ordinances. These charges shall commence at that time it was first determined that the service call related to that portion of the sewer system which the person is responsible for under Section 95.05.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required
105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices
105.12 Sanitary Disposal Project Designated

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control 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 premises" means a single-family dwelling and any multiple-family dwelling.

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

(IAC, 567-20.2[455B])

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

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

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

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

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

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

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

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

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

E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material. ***(Ord. 553 – Sep. 14 Supp.)***

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

(Code of Iowa, Ch. 657)

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

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *International Fire Code*.

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

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

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

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of 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 in a floodplain. 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)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including (but not limited to) poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials, and similar harmful waste 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])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit or any place where refuse

accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

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

A. Residential. Residential waste containers, whether they are reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than twenty (20) gallons or more than thirty-five (35) gallons in nominal capacity, and shall be leak-proof and waterproof. The total weight of any container and contents shall not exceed seventy-five (75) pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

(1) Be fitted with a fly-tight lid that shall be kept in place except when depositing or removing the contents of the container;

(2) Have handles, bails, or other suitable lifting devices or features;

(3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;

(4) Be of lightweight and sturdy construction.

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

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

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

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed outdoors at some easily accessible place by the owner or occupant of the premises served.

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

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

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as

such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

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

105.12 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Buchanan County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City. The Mayor shall serve as a Commissioner for the Buchanan County Sanitary Landfill Commission. If the Mayor is unable to attend a meeting, a Council member may attend in place of the Mayor.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Collector's License
106.08 Landfill Use Fee

106.01 COLLECTION SERVICE. The collection of solid waste within the City shall be only by collectors licensed by the City.

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

(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 that is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

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

106.07 COLLECTOR'S LICENSE. 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 license in accordance with the following:

1. Application. Application for a solid waste collector's license shall be made to the Clerk and provide the following:

   A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

   B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collector's license 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 per person.

$300,000 per occurrence.

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

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. License Fee. A license fee in the amount set by resolution of the Council shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded to the applicant.

4. License 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 license shall be issued to be effective for a period of one year from the date approved.

5. License Renewal. An annual license 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, and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment, and facilities in use.

6. License Not Transferable. No license 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 license or 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.

106.08 LANDFILL USE FEE. The office of the City Clerk is hereby authorized and directed to bill for the collection charges. The rates established by the Buchanan County Sanitary Landfill Commission, according to the number of households in the City's

incorporated area, shall be $1.00 per household per month and shall be billed through the water and sewer monthly bill. ***(Ord. 542 – Jun. 13 Supp.)***

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Rights and Privileges
110.03 Pipes and Mains
110.04 Construction and Maintenance
110.05 Excavations
110.06 Indemnification
110.07 Applicable Regulations
110.08 Quality and Quantity

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

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

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

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

[†] **EDITOR'S NOTE:** Ordinance No. 449 adopting a gas franchise for the City was passed and adopted on June 5, 2003.

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

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

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

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

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Rights and Privileges
111.03 Poles and Wires
111.04 Trimming Trees
111.05 Construction and Maintenance
111.06 Excavations
111.07 Utility Easements
111.08 Relocation Not Required
111.09 Relocation Reimbursement
111.10 Indemnification
111.11 Information
111.12 Applicable Regulations
111.13 Quality and Quantity
111.14 Franchise Fee
111.15 Management Fees
111.16 Termination

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

111.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* 2015 or as subsequently amended or changed.

111.03 POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to unreasonably interfere with any above and below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

111.04 TRIMMING TREES. The Company is authorized and empowered to prune or remove at Company expense any trees or vegetation extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent inference with the wires and facilities of the Company. Any such pruning and removal shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations.

111.05 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), at its

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[†] **EDITOR'S NOTE:** Ordinance No. 561, adopting an electric franchise for the City, was passed and adopted on May 5, 2015.

cost and expense, locate and relocate its existing facilities or equipment located in, on, over or under the right-of-way of any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley of such street or alley. The City and the Company shall work together to develop a suitable alternative route or construction method so as to eliminate or minimize the cost and expense to the company of relocation of company installations. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and the Company must remove trees that are included in the City's portion of the project, the City shall either remove the trees or reimburse the Company for the expenses incurred to remove said trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City may attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.06 EXCAVATIONS. In making excavations in any public right-of-way and other public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets or public places, and shall restore the surface to the condition as existed prior to the Company work. The Company shall not be required to restore or modify public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition required for the City to comply with city, state or federal rules, regulations or law. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition.

111.07 UTILITY EASEMENTS. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities in the vicinity, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for existing Company facilities.

111.08 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten (10) years.

111.09 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities as may be required by Sections 111.03, 111.05, 111.06, 111.07 and 111.08, if the City orders or requests the Company to relocate its existing facilities or equipment in order to facilitate the project of a commercial or private developer or other non-public entity, the City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities

or equipment. The Company shall not be required to relocate in order to facilitate such private project at its expense.

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

111.11 INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in the public right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company's facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (l0) days.

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

111.13 QUALITY AND QUANTITY. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

111.14 FRANCHISE FEE. There is hereby imposed upon the customers a franchise fee of ____ (%) percent upon the gross receipts, minus uncollectible accounts, generated from sales of electricity and distribution service, pursuant to the Tariff, by the Company to City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

A. The City agrees to modify the level of franchise fees imposed only once in any 24-month period. Any such ordinance exempting classes of customers, increasing, decreasing, modifying or eliminating the franchise fee shall become effective, and billings reflecting the change shall commence on an agreed upon date which is not less than sixty (60) days following written notice to the Company by certified mail. The Company shall not be required to implement such new ordinance unless and until it determines that it has received appropriate official documentation of final action by the City Council.

B. The City recognizes the administrative burden collecting franchise fees imposes upon the Company and the Company requires lead time to commence collecting said franchise fees. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee. The City shall provide the information and data required in a form and format acceptable to the Company. The Company will, if requested by the City, provide the City with a list of premises considered by the Company to be within the corporate limits of the City.

C. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The City shall be solely responsible for notifying Company of its corporate limits, including, over time, annexations or other alterations thereto, and customer classes that it wishes to subject to, or to the extent permitted by law, exempt from paying the franchise fee. The City shall provide to the Company, by certified mail, copies of annexation ordinances in a timely manner to ensure appropriate franchise fee collection from customers within the corporate limits of the City. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.

D. The City shall indemnify the Company from claims of any nature arising out of or related to the imposition and collection of the franchise fee. In addition, the Company shall not be liable for collecting franchise fees from any customer originally or subsequently identified, or incorrectly identified, by the City as being subject to the franchise fee or being subject to a different level of franchise fees or being exempt from the imposition of franchise fees.

E. The Company shall remit franchise fee revenues to the City no more frequently than on or before the last business day of the month following each quarter as follows.

- January, February and March
- April, May and June
- July, August and September, and
- October, November and December

The Company shall provide City with notice at least thirty (30) days in advance of any changes made in this collection schedule, including any alterations in the calendar quarters or any other changes in the remittance periods.

F. The City recognizes that the costs of franchise fee administration are not charged directly to the City and agrees it shall, if required by the Company, reimburse the Company for any initial or ongoing costs incurred by the Company in collecting franchise fees that Company in its sole opinion deems to be in excess of typical costs of franchise fee administration.

G. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from City customers and remitted to the City. In the event the Company is required to provide data or information in

defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

H. The obligation to collect and remit the fee imposed by this ordinance is modified or repealed if:

1. Any other person is authorized to sell electricity at retail to City consumers and the City imposes a franchise fee or its lawful equivalent at zero or a lesser rate than provided in this ordinance, in which case the obligation of Company to collect and remit franchise fee shall be modified to zero or the lesser rate;

2. The City adds additional territory by annexation or consolidation and is unable or unwilling to impose the franchise fee upon all persons selling electricity at retail to consumers within the additional territory, in which case the franchise fee imposed on the revenue from sales by Company in the additional territory shall be zero or equal to that of the lowest fee being paid by any other retail seller of electricity within the City; or

3. Legislation is enacted by the Iowa General Assembly or the Supreme Court of Iowa issues a final ruling regarding franchise fees or the Iowa Utilities Board issues a final nonappealable order (collectively, "final franchise fee action") that modifies, but does not repeal, the ability of the City to impose a franchise fee or the ability of Company to collect from City customers and remit franchise fees to City. Within 60 days of final franchise fee action, the City shall notify Company and the parties shall meet to determine whether this ordinance can be revised, and, if so, how to revise the franchise fee on a continuing basis to meet revised legal requirements. After final franchise fee action and until passage by the City of revisions to the franchise fee ordinance, Company may temporarily discontinue collection and remittance of the franchise fee if in its sole opinion it believes it is required to do so in order to comply with revised legal requirements.

The other provisions of this ordinance to the contrary notwithstanding, the Company shall be completely relieved of its obligation to collect and remit to the City the franchise fee as, effective as the date specified below with no liability therefore under each of any of the following circumstances as determined to exist in the sole discretion of Company:

1. Any of the imposition, collection or remittance of a franchise fee is ruled to be unlawful by the Supreme Court of Iowa, effective as of the date of such ruling or as may be specified by that Court.

2. The Iowa General Assembly enacts legislation making imposition, collection or remittance of a franchise fee unlawful, effective as of the date lawfully specified by the General Assembly.

3. The Iowa Utilities Board, or its successor agency, denies the Company the right to impose, collect or remit a franchise fee provided such denial is affirmed by the Supreme Court of Iowa, effective as of the date of the final agency order from which the appeal is taken.

111.15 MANAGEMENT FEES. The City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge right of way management fees upon the Company or fees for

permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

111.16 TERMINATION. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A Party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

(Ch. 111 – Ord. 561 – June 15 Supp.)

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted
112.02 Location of Poles and Wires
112.03 Franchise Nonexclusive
112.04 Joint Use

112.01 FRANCHISE GRANTED. The right is hereby granted to the Farmers Mutual Telephone Company of Jesup, Iowa, its successors and assigns, to construct, maintain, and operate a telephone system within the City and to use the streets, alleys, and public grounds of the City for such poles, lines, fixtures, and apparatus as may be necessary for the operation and maintenance of the said telephone system for a period of twenty-five (25) years from the adoption of the ordinance codified in this chapter. †

112.02 LOCATION OF POLES AND WIRES. The present location of poles, cables, and other apparatus of the said Farmers Mutual Telephone Company of Jesup, Iowa, is hereby approved, and the future location of poles, cables, and other apparatus to be located upon streets and alleys shall be submitted to the Street and Alley Committee for approval.

112.03 FRANCHISE NONEXCLUSIVE. The rights granted herein shall not be exclusive, and the City expressly reserves the right to grant similar rights to others.

112.04 JOINT USE. In consideration of the granting of the franchise, the Farmers Mutual Telephone Company of Jesup, Iowa, grants to the City the right to use its telephone poles for the City fire alarm wires. Such use shall, however, be under the supervision of the telephone company so as to in no way interfere with the maintenance of the telephone company's property.

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† **EDITOR'S NOTE:** Ordinance No. 171 granting a telephone franchise to the Farmers Mutual Telephone Company was adopted by the Council on September 20, 1971. An election approving the franchise was held November 4, 1971, and the Company filed its letter of acceptance on November 8, 1971.

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CHAPTER 113

CABLE TELEVISION REGULATIONS

113.01 Definitions
113.02 Grant of Franchise
113.03 Duration of Franchise
113.04 Franchise Territory
113.05 Construction
113.06 Transfer of Control
113.07 Service
113.08 System Capacity
113.09 Rates
113.10 Rate Adjustment
113.11 Service Rules
113.12 Franchise Fee
113.13 Use of Streets and City Property
113.14 Indemnification and Insurance
113.15 Complaint Procedure
113.16 Revocation
113.17 Option to Purchase
113.18 Initial Costs
113.19 Security Fund
113.20 Other Business Activities

113.01 DEFINITIONS. For the purpose of this chapter certain words and phrases are defined as follows:

1. "Cable television system" means any system which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmit such signals and programming by wire or cable to persons who subscribe to such service.

2. "FCC" means the Federal Communications Commission and any successor thereto.

3. "Franchise" means the rights, privileges and authority granted by the City to the grantee hereunder and includes all of the terms and conditions of this chapter.

4. "Grantee" means Farmers Mutual Telephone Company.

5. "Gross revenues" means any and all compensation, in whatever form, exchange or otherwise, derived from the provisions of all cable services in the City.

113.02 GRANT OF AUTHORITY. There is hereby granted by the City to the Grantee the nonexclusive right and privilege to construct, erect, operate and maintain, upon, along, across, above, over and under the streets, alleys, public ways and places now laid out or dedicated and all extensions thereof, and additions thereto, in the City poles, wires, cables, and fixtures, necessary for the construction, operation, and maintenance of a cable television system, to be used for the sale and distribution of cable services to the residents of the City. The Grantee shall be subject to all laws and regulations of the City. The Grantee shall have the right to lease, rent, or in any other manner obtain the use of poles, lines, cables, and other facilities from any and all holders of public licenses and franchises within the City.

113.03 DURATION OF FRANCHISE. The duration of the franchise shall be fifteen (15) years from the date the franchise is awarded. Pursuant to Ordinance 410, adopted December 4, 1997, the franchise is extended for a period of twenty (20) years from the effective date of Ordinance No. 410.

113.04 FRANCHISE TERRITORY. The franchise territory, also referred to as the service area, shall include the entire corporate limits of the City and any area annexed thereto during the term of the franchise. Service shall be provided to any annexed territory within three years of the annexation.

113.05 CONSTRUCTION. Within thirty (30) days of the date of the award of the franchise, the Grantee must undertake the necessary steps to secure authorization to operate from the appropriate governmental agencies, and shall proceed with all due diligence. Failure to receive such authorization within twelve (12) months of the date of the franchise shall be grounds for revocation of the franchise by the City. The Grantee shall begin construction within 30 days of receiving said authorization, and shall provide cable service to the entire franchise territory within eighteen (18) months of the date of the franchise. Failure to provide cable service within said time period shall subject Grantee to a penalty of $100.00 dollars per day.

113.06 TRANSFER OF CONTROL. The Grantee shall not make or enter into any deed, deed of trust, mortgage, contract, loan, lease, pledge, sale or any other agreement concerning transfer of control of more than five percent or any of the property or facilities of the cable television system without the written consent of the City. This section does not apply to the disposition of worn out or obsolete facilities or personal property in the normal course of business.

113.07 SERVICE. During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable television reception service to its subscribers and shall maintain its system in reasonable repair and working order. These requirements may be temporarily suspended due to circumstances beyond the control of the Grantee subject to approval of the Council.

113.08 SYSTEM CAPACITY. The system shall have two-way capabilities, shall initially be capable of carrying a minimum of twenty (20) channels, and shall conform to the channel capacity and performance requirements of the FCC. Furthermore, the system shall include in its basic service a minimum of ten (10) channels. The system shall be engineered to provide an audio alert system to allow, authorized officials to automatically override the audio signal and to transmit and report emergency information on the local channel. In addition, the Grantee is encouraged to develop and operate, as it may become technologically and economically feasible, additional channels, including an educational access channel, lease access channel, and local origination channel. The Grantee shall not telecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority without the written consent of the governmental body of such authority.

113.09 RATES. All service connections and installations shall be of good quality subject to ordinary cable television system standards. Special rates and charges for the elderly, non-profit institutions, and disabled persons are encouraged, as approved by the Council. There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay any fee or charge, the Grantee may disconnect the service after giving ten (10) days' advance written notice of the intention to disconnect. After disconnection and upon payment of all delinquent fees and reconnection charges, the Grantee shall promptly reinstate the service. The reconnection fee, if service has been disconnected due to a delinquent account, shall be the same as the initial installation charge. The fee for reconnection for any other reason shall not be more than 50 percent of the initial installation charge. The Grantee shall install and maintain a subscriber terminal offering the basic monthly service free of charge to each school in the City, the City Hall, and the fire station.

113.10 RATE ADJUSTMENT. Rates for cable service shall not be increased for a period of two (2) years following the effective date of the franchise. Rate adjustments shall not be more often than once each year. Prior to any rate adjustment, the Grantee shall submit an

application for adjustment to the City Council along with sufficient evidence showing the need for the adjustment. No adjustment shall become effective without a public hearing and approval of the City Council. Approval or disapproval of any rate adjustment may be by resolution, and this chapter need not be amended for that purpose. A rate increase shall not unreasonably be denied by the Council.

113.11 SERVICE RULES. Grantee shall have the right to prescribe service rules and regulations for the conduct of its business with its subscribers, not inconsistent with the provisions of the franchise or with FCC rules, and other applicable laws and service agreement, shall furnish the City a full schedule of its charges before soliciting subscribers within the City, and shall furnish the City any amendments or alterations on the service agreement or schedule of charges.

113.12 FRANCHISE FEE. As compensation for the franchise granted herein and as consideration for the use of the streets and other facilities of the City for the operation of the cable television system, the Grantee shall pay to the City an amount equal to three percent of the Grantee's gross annual revenues less programming fees from all cable services within the City during the calendar year. Such franchise fee shall be payable by April 1 following the end of the calendar year. The Grantee shall submit an annual report to the City summarizing the previous year's activities and a financial statement, including a statement of income, a balance sheet, and a statement of the source of all funds.

113.13 USE OF STREETS AND CITY PROPERTY. All transmissions 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, public ways and places, so as not to interfere with existing utility installations, and so as to comply with all State and City codes and ordinances. The Grantee shall file maps, plats and records with City showing the location and character of all facilities. The location of all equipment and facilities shall be approved by the City Council or its authorized representative prior to installation. In case of any disturbance of any street, sidewalk, driveway, lawn or other surfacing, the Grantee shall, at its expense and in a manner approved by the City, promptly replace and restore all such surfacing to its original condition. The City reserves the right, upon reasonable notice, to require the Grantee to temporarily disconnect, relocate or remove its equipment and facilities at its expense as is required by reason of traffic conditions, public safety, street, construction, or other conditions or public interest. The Grantee shall, at the request of any person holding a moving permit issued by the City, temporarily move its lines to permit the moving of buildings. The expense of such temporary removal shall be paid by the person requesting the same, and the Grantee shall be given at least 48 hours' advance notice. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys and public ways of the City so as to prevent the branches of such trees from coming in contact with lines and cables of the Grantee, except that the City may, at its option, do or have such trimming done at the expense of the Grantee.

113.14 INDEMNIFICATION AND INSURANCE. The Grantee shall at all times defend, indemnify, protect and hold the City harmless from and against any and all liability, losses, damages, and expenses, including attorney's fees, to property, bodily injury, or death to any person, which may arise out of or be caused by the construction, installation, operation or maintenance of the cable television system caused by any act or failure to act on the part of the Grantee, its officers, agents, employees, servants and independent contractors. The Grantee shall during the term of the franchise maintain insurance in such forms and in such companies as shall be approved by the City to protect the City and the Grantee from and against any and

all claims, injury or damage to persons or property, caused by the construction, operation, and maintenance of any structure or equipment. The amount of such insurance shall be not less than $1,000,000 as to any one person, $1,000,000 as to any occurrence for injury or death to persons, and $100,000 as to property damages. Copies of all insurance policies shall be furnished to the City prior to the commencement of operations.

113.15 COMPLAINT PROCEDURE. The Council is designated by the City as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures; however, there shall be a five-member Cable Television Commission which shall monitor the operation of the cable television system and Grantee shall hear and investigate all complaints and report to the City Council. The members of the Commission shall be appointed by the Mayor and shall serve for four-year terms. They shall be residents of the City and shall serve without pay. The Grantee shall maintain an office in the City or a toll-free telephone listing, and be so operated that complaints and requests for repairs or adjustments may be received on a 24-hour basis. The Grantee shall maintain a repair and maintenance crew capable of responding to subscribed complaints or requests for service within twenty-four (24) hours after receipt of the same. No charge shall be made for any repair services rendered to subscribers. The Grantee shall establish procedures for receiving, acting upon, and resolving subscriber complaints to the satisfaction of the City Council. The Grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system.

113.16 REVOCATION. The City shall have the right to rescind or revoke the franchise herein granted upon any violation by the Grantee, of any material and substantial provision contained herein, or of any order or direction issued by the City in connection therewith. Prior to such revocation, the City shall give written notice to the Grantee specifying precisely the manner in which the Grantee is in violation. The notice shall specify a reasonable amount of time with which the Grantee must correct the violation, but in no event shall the time period be less than thirty (30) days from the receipt of the notice to the Grantee. The City reserves the right to levy fines upon the Grantee in an amount not to exceed $100.00 per violation for immaterial breaches of the franchise agreement. Nothing is intended as a waiver of any other rights the City may have at the time of such cancellation, revocation or expiration.

113.17 OPTION TO PURCHASE. Upon cancellation or revocation of the franchise, the City shall have the option of purchasing the system at a price equal to its value determined by three independent appraisers in accordance with generally accepted cable television appraisals and accounting principles. Upon cancellation, revocation or expiration of the franchise, the City shall have the right to require the Grantee to remove, at its expense, all portions of the system from all streets, alleys, and public ways within the City.

113.18 INITIAL COSTS. The Grantee shall pay the costs of all publications of notice required by this chapter, the costs of any franchise election, and the costs of preparing this franchise ordinance.

113.19 SECURITY FUND. Within thirty (30) days after the execution of the franchise, the Grantee shall deposit with the City Clerk and maintain on deposit throughout the term of the franchise, the sum of $5,000 or a suitable financial guarantee bond, renewed annually, as security for the faithful performance of the provisions of the franchise, the compliance with the provisions of this chapter and all orders, permits and directions of the City and of any agency of the City having jurisdiction over its acts or defaults under the franchise or this chapter, and its payment of any claims, liens and taxes due the City which arise by reason of

the construction, operation or maintenance of the system. If the Grantee fails to pay to the City any compensation within the time fixed herein, or fails to pay to the City, after ten (10) days' notice, any taxes due and unpaid, or fails to repay to the City, after ten days' notice, any damages, costs or expenses which the City may be compelled to pay by reason of any act or default of the Grantee in connection with the franchise, or fails, after three days' notice, to comply with any provisions of the franchise which the Council reasonably determines can be remedied by an expenditure from the security fund, the City may immediately withdraw or claim from surety the amount thereof, with interest and any penalties, and, upon such withdrawal, the City Clerk shall notify the Grantee or surety of the amount and date thereof. Within ten (10) days after notice that any amount has been withdrawn from the security fund deposited pursuant to this section, the Grantee or surety shall deposit with the City Clerk a sum of money sufficient to restore the security fund or financial guarantee bond to the original sum of $5,000.00. The security fund, or face value of bond, pursuant to this section shall become the property of the City in the event the franchise is cancelled by reason of the default of the Grantee. The amount of the security fund or financial guarantee bond may be reduced to $1,000 after construction of the system is complete, if approved by the City. At the expiration of the franchise, the Grantee shall be entitled to the return of any security fund or the portion thereof then remaining on deposit, provided that there is then no outstanding default on the part of the Grantee. Interest earned by the investment of the security fund shall accrue to the Grantee. The rights reserved to the City with respect to the security fund or financial guarantee bond 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 rights which the City may have.

113.20 OTHER BUSINESS ACTIVITIES. The Grantee shall not engage in the business of selling, repairing or installing television receivers, radio receivers or accessories, excluding converters and decoders, within the City during the term of the franchise. Nothing herein shall be deemed to prohibit the Grantee, at the request of the subscriber and without payment, from examining and adjusting a subscriber's receiver to determine whether reception difficulties originate in the receiver or in the system.

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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. ***(Ord. 532 – Sep. 12 Supp.)***

(Code of Iowa, Sec. 123.49[2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package 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])

12. Permit or allow any person under twenty-one (21) years of age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision does not apply to holders of a class "C" beer permit only.

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

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

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

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

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

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

(Ord. 567 – Oct. 15 Supp.)

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration
121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "Alternative nicotine product" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

3. "Place of business" means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.

4. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.

5. "Self-service display" means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

6. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

7. "Vapor product" means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. "Vapor product"

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

(Ord. 551 – Sep. 14 Supp.)

121.02 PERMIT REQUIRED.

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

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

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

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

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

(Ord. 551 – Sep. 14 Supp.)

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(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, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

(Ord. 551 – Sep. 14 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED. Except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

(Ord. 551 – Sep. 14 Supp.)

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)

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 Hearing
122.13 Record and Determination
122.14 Appeal
122.15 Effect of Revocation
122.16 Rebates
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 that is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer does not exempt any person from being considered a transient merchant.

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

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee in an amount set by resolution of the Council shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. License fees shall be paid to the Clerk prior to the issuance of any license, in the amounts set by resolution of the Council.

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct, and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 10:00 a.m. and 7:00 p.m.

122.11 REVOCATION OF LICENSE. Following a written notice and an opportunity for a hearing, the Clerk may revoke any license issued pursuant to this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

The Clerk shall send the written notice to the licensee at the licensee's local address. The notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

122.12 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.13 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.14 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons 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.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least 50 percent of the original fee shall be retained by the City to cover administrative costs.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for, or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America, and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the Jesup Community School District conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 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 122.14 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
123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies, or any other specialized moving equipment.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. 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, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars ($5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees in the minimum amounts set by resolution of the Council.

123.06 PERMIT FEE. A permit fee in the amount set by resolution of the Council shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than 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 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

INSURANCE AND REGISTRATION REQUIREMENTS FOR CONTRACTORS

124.01 INSURANCE AND REGISTRATION REQUIREMENTS.

1. A contractor shall show proof of registration with the State of Iowa and shall execute and file with the City Building Official (or a specified inter-governmental agency if so designated by the Building Official) a Certificate of Insurance written by a company authorized to transact business in the State of Iowa, in limits of not less than $300,000.00 combined single limit to any person and $100,000.00 property damage; said Certificate to be written on a standard form and carrying an endorsement naming the City and its employees (or the intergovernmental agency designated by the Building Official) as additional insured as their interests may appear and conditional upon the faithful performances of all duties required of such contractor by any ordinances, rules and regulations of the City.

A. It shall be a further condition of said Certificate of Insurance that the obligor will hold the City (through the specified inter-governmental agency if so designated) harmless from any and all damages sustained by reason of neglect or incompetency on the part of such contractor, his/her agents or employees in the performance of the work done under a license or permit issued upon the filing of said Certificate.

B. Said Certificate of Insurance shall be issued by the December 31 of each year, and shall be refilled on or before said date for each subsequent year and shall be in continuous full force and effect. It is the intent and purpose of said Certificate of Insurance to also bind the individual, company, firm, association or partnership, whether it be trade name, corporation, or other business association or arrangement with which the principal is associated.

C. Homeowners working on their principal residence shall be exempt from filing said Certificate.

2. Where a person desires to remodel or repair any residential building or structure of which such person is the owner of record, such work may be done by a member of the person's household without requiring the Certificate of Insurance otherwise required by this section.

A. Required permits shall be necessary for all remodel or repair work.

B. No owner or owners of record shall replace, remodel or repair any electrical, plumbing or heating on any property for which they are not the owner/occupant.

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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
135.13 Curb Cuts, Driveway Approaches and Access

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 321.369)

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

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

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

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

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

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

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

1. Permit Required. Except for the planting and removing of trees, it is unlawful for any person, firm or corporation, within the right-of-way of any street, avenue or alley to excavate or dig or to place building or other material; erect barricades, or form work; to place other obstructions; or to cut into or through or excavate along or under any pavement surface of any street, alley or right-of-way thereof without first obtaining a written permit to do such work and without doing such work in the time and manner as specified in such permit. The permit shall be obtained from the Clerk with approval of the Public Works Director.

2. Permit Application. Before beginning any of the work specified in subsection 1, the person desiring to do such work shall make application therefor to the Clerk. Such application shall specify the exact description of the property, by lot and street number in front of or along which the work is to be done, the extent of the proposed work, the manner and method of doing the same and the time during which the work will be in progress.

3. Permit Issuance and Restrictions. Upon proper application, the Clerk may issue a permit for any of the work specified in subsection 1 but only after the application has been inspected and approved by the Public Works Director, and may specify therein such regulations and restrictions as may be deemed necessary to ensure the safety and convenience of the public and to restore the street surfaces damaged by such work in the most satisfactory manner.

4. Bond Required. The person doing such work shall file with the Clerk a third party indemnity bond in the amount of $5,000.00 with corporate surety thereon by a surety company authorized to issue such bonds in the State of Iowa and conditioned upon the favorable performance of all duties imposed on the person doing such work by this Code of Ordinances and the laws of the State of Iowa and indemnify and keep harmless the City from all liability of every kind and nature, from accidents and damages arising from negligence or unskillfulness or inadequate work done and that the person will restore the property, street, sidewalk, pavement or pipe that said person may lay or repair and fill all excavations made by said person so as to leave said property, sidewalk, street or pavement in as good a state and condition as the person found them and indemnify and keep the City harmless from any damage suffered by failure to do so, and the prompt payment to the City of all sums that may become due or owing to the City by reason of this section, for the payment of all fines upon conviction of violation of this section. Said bond shall be kept in force continuously during the work.

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 in the minimum amounts set by resolution of the Council.

6. Restoration of Public Property. Streets, sidewalks, parkways, 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 property owner.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, or resurfacing of any improved street surface begun, until such backfill is inspected and approved by the City. The permit holder shall provide the City with notice at least 24 hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be left open or unfinished for a period of 24 hours or should the work be improperly done, the City has the right to finish or correct such work and the expense shall be charged to the permit holder and/or property owner.

9. Property Owner's Responsibility. All costs and expenses incident to the excavation shall be borne by the permit holder and 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 in the amount set by resolution of the Council shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

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[2c])

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

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

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

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

135.13 CURB CUTS, DRIVEWAY APPROACHES AND ACCESS.

1. No driveway approach shall be constructed or replaced, nor shall any access be provided from private property onto any street without first obtaining a permit from the City. The application for the permit shall be filed in writing at the office of the City Clerk.

2. The Public Works Director shall approve or disapprove the permit. The recommendation of the Public Works Director shall be based upon one or more of the following criteria:

A. Curb cuts and/or access shall not be provided onto any street for which access has been restricted during review of the final plat and deed of dedication.

B. For a double frontage lot, reversed frontage lot, or corner lot, as defined in the City zoning ordinance, access shall be allowed onto only one street in conformance with paragraph A of this subsection unless otherwise authorized by the Council.

C. Where a lot fronts on two streets, the Public Works Director shall determine where access shall be allowed based upon an analysis of the amount and speed of traffic on both streets.

D. The permit holder shall file a certificate of liability insurance in effect for the duration of the permit for a minimum amount of $1,000,000 per occurrence.

Prior to the issuance of the permit, the Public Works Director shall submit the application for the permit to the street superintendent for review and comment regarding the location of the curb cut.

3. Upon a permit being issued by the Public Works Director to make all driveway approaches and curb cuts, no driveway shall be constructed of Portland cement concrete to comply with Parts 2 and 3 of Section 7030 of plans and specifications approved by the City Engineer pursuant to the Statewide Urban Design and Specifications (SUDAS).

4. Nothing in this section shall be construed to affect driveways constructed or in use on or before the effective date of this section.

5. The permit holder shall notify the Public Works Director immediately upon completion of the construction. The Public Works Director shall inspect the work. If said official does not approve the work, the permit holder or property owner must proceed immediately to correct the work, so that it will meet with approval.

6. Should any construction not be corrected to meet with the approval of the building inspector within ten (10) days of being notified of this disapproval, the Public Works Director shall have the right to finish or correct the work and the Council shall assess the property owner.

7. All new driveway applications approach permits shall be accompanied by a new driveway approach fee in the amount set by resolution of the Council, and all driveway applications shall be accompanied by a driveway repair fee set by resolution of the Council.

8. Any applicant who is aggrieved by the action of the Public Works Director may appeal the decision to the Council; the appeal must be made in writing to the Mayor and Council within fourteen (14) days of the denial of the permit.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice, and Accumulations
136.04 Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Permit Required
136.08 Sidewalk Standards
136.09 Barricades and Warning Lights
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 or Fuel on Sidewalks
136.16 Defacing
136.17 Debris on Sidewalks
136.18 Merchandise Display
136.19 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

5. "Portland cement" means any type of cement except bituminous cement.

6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street. Standards for determining when a sidewalk is in need of repair, replacement, or reconstruction may be established by Council resolution. The standards shall be used as a guide to aid the Council in its determination of which sidewalks are to be repaired, replaced, or reconstructed.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said reconstruction, or installation will comply with all ordinances and requirements of the City for such work. A written application for such permit shall be filed with the City and shall be accompanied by a permit fee in an amount set by resolution of the Council.

(Ord. 543 – Jun. 13 Supp.)

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three-inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.

C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Curb tops shall be on level with the centerline of the street, which is the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (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 except that in areas zoned C-1, for sidewalks with a width greater than five feet, the owner may choose to use decorative walkway accents, provided that there exists at least five feet in width of "broom" or "wood float" finish in addition to and abutting the decorative walkway accent and provided that the decorative walkway accents are approved by the Council.

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 FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing
137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof, or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof, or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof, or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof, or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
23	March 13, 1882		
25	July 10, 1882		
26	February 11, 1884		
27	May 12, 1884		
48	April 13, 1914		
50	Undated		
51	November 11, 1912		
53	October 13, 1913		
56	July 14, 1919		
57	July 14, 1919		
59	May 8, 1922		
77	February 13, 1934		
81	January 4, 1937		
83	June 7, 1937		
84	September 6, 1937		
89	September 6, 1944		
103	September 12, 1949		
104	February 6, 1950		
113	Undated		
114	July 6, 1953		
116	December 7, 1953		
124	November 1, 1954		
132	June 11, 1956		
166	August 5, 1968		
167	May 19, 1969		
173	Undated		
197	Undated		
199	Undated		
202	Undated		
204	June 5, 1978		
214	June 4, 1979		
220	January 3, 1980		
224	February 11, 1980		
310	February 4, 1988		
316	June 2, 1988		
457	December 4, 2003		
476	July 5, 2006		
519	June 7, 2011		
525	October 4, 2011		

CHAPTER 138

STREET GRADES

138.01 Established Grades **138.02 Record Maintained**

138.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance, are hereby confirmed, ratified, and established as official grades.

138.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
85	April 24, 1939		
176	October 24, 1973		
195	June 6, 1977		
259	October 7, 1982		
268	January 5, 1984		
283	July 2, 1985		
284	November 7, 1985		
320	October 6, 1988		
332	July 6, 1989		
336	January 4, 1990		
353	June 6, 1991		
379	July 1, 1993		
391	August 3, 1995		
452	June 5, 2003		
503	January 5, 2009		
508	October 5, 2009		

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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 Jesup, 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.

EDITOR'S NOTE			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted, which name or change the name of streets:			
ORDINANCE NO.	**ADOPTED**	**ORDINANCE NO.**	**ADOPTED**
227	May 1, 1980		
362	March 5, 1992		
395	March 7, 1996		
444	November 7, 2002		

[The next page is 685]

CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner
145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Police Chief is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures that are structurally unsafe or not provided with adequate egress, or that constitute a fire hazard, or are otherwise dangerous to human life, or that in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.

4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement

officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.

3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF JESUP, IOWA." Such notice shall remain posted until the required demolition, removal or repairs are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 146

MANUFACTURED AND MOBILE HOMES

146.01 Definitions
146.02 Conversion to Real Property
146.03 Foundation Requirements

146.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure built under the authority of 42 U.S.C. Sec. 5403 which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. "Manufactured home community" means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents, or other structures temporarily maintained by any individual, educational institution, or company on its own premises and used exclusively to house said entity's own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

146.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home that is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:
(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home that is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

146.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system that meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 147

PARKING IN RESIDENTIAL DISTRICTS

147.01 Purpose
147.02 Definitions
147.03 Standards Governing Off-Street Parking or Storage of Vehicles
147.04 Authorized Enforcement Agencies
147.05 Penalty
147.06 Exemption

147.01 PURPOSE. The special provisions of this chapter are intended to regulate the location of parked vehicles. It is the desire of the City of Jesup to encourage an aesthetically pleasing local environment. It is also the intent of the City of Jesup to avoid the obstruction of public streets and sidewalks, improve traffic visibility, and maintain the visual harmony and character appropriate in residential neighborhoods within the city.

1. Goals.

   A. To preserve and improve the peace, safety, health, comfort and convenience of the citizens of Jesup.

   B. To minimize the adverse visual effects of front yard parking.

   C. To allow for reasonable use of driveways in the front yard for parking.

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

1. "Driveway" means that portion of private property, paved, asphalt, gravel, or similar surface, that provides vehicular access from the public right-of-way to parking lots, parking areas, garages, or storage buildings.

2. "Parked, Parking" means the placement of a vehicle for more than 24 hours.

3. "Vehicle" means any motorized implement of conveyance desired or used for transportation of people or materials on land, water, or air. These include, but are not limited to, motorcycles, automobiles, trucks, snowmobiles, boats, recreational vehicles, RV's or motor homes.

4. "Yard, Front" means any yard extending across the full width of the lot and measured between the front lot line and the building.

5. "Yard, Rear" means a yard extending across the full width of the lot and measured between the rear lot line and the rear of the main building.

6. "Yard, Side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the main building.

7. "Trailer" means an unpowered vehicle pulled by a vehicle with an engine. A trailer is considered to be one vehicle, even with other vehicles parked on it.

147.03 STANDARDS GOVERNING OFF-STREET PARKING OR STORAGE OF VEHICLES.

1. Restrictions addressing parking of vehicles on residential property:

A. Any vehicle parked outside of an approved garage shall be parked on concrete, asphalt, gravel, or a similar surface approved by the City of Jesup. Grass is not an approved parking surface.

2. For one- and two-family residential lots, no parking shall be allowed in the front yard unless the following is true:

A. The area is a permitted driveway as defined in this chapter.

3. Restriction addressing parking of recreation vehicles:

A. Recreational vehicles may be parked on the side yard if a minimum separation distance of ten (10) feet is maintained between the closest point of the vehicle(s) and any principal structure on an adjoining property.

147.04 AUTHORIZED ENFORCEMENT AGENCIES. The Jesup Police Department, Code Enforcement Officials, or any other persons authorized by resolution of the City Council are authorized to enforce the chapter.

147.05 PENALTY. Any violation of this chapter shall constitute a municipal infraction and be punishable consistent with Chapter 3 of the Code of Ordinances of the City of Jesup, Iowa.

147.06 EXEMPTION. Between November 15 and April 15, of each calendar year, snowmobiles shall not be included in the restrictions addressing parking of vehicles on residential property. Additionally, provisions of this chapter shall not be enforced during the 24-hour period after a declaration of a snow emergency.

(Ch. 147 - Ord. 549 – Mar. 14 Supp.)

[The next page is 725]

CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Plan

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Public Works Director.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Public Works Director.

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CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Duty to Trim Trees
151.04 Trimming Trees to be Supervised
151.05 Disease Control
151.06 Inspection and Removal
151.07 License Required; Fee and Term
151.08 Conditions of License
151.09 Removal of Trimmings

151.01 DEFINITION. For use in this chapter, "parking" means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Council Approval. Prior approval of the Council is required prior to planting a tree in any parking.

2. 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.

3. Spacing. Trees shall not be planted on any parking that is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.

4. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow, or black walnut.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased, or damaged tree or shrub that may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

151.07 LICENSE REQUIRED; FEE AND TERM.

1. License Required: No person shall engage in the business of removing, cutting or trimming of trees in the City without first obtaining the required license. The license shall allow the removing, cutting and trimming of trees on both private and public property. The license shall be issued upon payment of an annual license fee of twenty-five ($25.00) dollars and upon proof of certificate of insurance and coverage for workers' compensation. License and fees shall be due and payable on each July 1 of each year.

2. Exceptions: The above shall not apply to the following cases:

A. Any governmental body or official representative of such while in pursuit of official duties;

B. Persons trimming trees on their private property;

C. Any person performing labor or services on or in connection with trees at the direction and/or under the personal supervision of a licensed tree trimmer.

151.08 CONDITIONS OF LICENSE.

1. Certificate Of Insurance Required:

A. Before engaging in the business or occupation of removing, cutting or trimming trees in the City, every person shall file with the City Clerk a certificate of insurance written by a company authorized to transact business in the state, with limits of not less than three hundred thousand dollars ($300,000.00) combined single limit to any person and one hundred thousand dollars ($100,000.00) property damage; said certificate to be written on a standard form and carrying an endorsement naming the City and its employees as additional insureds as its interest may appear and conditioned upon the faithful performance of all duties required of such contractor by any ordinances, rules and regulations of the City. It shall be a further condition of said certificate of insurance that the obligator will hold the City harmless from

any and all damages sustained by reason of neglect or incompetency on the part of such contractor, his agents or employees in the performance of the work done under a license or permit issued upon the filing of said certificate.

B. Said certificate of insurance shall be issued by July 1 of each year, and shall be refiled on or before said date for each subsequent year and shall be in continuous full force and effect. It is the intent and purpose of said certificate of insurance to also bind the individual, company, firm, association or partnership, whether it be trade name, corporation or other business association or arrangement with which the principal is associated.

2. Workers' Compensation Policy Required: Before engaging in the business or occupation of removing, cutting or trimming trees in the City, every person shall furnish satisfactory evidence to the City Clerk that the workers employed by him are covered by a suitable workers' compensation policy according to the laws of the state, or of the state of the domicile of the person performing the work.

151.09 REMOVAL OF TRIMMINGS. Any person having a permit required by this article shall immediately, at his own expense, remove all trunks, limbs, branches, twigs or brush and dispose of them in accordance with this code.

(Sec. 151.07 - 151.09 – Ord. 564 – Oct. 15 Supp.)

[The next page is 755]

CHAPTER 155

BUILDING CODE

155.01 Short Title
155.02 Adoption of Building Code
155.03 Conflict with State Laws
155.04 Exceptions and Modifications

155.01 SHORT TITLE. This chapter shall be known as the Uniform Building Code of Jesup, Iowa, and may be cited as such and will be referred to herein.

155.02 ADOPTION OF BUILDING CODE. Pursuant to published notice and public hearing, as required by law, the *International Building Code*, 2009 Edition, and the *International Residential Code*, 2009 Edition, published by the International Code Council, Inc. is hereby adopted in full.

155.03 CONFLICT WITH STATE LAWS. Nothing in this chapter or in the *International Residential Code*, 2009 Edition, and the *International Building Code*, 2009 Edition, shall be construed to be in conflict with State laws or the State Housing Code. In the event of such conflict, the State laws shall prevail.

155.04 EXCEPTIONS AND MODIFICATIONS.

1. Section 105.1 – Permits Required – of the *International Building Code*, 2009 Edition, is deleted and the following substituted in lieu thereof:

> "Except as specified in Section 105.2 a permit shall be obtained before beginning construction, alteration or repairs, when the value of the same exceeds $500.00, except that a permit shall be required of all construction, alteration or repairs of any fireplace, deck or any construction, alteration or repair that affects the structure of a building.
>
> No permit shall be required for ordinary repairs."

2. Section 108.2 – Permit Fees – of the *International Building Code*, 2009, shall be deleted and the following substituted in lieu thereof:

> "108.2 – Permit Fees. The building permit fee shall be based upon a valuation of the construction. The fee structure shall be determined by resolution of the City Council, which shall also determine the valuation criteria."

3. Section 112.1 – Board of Appeals of the *International Building Code*, 2009, is hereby deleted and the following substituted in lieu thereof.

> "112.1 – General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this Code, there shall be and hereby is created a board of appeals. The City Council of Jesup, Iowa, shall act as the Board of Appeals.

4. Section 112.2 – Board of Appeals – Limitations on Authority – of the *International Building Code*, 2009, is hereby amended by deleting the last sentence thereof and substituting the following in lieu thereof:

"The Board shall have no authority to waive requirements of this code without formally amending the Building Code by ordinance."

5. Section 112.3 – Board of Appeals – Qualifications of the *International Building Code*, 2009, is hereby deleted.

6. Section B101 – Appendix B – Board of Appeals – General – is hereby deleted.

7. Section R105.1 – Permits Required of the *International Residential Code*, 2009, shall be deleted and the following substituted in lieu thereof:

"Except as specified in Section R105.2, a permit shall be obtained before beginning construction, alteration or repairs, when the value of the same exceeds $500.00, except that a permit shall be required of all construction, alteration or repairs of any fireplace, deck or any construction, alteration or repair that affects the structure of a building.

No permit shall be required for ordinary repairs."

8. Section R108.2 – Permit Fees – of the *International Residential Code*, 2009, shall be deleted and the following substituted in lieu thereof:

"R108.2 – Permit Fees. The building permit fee shall be based upon a valuation of the construction. The fee structure shall be determined by resolution of the Council, which shall also determine the valuation criteria."

9. Section R112.1 – Board of Appeals – of the *International Residential Code*, 2009, is hereby deleted and the following substituted in lieu thereof:

"112.1 – General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and hereby is created a board of appeals. The City Council of Jesup, Iowa, shall act as the Board of Appeals."

10. Section R112.2 – Board of Appeals – Limitations on Authority – of the *International Residential Code*, 2009, is hereby amended by deleting the last sentence thereof and substituting the following in lieu thereof:

"The Board shall have no authority to waive requirements of this code without formally amending the Building Code by Ordinance."

11. Section R112.3 – Board of Appeals – Qualifications of the *International Residential Code*, 2009, is hereby deleted.

[The next page is 761]

CHAPTER 156

FIRE CODE

156.01 Short Title
156.02 Adoption of Fire Code
156.03 Conflict with State Laws
156.04 Exceptions and Modifications

156.01 SHORT TITLE. This chapter shall be known as the Fire Code of Jesup, Iowa, and may be cited as such and will be referred to herein.

156.02 ADOPTION OF FIRE CODE. Pursuant to published notice and public hearing as required by law, the *International Fire Code* and appendices B thru G of said code, 2003 Edition, published by the International Code Council, Inc. are hereby adopted in full.

156.03 CONFLICT WITH STATE LAWS. Nothing in this chapter or in the *International Fire Code*, 2003 Edition, shall be construed to be in conflict with State laws. In the event of such conflict, the State laws shall prevail.

156.04 EXCEPTIONS AND MODIFICATIONS. The following sections of the *International Fire Code*, 2003 Edition, are hereby revised as follows:

1. Section 101.1 insert: "City of Jesup, Iowa."

2. Section 111.4 insert: "$50.00" and "$500.00", respectively.

3. Section 103 – Department of Fire Prevention – is deleted and the following substituted in lieu thereof:

Section 103 Fire Code Official.

Section 103.1 General. The position of Fire Code Official is hereby established within the jurisdiction of the City of Jesup, Iowa. The Fire Code Official shall be responsible for the implementation, administration, and enforcement of the provisions of this code.

Section 103.2 Appointment. The Fire Code Official shall be appointed by the Mayor of the City of Jesup, Iowa, for a term of 2 years. The Fire Code Official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the Mayor and City Council of the City of Jesup, Iowa.

Section 103.3 Deputy. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Fire Code Official shall have the authority to appoint a Deputy Fire Code Official.

Section 103.4 Liability. The Fire Code Official and Deputy Fire Code Official, being charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

Section 103.4.1 Legal Defense. Any suit instituted against the Fire Code Official or Deputy Fire Code Official because of an act performed by that

official, in the lawful discharge of duties and under the provisions of this code, shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Fire Code Official or Deputy Fire Code Official shall not be liable for costs in an action, suit, or proceeding that is instituted in pursuance of the provisions of this code; and the Fire Code Official or Deputy Fire Code Official, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith."

4. Section 105.1.1 – Permits Required – is amended by adding the following language:

"Permit fees will hereafter be established through resolution by the City Council."

5. Section 105.3.3 – Occupancy Prohibited Before Approval – is amended by adding the following language:

"Exception: A permit shall not be required for occupancy of single dwelling units classified under the R-3 occupancy group"

6. Section 105.6 – Required Operational Permits – is amended by deleting the following language:

"The Fire Code Official is authorized to issue operational permits for the operations set forth in sections 105.6.1 through 105.6.47"

and substituting in lieu thereof the following language:

"The Fire Code Official is authorized to issue operational permits for the operations set forth in sections 105.6.9, 105.6.15, 105.6.17, 105.6.21, 105.6.28, 105.6.31 and 105.6.42."

Sections 105.6.1 through 105.6.47, except for 105.6.9, 105.6.15, 105.6.17, 105.6.21, 105.6.28, 105.6.31 and 105.6.42 are deleted.

7. Section 105.6.17 – Flammable and Combustible Liquids – is amended by adding the following language:

"Section 105.6.17.2.3 In single dwelling units classified under the R-3 occupancy group. Storage of quantities of Class I liquids not in excess of 10 gallons in a building or in excess of 20 gallons outside of a building. The storage or use of paints, varnishes or similar mixtures when liquids are stored for maintenance, painting, or similar purposes for a period of not more than 90 days."

8. Section 105.6.31 – Open Burning – is deleted and the following substituted in lieu thereof:

"105.6.31 Open Burning. An operational permit is required for open burning as set forth by Section 307."

9. Section 105.7 – Required Construction Permits – is amended by deleting the following language:

"The Fire Code Official is authorized to issue construction permits for work as set forth in Section 105.7.1 through 105.7.12."

and substituting in lieu thereof the following language:

"The Fire Code Official is authorized to issue construction permits for work as set forth in Sections 105.7.1, 105.7.2, 105.7.3, 105.7.5, 105.7.6, 105.7.8, and 105.7.10."

Sections 105.7.4, 105.7.7, 105.7.11 and 105.7.12 are deleted.

10. Section 108 – Board of Appeals – is deleted and there is substituted in lieu thereof the following:

"108 Appeal Procedure.

108.1 Appeals Directed to City Council. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, the City Council of Jesup, Iowa, shall act as a board of appeal. The Fire Code Official shall be present at all proceedings regarding an appeal, but shall have no vote on any matter before the Council. The City Council of Jesup, Iowa, shall render all appeal decisions and findings in writing to the appellant with a duplicate copy to the Fire Code Official.

108.2 Limitations on Authority. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent method of protection or safety is proposed. The City Council of Jesup, Iowa, shall have no authority to waive requirements of this code without formally amending the Fire Code of Jesup, Iowa, by Ordinance."

11. Section 109.3 is deleted and there is substituted in lieu thereof the following:

"109.3 Violation Penalties. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this chapter is guilty of a simple misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days for each offense or both such fine and imprisonment. Each day that a violation is permitted to exist constitutes a separate offense. Alternatively the City may, at its option, institute municipal infraction actions for the violation of this chapter. A violation of this chapter shall be a municipal infraction and punishable as such. In addition to any other remedies the City may institute an injunction, mandamus or other appropriate lawful action necessary to prevent, correct, punish or abate such violation. Each day that said violation is continued shall constitute a separate violation. Nothing in this section shall limit the remedies and enforcement powers of the City."

12. Section 301.2 (Permits) is repealed and there is adopted in lieu thereof the following:

"301.2 Permits: Permits are required as set forth in Section 105.6 for the activities or uses regulated by Section 307 (Open Burning and Recreational Fires)."

13. Section 307 (OPEN BURNING AND RECREATIONAL FIRES) is deleted and there is substituted in lieu thereof the following:

"Section 307 – Open Burning.

307.1 Definitions.

"Open burning" means any burning of combustible materials where the products of combustion are emitted directly into the ambient air without passing through a chimney or stack.

"Rubbish" means all waste materials of nonputrescible nature.

"Smoke" means gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon, and other combustible material, or ash, that form a visible plume in the air.

"Chimney or stack" means any flue, conduit or duct permitting the discharge or passage of air contaminants into the open air, or constructed or arranged for this purpose.

"Garbage" means all solid and semisolid putrescible and nonputrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing and serving of food or of material intended for use as food, but excluding recognized industrial byproducts.

"*Trade waste"* means any refuse resulting from the prosecution of any trade, business, industry, commercial venture (including farming and ranching), or utility or service activity, and any governmental or institutional activity, whether or not for profit.

Section 307.2 Open Burning Prohibited.

No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain any open burning of materials within the City, unless specifically listed as an exception in section 307.3. Said exceptions shall be allowed only when conducted in strict compliance with section 307.4.

Trade Wastes, Rubbish, Garbage, and Recyclable Goods or Plastics. It shall be unlawful to open burn any trade wastes, rubbish, garbage, and/or any locally recyclable goods or plastics. None of the exceptions included in Section 307.3 below shall be construed to allow the open burn of trade wastes, rubbish, garbage and/or locally recyclable goods or plastics.

Section 307.3 Exceptions. Exceptions shall include only the following:

<u>Exception 1</u>: Bonfires.

Bonfire is defined as any outdoor fire utilized for ceremonial purposes that exceeds 3 feet in diameter or 2 feet in height.

Fuel shall be limited to clean lumber, and logs. The size and location of these fires may be modified with the approval of the Fire Chief. The Fire Chief shall approve the time period and location of the bonfire.

Prior to the commencement of a bonfire, the fire department shall be notified and a permit obtained.

<u>Exception 2</u>: Outdoor Cooking and Recreational Fires.

Outdoor cooking fires are defined as the burning of materials where fuel being burned is contained in manufactured outdoor fireplaces, grills or suitable permanent ground pit not to exceed 3 feet in diameter and 2 feet in height used for food preparation and in accordance with this section.

Recreational fires are defined as the burning of materials on the ground, in a suitable permanent ground pit not to exceed 3 feet in diameter and 2 feet in height or in a manufactured outdoor fireplace or container, for recreational enjoyment, or similar purposes and in accordance with this section.

Outdoor cooking and recreational fires shall be conducted safe distances from buildings, structures and combustible materials.

Outdoor cooking fires and recreational fires fuel shall be limited to clean lumber, logs, or charcoal.

A permit is not required for outdoor cooking or recreational fires.

Exception 3: Leaves and Garden Waste – (not to include grass)

Leaves are defined as leaves and twigs smaller than one inch in diameter and two feet in length.

Garden waste means any vegetable or plant waste except: garbage, leaves as defined above and grass clippings. The term includes tree trimmings, branches, stumps, brush, weeds and shrubbery. Garden waste shall be only that material that originates on the premises.

Open burning of leaves and garden waste shall be permitted throughout the year.

Any burning shall not commence before 8:00 a.m. and the fire must be fully extinguished by 6:00 p.m. The Fire Chief may amend these hours.

A permit is not required for the open burning of leaves and garden waste.

Exception 4: Grass Clippings.

Open burning of grass clippings shall be permitted only on Wednesdays and Saturdays during the period of April 1 to December 1 for each year. Any burning shall not commence before 8:00 a.m. and the fire must be fully extinguished by 6:00 p.m. They shall not be left to smolder. The Fire Chief may amend these dates and hours.

All grass clippings shall be dry before igniting. No hazardous materials or ignitable mixtures shall be used to ignite pile. Grass clippings shall be only that material that originates on the premises.

A permit is not required for the open burning of grass clippings.

Exception 5: Training Fires.

Training fires are defined as fires set for the purpose of bona fide instruction and training of public and industrial employees in the methods of fire fighting.

Prior to commencement of open burning, the fire department shall be notified and a permit obtained. EPA notification shall be accomplished as per their requirements.

The time period and location of the training fire shall be approved by the Fire Chief and shall be included on the permit.

Exception 6: Disaster Rubbish.

Disaster rubbish is defined as 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. The Fire Chief, in consultation with the Mayor and City Council, shall have the authority to declare the emergency disaster condition.

Prior to commencement of open burning, the Fire Department shall be notified.

The Fire Chief shall approve the time period and location of the disaster rubbish fire.

Section 307.4 Rules Governing Open Burning Allowed by Exception in Section 307.3.

307.4.1 Discontinuance. The Fire Code Official or Fire Chief is authorized to require that any or all open fires be immediately discontinued and extinguished, if determined that smoke emissions are offensive to occupants of surrounding property or if the open burning is determined to constitute a hazardous condition.

307.4.2 Wind Speed. No fire shall be kindled when wind velocity exceeds ten (10) miles per hour.

307.4.3 Distance from Structures or Other Combustible Materials. Open burning shall not be conducted within 25 feet of any structure or other combustible material. Conditions, which could cause the fire to spread to within 25 feet of a structure, shall be eliminated prior to ignition.

Exception A: Clearance from structures and other combustible material is allowed to be reduced to not less than 10 feet when the pile size is 3 feet or less in diameter and 2 feet or less in height.

Exception B: Cooking or Recreational Fire clearances from structures and other combustible material is allowed to be reduced to not less than 8 feet when conducted in a manufactured outdoor fireplace, grill, or suitable permanent ground pit.

307.4.4 Attendance/Fire Extinguishing Equipment. A person familiar with the open burning regulations shall constantly attend burning material with appropriate fire extinguishing equipment readily available, until the fire is fully extinguished.

307.4.5 It shall be unlawful for any person to ignite, cause to be ignited, permit to be ignited, allow or maintain, kindle or maintain any open burning fire on a City street.

Section 307.5 Open Burning Violation Penalties.

307.5.1 Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with the provisions of Section 307 has committed a municipal infraction. Violation citations may be issued by the Fire Code Official or Jesup Fire Chief.

Upon citation and judgment, a civil penalty of $15.00 shall be imposed for the first violation.

Upon citation and judgment, a civil penalty of $25.00 shall be imposed for the second violation.

Upon citation and judgment, a civil penalty of $35.00 shall be imposed for the third violation.

After a third violation, any violator will be considered habitual and shall be subject to the provisions and penalties set forth in Section 307.5.2.

Additionally, at the discretion of the Fire Code Official or Jesup Fire Chief, any grievous violation of Section 307, which in his or her opinion has put life or property in danger, shall be immediately subject to the provisions and penalties as set forth below in Section 307.5.2.

307.5.2 Any habitual violator or grievous violator is guilty of a simple misdemeanor and upon conviction shall be fined not more than $500.00 or

imprisoned for not more than 30 days for each offense or both such fine and imprisonment. Each day that a violation is permitted to exist constitutes a separate offense. Alternatively, the City may, at its option, institute municipal infraction actions for the violation of Section 307. A violation of Section 307 shall be a municipal infraction and punishable as such. In addition to any other remedies the City may institute an injunction, mandamus or other appropriate lawful action necessary to prevent, correct, punish or abate such violation. Each day that said violation is continued shall constitute a separate violation. Nothing in this section shall limit the remedies and enforcement powers of the City.

14. Section 804.1.1 – Restricted Occupancies – is amended by adding the following language:

"Exception 2: Natural cut trees shall not be prohibited in Places of Worship (Churches) classified under the A-3 occupancy group, provided they comply with all other requirements of Section 804 and additionally the requirements issued by the State of Iowa Fire Marshal on December 4, 2002, which include the following:

Natural Christmas Trees and Wreaths

Natural trees may be approved under the following conditions:

Freshly cut;

Watered and inspected daily;

Not to be indoors more than 15 days unless treated with an approved flame retardant;

Only UL approved, low-heat lighting;

Must not be placed in a way that would obstruct exits, egress, access to, or lighting of same;

Not to be placed near a heat source; and,

Absolutely no candles or open flame permitted in the area.

The Iowa State Fire Marshal's Office prefers the use of artificial Christmas wreaths but natural wreaths may by placed in areas of public assembly under the following conditions:

Freshly cut;

Not to be indoors for more than 30 days;

If placed on a door the wreath shall not prevent the proper operation of the door;

No lights shall be placed on the wreath;

Not to be placed near a heat source; and

Absolutely no candles or open flame permitted to be in the area."

15. Section 3301.2.4 (Financial responsibility) is repealed and there is adopted in lieu thereof the following:

"3301.2.4 Financial Responsibility: Fireworks: The permittee shall furnish to the Jesup Fire Department a copy of Certificate of Liability insurance in the amount of $1,000,000.00 to provide payment for all damages which

may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, his agent, employees, or subcontractors.

16. Appendix C, Section C102 – Location – is amended by adding the following language:

"C102.2 Fire Hydrant Location near Water Fire Suppression System. A fire hydrant shall be located within 100 feet of an automatic fire sprinkler suppression system Fire department connection, a water fire suppression standpipe or where required by the code official."

17. Appendix D, Section D101.1 – Fire Apparatus Access Roads – General – Scope – is amended by adding the following language:

"Fire Apparatus Access Roads are not to be construed or interpreted to include Platted City Streets. Dimensions and features of Platted City Streets shall be governed by the Zoning Code of the City of Jesup, Iowa, and the Subdivision Ordinance of the City of Jesup, Iowa. Fire Apparatus Access roads shall include roads internal to a private property within the City Limits of Jesup, Iowa. Dimensions and features of said fire apparatus access roads shall be determined by the Fire Code Official."

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CHAPTER 157

ELECTRICAL CODE

157.01 Short Title
157.02 Adoption of Electrical Code
157.03 Conflict with State Laws
157.04 Exceptions and Modifications

157.01 SHORT TITLE. This chapter shall be known as the Electrical Code of Jesup, Iowa, and may be cited as such and will be referred to herein.

157.02 ADOPTION OF ELECTRICAL CODE. Pursuant to published notice and public hearing, as required by law, the 2014 National Electrical Code (NEC) is hereby adopted in full, in its entirety, including future amendments to the same, until further notice.

157.03 CONFLICT WITH STATE LAWS. Noting in this chapter or in the 2014 National Electrical Code (NEC) shall be construed to be in conflict with State laws. In the event of such conflict, the State laws shall prevail.

157.04 EXCEPTIONS AND MODIFICATIONS. The Residential Building Inspector will enforce the Electrical Code and all commercial electrical permits will be handled by the State of Iowa. Effective May 1,2015, all permits will be inspected in accordance to the 2014 National Electric Code (NEC) with the following amendments:

504.1(103) Installation Requirements. The provisions of the National Electrical Code, 2014 edition, published by the National Fire Protection Association, 1, Batterymarch Park, Quincy, MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661 - Chapters 500 through 503 and to installations subject to inspection pursuant to Iowa Code Chapter 103 with the following amendments:

504.1(1) Add the following exceptions to section 210.8, paragraph (A), subparagraph (2):

a. Exception No. 1 to (2): Receptacles that are not readily accessible.

b. Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

c. Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

504.1(2) Add the following exceptions to section 210.8, paragraph (A), subparagraph (5):

a. Exception No. 2 to (5): Receptacles that are not readily accessible.

b. Exception No. 3 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

c. Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

504.1(3) Delete section 210.12(B).

504.1(4) Delete the exception to section 220.12 and insert in lieu thereof the following exception: EXCEPTION: Where the building is designed and constructed to comply with an energy code adopted by the local authority, the lighting load shall be permitted to be calculated at the values specified in the energy code.

504.1(5) Delete section 406.4(D)(4).

(Sections 157.02-157.04 – Ord. 559 – June 15 Supp.)

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CHAPTER 160

FLOODPLAIN REGULATIONS

160.01 Statutory Authority; Findings of Fact; Statement of Purpose
160.02 Definitions
160.03 Lands to Which Chapter Applies
160.04 Rules for Interpretation of Floodplain (Overlay) District
160.05 Compliance
160.06 Abrogation and Greater Restrictions
160.07 Interpretation
160.08 Warning and Disclaimer of Liability; Severability
160.09 Establishment of District; Floodplain (Overlay) District Standards
160.10 Administration
160.11 Floodplain Development Permit Required
160.12 Application for Permit
160.13 Action on Application
160.14 Construction and Use to be as Provided in Application and Plans
160.15 Variances
160.16 Factors Upon Which the Decision to Grant Variances Shall be Based
160.17 Conditions Attached to Variances
160.18 Nonconforming Uses
160.19 Penalties for Violation
160.20 Amendments

160.01 STATUTORY AUTHORITY; FINDINGS OF FACT; STATEMENT OF PURPOSE.

1. The Legislature of the State of Iowa has, in Chapter 414, *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the community.

B. These flood losses are caused by: (i) the occupancy of flood hazard areas by uses vulnerable to flood damages, which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding; and (ii) the cumulative effect of obstructions on the floodplain, causing increases in flood heights and velocities.

3. Statement of Purpose. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in subsection 2(A) of this section, with provisions designed to:

A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;

B. Require that uses vulnerable to floods, including public facilities that serve such uses, be protected against flood damage at the time of initial construction or substantial improvement;

C. Protect individuals from buying lands that may not be suited for intended purposes because of flood hazard; and

D. Assure that eligibility is maintained for property owners in the City 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 (sub-grade) 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, drilling operations, or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance of existing buildings and facilities," as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling, grading.

4. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the City.

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) was completed before the effective date of the first floodplain management regulations adopted by the community.

6. "Expansion of existing factory-built home park or subdivision" 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 home" includes mobile homes, manufactured homes, and modular homes and also includes "recreational vehicles" that 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. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

13. "Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including (but not limited to) emergency preparedness plans, flood control works, flood proofing and floodplain management regulations.

14. "Flood proofing" 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 floodplains adjoining the channel, which are reasonably required to carry and discharge floodwaters 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 floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

17. "Historic structure" 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 by either: (i) an approved State program as determined by the Secretary of the Interior; or (ii) directly by the Secretary of the Interior in states without approved programs.

18. "Lowest floor" 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 160.09(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. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than $500.00.

20. "New construction" (new buildings, factory-built home parks) means those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the City.

21. "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 floodplain management regulations adopted by the City.

22. "100-year flood" means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every 100 years.

23. "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.

24. "Routine maintenance of existing buildings and facilities" means repairs necessary to keep a structure in a safe and habitable condition and which do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

A. Normal maintenance of structures such as re-roofing, replacing roofing tiles, and replacing siding;

B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work;

C. Basement sealing;

D. Repairing or replacing damaged or broken window panes;

E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

25. "Special flood hazard area" 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.

26. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

27. "Structure" 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.

28. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

29. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (i) before the "start of construction" of the improvement; or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred. The term does not, however, include any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe conditions for the existing use. The term also does not include any alteration of a "historic structure," provided the alteration will not preclude the structure's designation as a "historic structure."

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the first floodplain management regulations adopted by the City shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

30. "Variance" means a grant of relief by a community from the terms of the floodplain management regulations.

31. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

160.03 LANDS TO WHICH CHAPTER APPLIES. The provisions of this chapter shall apply to all lands within the jurisdiction of the City which are located within the boundaries of the Floodplain (Overlay) District as established herein.

160.04 RULES FOR INTERPRETATION OF FLOODPLAIN (OVERLAY) DISTRICT. The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this chapter.

160.05 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.

160.06 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.

160.07 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.

160.08 WARNING AND DISCLAIMER OF LIABILITY; SEVERABILITY. The standards required by this chapter are considered reasonable for regulatory purposes. This chapter does not imply that areas outside the designated Floodplain (Overlay) District 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 hereunder. If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

160.09 ESTABLISHMENT OF DISTRICT; FLOODPLAIN (OVERLAY) DISTRICT STANDARDS. The areas within the jurisdiction of the City having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District as well as those for the underlying zoning district. The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Buchanan County and Incorporated Areas, City of Jesup, Panel 19019C0275D, dated July 16, 2008. 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 on the Flood Insurance Rate Map, the Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All Development. All development within the Floodplain (Overlay) District shall:

A. Be consistent with the need to minimize flood damage.

B. Use construction methods and practices that will minimize flood damage.

C. Use construction materials and utility equipment that are resistant to flood damage.

D. Obtain all other necessary permits from Federal, State, and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one 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 Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. 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 flood-proofed to such a level. When flood proofing is utilized, a professional engineer registered in the State shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are flood-proofed 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 foot above the 100-year flood level.

B. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems.

A. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters. 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 floodwaters 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. Flammable or Explosive Materials. Storage of equipment and materials that are flammable, explosive, or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one foot above the 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 floodwaters; or (ii) readily removable from the area within the time available after flood warning.

8. Levees and Floodwalls. Flood control structural works such as levees, floodwalls, 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 carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this chapter. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

11. Accessory Structures.

A. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied:

(1) The structure shall not be used for human habitation.

(2) The structure shall be designed to have low flood damage potential.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or flood-proofed to at least one foot above the 100-year flood level.

B. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

(1) The recreational vehicle shall be located on the site for less than 180 consecutive days, and

(2) The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by

quick disconnect type utilities and security devices and has no permanently attached additions.

B. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.09(5) of this chapter regarding anchoring and elevation of factory-built homes.

13. Pipelines. 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.

160.10 ADMINISTRATION. The Zoning Administrator shall implement and administer the provisions of this chapter and will herein be referred to as the Administrator. Duties and responsibilities of the Administrator include, but are not necessarily limited to, the following:

1. Review all floodplain development permit applications to assure that the provisions of this chapter will be satisfied.

2. Review all floodplain 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 floodplain construction.

3. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures in the Floodplain (Overlay) District.

4. Record and maintain a record of the elevation (in relation to North American Vertical Datum 1988) to which all new or substantially improved structures have been flood proofed.

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.

160.11 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED. A floodplain development permit issued by the Administrator shall be secured prior to any floodplain development (any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation, or drilling operations) including the placement of factory-built homes.

160.12 APPLICATION FOR PERMIT. Application for a floodplain development permit shall be made on forms supplied by the Administrator and shall include the following information:

1. Description of the work to be covered by the permit for which application is to be made.

2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address, or similar description) that will readily identify and locate the work to be done.

3. Indication of the use or occupancy for which the proposed work is intended.

4. Elevation of the 100-year flood.

5. Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.

6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

7. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this chapter.

160.13 ACTION ON APPLICATION. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefor. The Administrator shall not issue permits for variances except as directed by the Board of Adjustment.

160.14 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS. Floodplain 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, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

160.15 VARIANCES. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. Variances shall only be granted upon: (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

2. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25.00 for $100.00 of insurance coverage; and (ii) such construction increases risks to life and property.

160.16 FACTORS UPON WHICH THE DECISION TO GRANT VARIANCES SHALL BE BASED. In passing upon applications for variances, the Board of Adjustment shall consider all relevant factors specified in other sections of this chapter and:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

2. The danger that materials may be swept on to other land or downstream to the injury of others.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services provided by the proposed facility to the City.

6. The requirements of the facility for a floodplain location.

7. The availability of alternative locations not subject to flooding for the proposed use.

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

12. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

13. Such other factors which are relevant to the purpose of this chapter.

160.17 CONDITIONS ATTACHED TO VARIANCES. Upon consideration of the factors listed in Section 160.16, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities.

2. Limitation of periods of use and operation.

3. Imposition of operational controls, sureties, and deed restrictions.

4. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter.

5. Flood proofing measures.

160.18 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 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.

160.19 PENALTIES FOR VIOLATION. Violations of the provisions of this chapter or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 or imprisoned for not more than 30 days. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy violations.

160.20 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.

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CHAPTER 165

ZONING REGULATIONS

EDITOR'S NOTE

Ordinance No. 472 entitled "City of Jesup, Iowa, Zoning Ordinance," adopted January 5, 2006, 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 Ordinance No. 472:

ORDINANCE	ADOPTED	SUBJECT
475	May 4, 2006	Rezoning from R-3 to R-1
478	September 7, 2006	Rezoning from R-3, C-1, R-1 to R-1
492	April 12, 2007	Permitted Uses in C-1 and C-2
494	July 5, 2007	Rezoning from R-1 to R-2
495	April 1, 2008	Rezoning from R-2 to R-3
496	April 1, 2008	Rezoning from M-1 to M-2
497	April 1, 2008	Special Exception Uses in M-1
506	June 1, 2009	Minimum Front Yards in R-1, R-2, R-3
507	June 1, 2009	Rezoning from M-1 to A-1
511	May 3, 2010	Rezoning from C-2 to R-3
528	May 1, 2012	Special Exceptions in C-1; Detached Accessory Buildings, Garages, Structures, and Uses
529	June 5, 2012	Rezoning from R-2 to R-3
536	January 3, 2013	Permitted Uses in R-3 and C-1; Special Exception in M-1
538	February 13, 2013	Rezoning from R-1 to R-3
546	September 3, 2013	Rezoning from C-2 to C-1
556	September 16, 2014	Rezoning from R-1 to C-1
558	December 2, 2014	Permitted Uses in M-2
568	October 6, 2015	Rezoning from R-1 to A-1

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CHAPTER 166

WIND TURBINES

166.01 Purpose
166.02 Definitions
166.03 Applicability
166.04 Procedures
166.05 District Regulations
166.06 Requirements and Standards
166.07 Other Applicable Standards
166.08 WECS Permit Process
166.09 Release of Liability

166.01 PURPOSE. This chapter establishes regulations for the installation and operation of Wind Energy Conversion Systems (WECS) within the City limits for the City of Jesup. The purpose of this regulation is to promote the safe, effective, and efficient use of wind energy conversion systems to reduce the consumption of utility-supplied electricity. It is the purpose and intent of these regulations to ensure the proper design, siting, and installation of wind energy conversion systems in order to protect the public health, safety, and welfare of surrounding property owners and the community. The provisions of this chapter shall not guarantee wind rights or establish access to the wind.

166.02 DEFINITIONS.

1. "WECS" shall mean wind energy conversion system. That is, an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations, and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy maybe used on-site and/or distributed into the electrical grid.

2. "Aggregated Project" shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but also included as part of the aggregated project.

3. "Operator" shall mean the entity responsible for the day-to-day operation and maintenance of the wind energy conversion system.

4. "Commercial WECS" shall mean a WECS of equal to or greater than one-hundred (100) kilowatts in total name plate generating capacity.

5. "Non-Commercial WECS" shall mean a WECS of less than one-hundred (100) kilowatts in total name plate generating capacity.

6. "Fall Zone" shall mean the area, defined as the furthest distance from the tower base, in which a guyed tower could collapse in the event of a structural failure. This area is commonly similar to the total height of the structure.

7. "Tower Height" shall mean the height above grade of the fixed portion of the tower, excluding the wind turbine itself.

8. "Total Height" shall mean the height above grade to a rotor blade at its highest point.

9. "Feeder Line" shall mean any power line that carries electrical power from one or more wind turbines or individuals transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the WECS.

10. "Meteorological Tower" shall mean those towers which are erected primarily to measure wind speed and directions plus other data relevant to site WECS. Meteorological towers do not include towers and equipment used by airports, the Iowa Department of Transportation, or other similar applications to monitor weather conditions.

11. "Micro-WECS" shall mean a WECS of one (1) kilowatt name plate generating capacity or less and utilizing supporting towers of forty (40) feet or less.

12. "Non-Commercial Micro WECS" shall mean a WECS of equal to or greater than ten (10) kilowatts in total name plate generating capacity and utilizing supporting towers of one-hundred twenty (120) feet or less.

13. "Nacelle" shall mean the key components of the wind turbine, including the gearbox, yaw system, and electrical generator.

14. "Property line" shall mean the boundary line of the area over which the entity applying for a WECS permit has legal control for the purposes of installation of a WECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.

15. "Participating Landowner" shall mean any landowner whose property has or is proposed to have all or a portion of a wind energy conversion system located on it pursuant to an agreement with a facility owner or operator.

16. "Non-Participating Landowner" shall mean any landowner except those on whose property all or a portion of a wind energy conversion system is located pursuant to an agreement with a facility owner or operator.

17. "Rotor diameter" shall mean the diameter of the circle described by the moving rotor blades.

18. "Guy wire" shall mean any wire extending from a wind energy conversion system for the purpose of supporting the structure.

19. "Substation" shall mean any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than thirty-five thousand (35,000) volts (35 kilovolts) for interconnection with high voltage transmission lines. High voltage transmission lines shall be located outside of the road right-of-way.

20. "Tower" shall mean the tower of a wind turbine which shall include the vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

21. "Occupied Structure" shall mean a residence, school, hospital, church, public library, office, or other building used for public gathering that is occupied or in use when the permit application is submitted.

22. "Transmission Line" shall mean those electrical power lines that carry voltages of at least sixty-nine thousand (69,000) volts (69 kilovolts) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

23. "Shadow Flicker" shall mean alternating changes in light intensity caused by the moving blade of a wind energy conversion system casting shadows on the ground and stationary objects, such as a window at a residence.

24. "Public conservation lands" shall mean land owned in fee title by County, State, or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, Federal Wildlife Refuges, Hunting Preserve, and Waterfowl Production Areas. For the purpose of this chapter, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

25. "Wind turbine" shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

26. "Wind generator" shall mean the blades and associated mechanical and electrical conversion components mounted on the top of the tower.

166.03 APPLICABILITY. It shall be unlawful to construct, erect, install, alter, or locate any WECS within the City limits of the City of Jesup, without rezoning the area of the proposed site to M-2 and being authorized by the Planning and Zoning Commission and approved by the City Council in a public hearing.

166.04 PROCEDURES.

1. Applications requirements for a WECS permit shall be made on a permit application to the City of Jesup for any WECS proposed within the City limits.

2. No WECS or wind turbine shall be constructed, erected, converted, installed, reconstructed, enlarged, located, relocated, structurally altered, or otherwise developed including the placement of additional buildings and appurtenances without obtaining a zoning placement permit and being in full compliance with the terms of this section and other applicable codes, regulations, and policies adopted by the County, State, or Federal Government.

3. Rezoning or map amendment shall be applied for and reviewed under the procedures established in this chapter, except where noted below. Reasonable fees shall be charged for rezoning per parcel or tract of land as well as a fee for each tower included in the application. Said fees shall be determined by the Planning and Zoning Commission and approved by the City Council.

4. The application for all WECS shall include the following information:

A. The name(s) and address of the project applicant.

B. The name of the project owner.

C. The legal description of the site where development is planned.

D. Evidence that the applicant is the owner of the property where development is planned or written approval of the property owner authorizing the applicant to make the application for the WECS.

E. A preliminary description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, and total height of all wind turbines and means of interconnecting with the electrical grid.

F. Preliminary site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessary structures. The site layout shall include distances and be drawn to scale or include accurate dimensions with aerial photos or drawings.

G. If connection to the publicly regulated utility grid is proposed, a copy of the contract between the applicant and the utility company verifying that the proposed connection is acceptable, and/or other evidence making clear that the utility company is aware of the proposed connection and finds it acceptable.

H. Computer model analysis showing worst-case and estimated real-case annual hours of shadow flicker.

5. The building permit (after zoning approval) for the commercial WECS shall include:

A. Final site plan.

B. Final legal description.

C. Engineer's certification.

D. The latitude and longitude of individual wind turbines.

E. A U.S. Geological Survey topographical map, or map with similar data, or the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.

F. Location of wetlands, scenic, and natural areas [including bluffs] within one thousand three-hundred twenty (1,320) feet of the proposed WECS. [dependent on DNR/Iowa Code]

G. An acoustical analysis.

H. Federal Aviation Administration (FAA) permit application.

I. Location of all known communications towers within two (2) miles of the proposed WECS.

J. Discontinuation and decommissioning plan.

K. Description of potential impacts on nearby WECS and wind resources on adjacent properties.

6. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the City of Jesup Zoning Department and approved by the City Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the County any and all damages caused to the streets, highways, and bridges, by applicant.

7. Aggregated Projected Procedures: Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearings, reviews, and as appropriate, approvals.

166.05 DISTRICT REGULATIONS.

1. WECS may be permitted as a Principal Permitted Use in the M-2 Zone, as set forth in the Jesup Code of Ordinances, so long as bulk requirements and setback requirements are addressed. Said bulk requirements are shown in Table 1 below.

2. Setbacks: Substations and Accessory Facilities.

A. Minimum setback standards for substations, feeder lines, and fences shall be consistent with the standards for accessory structures established in the Jesup Zoning Ordinance.

(1) Substation setbacks:

(i) Ten (10) feet, structure setback from road right-of-way located wholly outside the right-of-way.

(ii) Property lines ten (10) feet; structure setback from property lines, side yard.

Table 166.05

WECS Setback Requirements: Wind Turbines and Meteorological Towers

	Wind Turbine Non-Commercial Micro WECS	**Wind Turbine Non-Commercial WECS**	**Wind Turbine Commercial WECS**	**Meteorological Towers**
Property Lines	1.1 times the total height or the distance of the fall zone, unless a waiver of this requirement is signed by a participating landowner.	1.1 times the total height or the distance of the fall zone by a professional engineer plus 10 feet unless a waiver of this requirement is signed by a participating landowner.	1.25 times the total height, unless a waiver of this requirement is signed by a participating landowner.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height, unless a waiver of this requirement is signed by a participating landowner.

	Wind Turbine Non-Commercial Micro WECS	**Wind Turbine Non-Commercial WECS**	**Wind Turbine Commercial WECS**	**Meteorological Towers**
Neighboring Dwellings[1]	1,000 feet. This setback requirement may be reduced by the Zoning Administrator subject in maintaining adequate health and safety requirements or waived by the dwelling occupant or owner.	1,000 feet.	1,200 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Road Right-of-Ways[2]	The distance of the fall zone plus 10 feet or 1.1 times the total height.	The distance of the fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	1.1 times the height may be reduced for minimum maintenance roads.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Other Rights-of-Way (Railroads, grasslands, or hunting preserve)	The lesser of 1.1 times the total height or the fall zone plus 10 feet.	The lesser of 1.1 times the total height or the distance of the fall zone as certified by professional engineer plus 10 feet.	The lesser of 1.1 the total height or the distance by a professional engineer plus 10 feet.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Public conservation lands managed as grasslands, or hunting preserve	600 feet or 200 yards.	600 feet or 200 yards.	600 feet or 200 yards.	600 feet or 200 yards
Wetlands	NA	NA	NA	NA

	Wind Turbine Non-Commercial Micro WECS	**Wind Turbine Non-Commercial WECS**	**Wind Turbine Commercial WECS**	**Meteorological Towers**
Other structures	The fall zone plus 10 feet or 1.1 times the total the height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.	The fall zone, as certified by a professional engineer plus 10 feet or 1.1 times the total height.
Other existing WECS	NA	NA	To be determined through cup review based on: relative size of the existing and proposed WECS, alignment of the WECS relative to the predominant winds, topography, extent of the wake interference impacts on existing WECS, other setbacks required waived for multiple turbine projects including aggregated projects.	The fall zone, as certified by a professional engineer plus 10 feet or 1 times the total height. Extent of wake interference impacts on existing WECS shall be considered.

[1]The setback for dwellings shall be reciprocal in that no dwelling shall be constructed within one-thousand two-hundred (1,200) feet of a commercial wind turbine; unless a release of liability is received from the WECS.
[2]The setback shall be measured from future rights-of-way if a planned change or expanded right-of-way is known.

166.06 REQUIREMENTS AND STANDARDS.

1. Safety Design Standards.

A. Engineering Certification. For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

B. Clearance. Rotor blades or airfoils must maintain at least thirty (30) feet of clearance between their lowest point and the ground.

C. Warnings. For all commercial WECS, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage.

2. Height Standard.

A. Total Height. Non-Commercial WECS shall have a total height of less than two hundred feet.

B. Total Height must also be in compliance with all municipal airport ordinances within Buchanan County.

C. Commercial WECS shall be in compliance with all County, State and Federal regulations and shall be approved, upon the review and recommendation of the Planning and Zoning Commission and the City Council, under a standard taking into consideration public safety, aviation safety, and aesthetics as well as all setback requirements as outlined in Table 166.05.

3. Meteorological towers may utilize guy wires.

4. Color and Finish. All wind turbines and towers that are part of a commercial WECS shall be white, grey, or another non-obtrusive color. Blades may be black in order to facilitate deicing. Finishes shall be matte or non-reflective. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.

5. Lighting. Lightning, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds and for aircraft awareness. Red pulsating incandescent lights should be avoided. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.

6. Other Signage. All signage on site shall comply with Sign Regulations of the Jesup Zoning Ordinance. The manufacturer's or owner's company name and/or logo may be placed upon the nacelle or base of the WECS.

7. Feeder Lines. All communications and feeder lines, equal to or less than thirty-four and one-half (34.5) kilovolts in capacity, installed as part of a WECS shall be buried where reasonably feasible.

8. Waste Disposal. Solid and hazardous waste, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, State, and federal regulations.

9. Impact on Public Infrastructure. Reimbursement of all costs related to excessive wear and tear to any public infrastructure such as, but not limited to, County roads and bridges, and to any highway system, storm water management related improvements and/or public utilities that are caused by the construction, maintenance, or removal of any WECS shall be reimbursed to the affected local government. A determination shall be made by the Board of Supervisors after consultation with the engineer or applicable official to establish if excessive wear and tear or damage has occurred and to estimate the costs of repair for said work. Any damage to any haul routes, as determined by the engineer, shall be reimbursed to the local government affected and shall be billed to the corporation or company owning said WECS to be paid within forty-five (45) days of issuance and may be subject to late charges, interest, or penalties as allowed by law. All haul routes shall be reviewed and approved by the engineer on use of any County roads prior to construction, maintenance, or removal of any WECS. In order to review proposed haul routes and/or work locations, WECS manufacturer(s) or owner(s) and/or their contractors shall contact the engineer a minimum of one (1) month prior to starting any work in the City of Jesup. In addition to the rezoning fee, the applicant must also file a bond in an amount determined by the City of Jesup and approved by the City Engineer. Said bond shall be from a surety company authorized to do business in the State of Iowa and Buchanan County. The bond shall be conditioned that the applicant under this section will pay to the County any and all damages caused to the streets, highways, and bridges, by applicant.

10. Shadow Flicker. WECS shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is deemed to be more than thirty (30) hours per year on affected occupied structures. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed through siting or mitigation measures.

The owner and operator of a Commercial WECS shall make reasonable efforts to minimize shadow flicker to any occupied structure on a non-participating landowner's property, both through the initial design of the system and as a result of any shadow flicker complaints occurring after the facility is operational. A shadow flicker mitigation plan shall be submitted with the Commercial WECS application, outlining steps that will be taken to minimize shadow flicker. Reasonable efforts shall include, but not be limited to the use, of computer modeling to identify optimum location and orientation of each Commercial WECS and programs to ensure wind turbine blades do not rotate during times when shadow flicker may adversely affect a non-participating landowner's property.

11. Discontinuation and Decommissioning. Any WECS which remains non-functional or inoperative for a period of one (1) year shall be considered discontinued, unless a plan is developed and submitted to the Jesup Zoning Administrator outlining the steps and schedule for returning the WECS to service.

A. All WECS and accessory facilities shall be removed to a depth of four (4) feet including footing and foundations within one-hundred eighty (180) days of the discontinuation of use.

B. Each Commercial WECS shall have a decommissioning plan outlining the anticipated means and cost of removing each WECS at the end of their serviceable life or upon becoming discontinued.

C. The cost estimates associated with a decommissioning plan shall be made by a competent party; such as a professional engineer, a contractor capable of decommissioning WECS, or such other person with suitable expertise or experience with decommissioning WECS.

D. The decommissioning plan shall identify the financial resources that will be available to pay for the decommissioning and removal of the WECS accessory facilities.

E. The City of Jesup will require financial security in the form of a cash escrow, and irrevocable letter of credit or a performance bond to ensure that decommissioning of a Commercial WECS or Non-commercial WECS is completed as required in this procedure.

166.07 OTHER APPLICABLE STANDARDS.

1. Noise. WECS has been installed shall not exceed the noise level of fifty-five (55) decibels, as measured at the exterior of any occupied building on a non-participating landowner's property. Methods for measuring and reporting acoustic emissions from wind turbines and the commercial wind energy conversion system shall be equal to or exceed the minimum standards for precision described in AWEA Standard 2.1–1989 titled Procedures for the Measurement and Reporting of Acoustic Emissions from Wind Turbine Generation Systems Volume I: First Tier. In the event of an alleged nuisance, the City of Jesup shall request that the decibel level be determined by the Iowa Department of Natural Resources or shall be determined by a third party hired by the operator.

2. Electrical Codes and Standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

3. Federal Aviation Administration. All WECS shall comply with FAA standards and permits.

4. Uniform Building Code. All WECS shall comply with the State Building Code adopted by the State of Iowa.

5. Interference. The applicant(s) shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant(s) shall notify all communication tower operators within two miles of the proposed WECS location upon application to the City of Jesup for permits. No WECS shall be constructed so as to interfere with the City of Jesup, Buchanan County or Iowa Department of Transportation microwave transmissions.

6. Waiver of Noise Provision for Commercial WECS. Non-participating landowners may waive, in whole or part, the noise regulation requirements in Section 166.07(1) of this chapter by singing a wavier or easement that sets forth the applicable noise provision(s) and the proposed changes. Any such waiver shall be recorded in the Buchanan County Recorder's Office. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened

property that the waiver of noise regulation requirements shall run with the land and may forever burden the subject property.

7. Waiver of Shadow Flicker Impact Regulations. Non-participating landowners may waive, in whole or part, the shadow flicker impact regulation requirements in Section 166.06(10) of this chapter by signing a waiver that sets forth the applicable shadow flicker impact provision(s) and the proposed changes. Any such waiver shall be recorded in the Buchanan County Recorder's Office. The waiver shall describe the properties benefited and burdened, and advise all subsequent purchasers of the burdened property that the waiver of shadow flicker regulation requirements shall run with the land and may forever burden the subject property.

8. A WECS Permit may be revoked any time the WECS does not comply with the rules and regulations set forth in this chapter or WECS Permit. The revocation of the WECS Permit requires the WECS to be physically removed within one-hundred eighty (180) days.

166.08 WECS PERMIT PROCESS. All WECS Permit applications shall be approved by the City of Jesup following the standards and procedures as set forth in the Jesup Zoning Ordinance.

166.09 RELEASE OF LIABILITY. The City of Jesup shall be fully released of any liability associated with any WECS built within the City limits of the City of Jesup.

(Ch. 166 – Ord. 557 – Dec. 14 Supp.)

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CHAPTER 170

SUBDIVISION REGULATIONS

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170.01 PURPOSE. The purpose of this chapter is to provide procedures and guidance for the review and consideration of all subdivisions, re-subdivision, or dedications in the incorporated areas of the City, as well as a formal review procedure, pursuant to Section 354.9 of the *Code of Iowa*, for subdivisions proposed in the unincorporated area in the two-mile area around the corporate limits of the City; implementing the City's Comprehensive Plan; prescribing minimum standards for the design layout and development thereof; providing for the preliminary and final approval or disapproval thereof; providing for the enforcement and penalties for the violation thereof; all for the purpose of promoting adequacy, safety, and efficiency of the street and road system, and for the purpose of improving the health, safety, and general welfare of the citizens; and repealing all other ordinances or resolutions in conflict herewith. This chapter is permitted and specifically authorized in Chapter 354 of the *Code of Iowa*.

170.02 TITLE. This chapter shall be known as the "Jesup, Iowa, Subdivision Ordinance."

170.03 DEFINITIONS. For the purpose of this chapter, certain words and terms are defined in this section. The following terms are intended to be consistent with Chapter 354 of the *Code of Iowa*, as amended, and any changes to the Code shall automatically be assumed to be part of this chapter.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as a result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.

2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fraction parts one-half (½), one-quarter (¼), one-half (½) of one-quarter (¼), or one quarter (¼) of one-quarter (¼) shall be considered an aliquot part of a section.

3. "Alley" or "lane" means a public or private way not more than sixteen (16) feet wide affording generally secondary means of access to abutting property and not intended for general traffic circulation.

4. "Auditor's Plat" means a subdivision plat required by either the County Auditor or the County Assessor, prepared by a surveyor under the direction of the County Auditor.

5. "Block" means an area of land within a subdivision that is entirely bounded by streets, highways, or the exterior boundary or boundaries of the subdivision, except alleys.

6. "Building lines" shall be shown on all lots, whether intended for residential, commercial, or industrial use. Such building lines shall not be less than required by the Zoning Ordinance of the City.

7. "Commission" means the Jesup Planning and Zoning Commission.

8. "Conveyance" means an instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.

9. "County" means Buchanan County, Iowa, or Black Hawk County, Iowa.

10. "Cul-de-sac" means a street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

11. "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.

12. "Developer" – see the definition of "proprietor."

13. "Division" means dividing a tract or parcel of land into two (2) parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purposes of this chapter.

14. "Driveway" means a private property access to either: a private or public street, road, alley, highway, or freeway. Adopted driveway details are available at City Hall.

15. "Easement" means a grant by a proprietor of a limited use of land to the general public, a corporation, or a certain person or persons, and within the limits of which the proprietor shall not erect any permanent structures but shall have the right to make any other use of the land subject to such easement which is not inconsistent with the rights of the grantee. Public utilities shall have the right to trim or remove trees that interfere with the use of such easements.

16. "Engineer" means a registered civil engineer authorized and licensed to practice engineering in the State of Iowa.

17. "Final plat" means the final map or plan of record of a subdivision and any accompanying material, as described in Section 170.12.

18. "Improvements" means addition of any facility or construction on land necessary to prepare land for building sites including road paving, drainage ways, sewers, water mains, wells, and other works and appurtenances.

19. "Lot," for the purpose of this chapter, is a parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area to provide such yards and other open space as are herein required. Said lot shall have frontage on or access to a public street or private street and may consist of: (i) a single lot of record; (ii) a portion of a lot of record; (iii) a combination of complete lots of record, or complete

lots of record and portions of lots of record, or of portions of lots of record; or (iv) a parcel of land described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code of Ordinances.

20. "Major subdivision" means any subdivision not classified as a minor subdivision, including, but not limited to, any size subdivision requiring any new public or private street or extension of local government facilities, to any new improvements.

21. "Metes and bounds" means the method used to describe a tract of land that uses distance and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to survey monuments or physical features of the land.

22. "Minor plat" means a plat in lieu of a preliminary and final subdivision plat in the case of minor subdivisions to enable the proprietor to save time and expense in reaching a general agreement as to the form of the plat and the objectives of Section 170.13.

23. "Minor subdivision" means any subdivision that creates not more than four (4) parcels fronting an existing road, not involving any new road or street or the extension of municipal utilities or the creation of any improvements or the dedication of lands to the City, and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision of the Comprehensive Plan, Zoning Ordinance, or this Code of Ordinances, and must meet the appropriate provisions of this chapter.

24. "Nonresidential subdivision" means a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of this chapter.

25. "Official plat" means either an Auditor's plat or a major or minor subdivision plat that meets the requirements of the *Code of Iowa* and has been filed for record in the offices of the County Recorder, County Auditor, and County Assessor.

26. "Outlot" means a portion of a subdivision or other parcel or tract intended as a unit for the proposed (whether immediate or future) transfer of ownership. An outlot shall be an unbuildable lot, in and of itself. Typically a proprietor may use an outlot for the following reasons: (i) to reserve a portion of a final plat for future development or sale; (ii) to reserve a portion of a final plat for construction of and future dedication of a detention basin to the City or private association; or (iii) for construction of a private street or access that will be owned and maintained by a private association. Outlots shall be denoted with a letter rather than a number on the final plat or minor plat.

27. "Parcel" means a part of a tract of land.

28. "Permanent Real Estate Index Number" means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.

29. "Plat of survey" means the geographical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

30. "Preliminary plat" means the proposed map or plan of record of a subdivision and any accompanying material, as described in Section 170.11.

31. "Property line adjustment" means the survey and plat preparation of one or more lots or parcels that meet the following criteria: (i) no additional lots or parcels shall be created; and (ii) no part of the divided lot or parcel will be transferred to anyone but the owner or owners of a lot or parcel of land abutting that part of the divided lot or parcel of land to be transferred; and (iii) no adjusted lot or parcel shall conflict with the Zoning Ordinance or this chapter. This type of survey plat shall be prepared in accordance with the *Code of Iowa* requirements and shall be submitted to the City for approval, according to Section 170.14 of this chapter.

32. "Proprietor" means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding only a mortgage, easement, or lien interest. This definition also includes a person or persons designated to act on behalf of a proprietor.

33. "Resubdivision" means a change on a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use or at any lot line, or if such a change affects any map or plan legally recorded prior to the effective date of the ordinance codified in this chapter.

34. "Right-of-way" means the land area the right to possession of which is secured or reserved by the contracting authority for road purposes.

35. "Street line" means a dividing line between a lot, tract or parcel of land and a contiguous street.

36. "Street, road, drive, alley, or entrance (private)" means all property intended for use by vehicular traffic, but not dedicated to the public or controlled and maintained by a political subdivision.

37. "Street, road, alley, drive or entrance (public system)" means all property intended for use by vehicular traffic, which has been dedicated to the public or deeded to a political subdivision.

38. "Subdivision" means any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcel, sites, units, plots, or interests for the purpose of sale or conveyance including a sale on contract or the making of a gift, or lease, or development, including re-subdivision. "Subdivision" includes the division or development of residential or nonresidential zoned land, whether by deed, sale on contract, devise, intestate succession, lease, map, plat, or other recorded instrument.

39. "Surveyor" means a registered land surveyor authorized and licensed to practice surveying in the State of Iowa, pursuant to Chapters 355 and 542B of the *Code of Iowa*.

40. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot or land not within an official plat and not an aliquot part.

41. "Zoning Administrator" means the administrative officer designated or appointed by the City Council to administer and enforce the regulations contained in this Code of Ordinances.

170.04 GENERAL PROVISIONS.

1. Application. This chapter applies to all plats, replats, and divisions of land into parcels lying in the incorporated area of the City, as well as the subdivision of land that is within two (2) miles of the City's corporate boundaries. The provisions of

this chapter apply to the division of any lot or parcel of land entered of record in the office of the County Recorder as a single lot or parcel on or after the effective date of the ordinance codified in this chapter.

2. Plats within Two Miles of the City. In accordance with the provisions of Section 354.9 of the *Code of Iowa*, as amended, a proprietor or other agent shall file a copy of all preliminary and final subdivision plats, including minor plats, for the unincorporated areas within Buchanan and Black Hawk Counties that are within two miles of the City. The City may review and comment on the proposed subdivision. The City may approve, disapprove, or waive their right to review all plats within the extraterritorial area defined herein. The plat(s) shall be filed with the City Clerk prior to or at the same time as filing with the County. Approval by one political entity does not automatically constitute approval by the others unless the political entities have so agreed.

3. Subdivision Classification. Any proposed subdivision or re-subdivision shall be classified as a minor subdivision or a major subdivision by the Zoning Administrator. To aid in this, the proprietor shall submit in writing or other appropriate documentation the principle features of access, relationship and location of existing roads, proposed water and sanitary sewer systems, public utilities and improvements, the number and location of the proposed lots and other pertinent data or information. Any subdivision may be classified as a major subdivision at the proprietor's request.

4. Zoning. Any property proposed for subdivision shall be correctly zoned to accommodate the proposed uses before the subdivision process is begun.

5. Review by Agencies. All plats shall be submitted to the Zoning Administrator and City Clerk for review prior to recording and one copy to the: Mayor and Council, Zoning Administrator, City Clerk, City Engineer, Street Superintendent, Wastewater Superintendent, Building Inspector, and Planning and Zoning Commission. Each of the aforementioned offices shall examine the plat as to its compliance with the zoning ordinances and regulations of the City, as well as of the County and the State of Iowa, and submit their findings to the Zoning Administrator pursuant to the submittal and review process guidelines in the Appendix to this Code of Ordinances.

170.05 SUBDIVISION DESIGN STANDARDS. The standards and details of design herein contained are intended only as the minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the plat, the proprietor should use standards consistent with the site conditions so as to assure an economical, pleasant and desirable neighborhood, and shall conform to design standards as approved by the City Council.

170.06 LAND SUITABILITY. No land shall be subdivided for residential purposes that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other features likely to be harmful to the health, safety or general welfare unless such suitable conditions are corrected to the satisfaction of the City.

1. If a subdivision is found to be unsuitable for any of the reasons cited in this section, the Planning and Zoning Commission or City Council shall state its reasons in writing and afford the proprietor an opportunity to present data regarding such

unsuitability. Thereafter, the Commission or Council may re-affirm, modify, or withdraw its determination of unsuitability.

2. All lots located within a floodplain shall contain adequate area above the elevation of flooding for essential and planned installations. All land in a subdivision that lies in a floodplain shall be:

A. Identified as such on the individual lots in the preliminary plat, and

B. Encouraged to remain as open space for use by all proprietors of lots in the subdivision with an appropriate instrument providing for its care by such proprietors.

3. Subdivisions (including mobile home parks) 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 shall meet the applicable performance standards.

170.07 DESIGN STANDARDS FOR STREETS.

1. Private Streets. Private streets, not dedicated to and accepted by the City, proposed after the effective date of the ordinance codified in this chapter are discouraged. If private streets are utilized they shall be built to public standards, and they shall be platted as such and be under the control of the subdivision, homeowners association, and/or proprietor.

2. Continuation of Existing Streets. Proposed streets shall provide for continuation or completion of any existing streets (constructed or recorded) in adjoining property, at equal or greater width to those defined in subsection 14 of this section.

3. Circulation. The street pattern shall provide ease of circulation within the subdivision as well as convenient access to adjoining streets, thoroughfares, or unsubdivided land as may be required by the City so as to not impede the future growth and development of the community. In a case where a street will eventually be extended beyond the plan, but is temporarily dead-ended, an interim turnaround shall be required and built to City standards.

4. Street Intersection. Street intersections shall be as near to right angles (90 degrees) as possible. Street offsets shall be discouraged; however, if permitted, there shall be a minimum of 150 feet offset between centerlines of intersecting streets.

5. Cul-de-Sac. If a cul-de-sac is permitted, such street shall be no longer than 500 feet and shall be provided at the closed end with a turn-a-round having a street property line diameter of at least 110 feet in the case of residential subdivisions. The right-of-way width of the street leading to the turn-a-round shall be equal or greater to those defined in subsection 14 of this section. The property line at the intersection of the turn-a-round and the lead-in portion of the street shall be rounded at the radius of not less than 30 feet. A paved cul-de-sac with concrete curb and gutter shall have a minimum paved diameter of 90 feet measured from the back of the curb to back of curb.

6. Street Names. All newly platted streets shall be named in a manner consistent with the present street name system. A proposed street that is obviously in alignment with other existing streets, or with a street that may be logically extended through the various portions, shall bear the same name. New street names shall be subject to the

recommendation of the Commission and approval by the Council so as to avoid duplication or similarity of names.

7. Physical and Cultural Features. In general, streets shall be platted with appropriate regard for topography, creeks, wooded area, and other natural features which would lend themselves to attractive treatment.

8. Half Streets. Dedication of a half street, which is defined as the area between the right-of-way line and centerline of one side of a street, will be prohibited unless there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half shall be platted if recommended by the Commission and approved by the Council.

9. Alleys. Alleys may be required in business areas and industrial districts for adequate access to block interiors and for off-street loading and parking purposes. Except where justified by unusual conditions, alleys will not be approved in residential districts. Dead-ended alleys shall be provided with a means of turning around at the dead end thereof.

10. Easements.

A. Permanent structures shall not be constructed or placed on an easement.

B. Easements for utilities (water and sewer), when necessary, shall be provided along rear or side lot lines or along alleys. The width of such easement shall be not less than 20 feet in total width. In the event that there exists an easement in an adjacent subdivision, the 20-foot requirement may be reduced to 10 feet to allow for a minimum of 20-foot total easement.

C. A ten-foot easement shall be required in the front yard.

D. Whenever a subdivision is traversed by a waterway, channel, drainage way, stream, sanitary sewer, or storm water drainage structure, a storm water easement or drainage easement may be required. The width of such easement shall be adequate for the anticipated drainage but not less than 20 feet and shall be shown on the plat.

E. Any lot that has no frontage upon a public or private street shall be provided with an easement for access to a public or private street. The width of such easement shall not be less than 30 feet.

F. Easements to the City for street purposes shall not be allowed.

11. Neighborhood Plan. If any overall plan has been approved by the City for the neighborhood in which the proposed subdivision is located, the street system of the latter shall conform in general thereto.

12. Unsubdivided Portion of Plat. Where the plat to be submitted includes only part of the tract owned by the proprietor, the Commission may require a sketch of the prospective future development of the unsubmitted part. The street system of the part submitted shall be correlated with the street system of the part not submitted.

13. Major Thoroughfares. Where a new subdivision, except where justified by limiting conditions, involves frontage on a heavy traffic way, limited access way, freeway, or parkway, the street layout shall provide motor access to such frontage by one of the following means:

A. Be so arranged as to permit, where necessary, future grade separations at highway crossings.

B. Border the highway with a parallel street at a sufficient distance from it to permit deep lots to go back onto the highway; or form a buffer strip for park, commercial, or industrial use.

14. Street Right-of-Way Width, Lanes, and Surface Widths. The number of lanes, size of right-of-ways, and street surface widths shall be classified using the following table.

Type of Street (Examples of Street Types in Jesup)	**Lanes (Parking on both sides)**	**Minimum Right-of-Way Width**	**Minimum Width (Back-to-back of curb)**
Arterial (South)	3	80 feet	48 feet
Collector (Main, Hawley, Douglas, North, 1st, 6th, and 10th)	2	66 feet	36 feet
Service and Local (All other streets)	2	60 feet	31 feet

All streets that serve commercial or industrial uses shall be built to collector street measurements, at a minimum.

All streets shall be paved with Portland Cement Concrete (PCC) Pavement bounded by Portland Cement Concrete (PCC) curb and gutter. Curb and gutter shall be a minimum of 30 inches.

All streets shall be paved in accordance with specifications approved by the City Council and City Engineer according to the following table.

Type of Street (Examples of Street Types in Jesup)	**Minimum Street Base Type and Thickness**	**Minimum Thickness of Portland Cement Concrete**
Arterial (South Streets)	8 inches of rock	by design
Collector (Main, Hawley, Douglas, North, 1st, 6th, and 10th Streets)	8 inches of rock	8 inches of concrete
Service (All Other Streets)	6 inches of rock	7 inches of concrete

15. Street Alignments. Streets and alleys shall be completed to grades that have been officially determined or approved by the City Council. All streets shall be graded to within two feet of the right-of-way and adjacent sides slopes graded to blend with the natural ground level. The maximum grade shall not exceed six percent for main thoroughfares or ten percent for arterial, collector, and service streets. The minimum grade for any street shall not be less than one-half of one percent. A minimum centerline radius of 150 feet shall be required of all streets. All street alignments, both horizontally and vertically, shall meet design criteria as specified in the current American Association of State Highway and Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets.

170.08 DESIGN STANDARDS FOR BLOCKS.

1. No block shall be longer than 1,000 feet.

2. At street intersections, block corners shall be rounded with a radius of not less than 25 feet. However, where a curve radius has been previously established, such radius shall be used as standard if greater than 25 feet.

170.09 DESIGN STANDARDS FOR LOTS.

1. Corner lots shall have a minimum width that will permit required building setbacks on both front and side streets in accordance with the Zoning Ordinance.

2. Double frontage lots, other than corner lots, shall be prohibited except where such lots back onto a major street or highway.

3. Minimum lot sizes and dimensions, as defined in the Zoning Ordinance, shall be met.

4. Side lot lines shall be approximately at right angles (90 degrees) to the street or radial to curved streets. On large size lots and except when indicated by topography, lot lines shall be straight.

5. All outlots shall be noted as unbuildable on plats and shall be denoted with a letter rather than a number on the final plat or minor plat.

170.10 IMPROVEMENTS REQUIRED. Unless otherwise stated in this chapter, all improvement costs shall be borne by the developer.

1. Streets and Roads. In addition to Section 170.07, all streets or roads intended to be dedicated to public use and accepted into the City street system shall meet the following criteria:

A. All streets shall be built to grade and standard cross-section according to the plans approved by the City Engineer and City Council prior to construction. Both plan and profile view details shall be drawn on minimum 22 x 34-inch sheets to a scale of one inch equals 20 feet horizontal and one inch equals four feet vertical. If feasible, 11 x 17-inch plans drawn to a scale of one inch equals 40 feet horizontal and one inch equals eight feet vertical shall be acceptable.

B. All streets shall be paved with Portland Cement Concrete (PCC) and have Portland Cement Concrete (PCC) curb and gutter, which is a minimum of 30 inches wide.

C. All construction and materials shall conform to the current Iowa Department of Transportation standard specifications and special provisions.

D. Forty-eight-hour advance notice to the City of construction of a street is required.

E. All designs, specifications, material, inspection results, and procedures shall be certified to the City Engineer by a licensed engineer. All roads to be dedicated to the City may be inspected by the City, with the cost of said inspection being reimbursed to the City by the Proprietor.

2. Utility Service Systems.

A. Public sanitary sewers and water systems shall be installed within the street right-of-way or established easements as required by the State and local ordinances.

B. Gas mains shall be installed within the street right-of-way or an established easement.

C. Electric and telephone lines shall be installed within the street right-of-way or established easements.

D. Streetlights shall be installed within the street right-of-way or established easements.

E. All subdivisions, and their lots, that are located within the incorporated boundaries of the City shall be required to connect to municipal utilities.

F. All utility service systems shall be subject to approval by the City Engineer and City Council.

3. Storm Drainage.

A. Adequate storm sewers and inlets shall be provided where necessary. All storm water intakes shall be capable of handling a five-year storm, and the pipe shall be capable of handling a 10-year storm. In addition, the subdivision shall have 100-year overland conveyance capacity.

B. Natural waterways shall be maintained and protected.

C. Storm water facilities may be required by the City Council in order to lessen negative drainage impact on other lands and such proposed facilities shall be subject to approval by the City Engineer and City Council.

D. If the development covers an area of one or more acres, the applicant must have the necessary Iowa Department of Natural Resources permits.

4. Utility Locations. The proposed location, alignment, and sizes of all existing public utilities shall be shown on the preliminary plat. All utilities shall be located underground, unless waived by the City Council. Approval of the preliminary plat will form the basis of final designs of all improvements. All underground utilities that will be located within the street right-of-way or established easement shall be constructed, and service provided to each lot, before acceptance of the improvements by the City.

5. Street Signs and Traffic Control Devices. To insure uniformity with Jesup's street signage system, all street name signs and traffic control signs shall be erected in conformance with the *Manual of Uniform Traffic Control Devices* (MUTCD) and E-911 requirements. The City will be responsible for all costs associated with sign erection and maintenance.

6. Mailboxes, Including Newspaper Boxes. Mailboxes and mailbox construction shall conform to United States Postal Service standards.

7. Parking. The depth and width of properties reserved and designed for residential, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance.

8. Sidewalks. Sidewalks may be required by the City Council if they are considered necessary for the general welfare and safety of the community. If sidewalks are not required by the City, the developer shall provide for uniform grading throughout their development so that they may be installed in the future.

9. SUDAS. The City, at its discretion, may use Statewide Urban Design And Specifications (SUDAS) standards as a guide for requiring improvements construction standards.

170.11 PRELIMINARY PLAT REQUIREMENTS AND PROCEDURES (MAJOR SUBDIVISIONS).

1. Pre-Preliminary Plan and Conference. Each proprietor of land wishing to subdivide is required to meet with City Officials, City Engineer, Building Inspector, and City Clerk before preparing the preliminary plat in order to become familiar with City regulations affecting the territory in which the proposed subdivision lies. A pre-preliminary plat or sketch plan of the general street and lot layout shall be presented to the City at that time, so that the City Officials may review it and alert the developer to any known development constraints that may exist or arise.

2. Number of Copies. Whenever the proprietor of any tract or parcel of land within the incorporated area of the City wishes to subdivide or plat the same, the proprietor shall cause to be prepared a preliminary plat of said subdivision, and shall submit 20 copies of said preliminary plat and supportive information, one of which shall be scalable and the remaining may be reduced in size, to the Zoning Administrator for preliminary study and approval. The preliminary plat shall be submitted to the Zoning Administrator a minimum of 21 days prior to Planning and Zoning Commission consideration.

3. Referral of Preliminary Plat. The developer shall refer one copy each to the Zoning Administrator, Mayor and City Council, City Clerk, City Engineer, Street Superintendent, Wastewater Superintendent, Building Inspector, and Planning and Zoning Commission. Each of the aforementioned offices shall examine the plat as to its compliance with the laws and regulations of the City and submit their findings to the Zoning Administrator as soon as possible, but within 30 days.

4. Contents of Preliminary Plat. Preliminary plats shall contain, include, or show the following requirements.

A. Name of subdivision, date, an arrow indicating the northern direction, and the legal description of the property being platted.

B. Plats shall be drawn on sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references.

C. Name and address of the proprietor, if different than the owner.

D. Name and address of proprietor's engineer or surveyor.

E. Existing buildings, railroads, utilities, and other rights-of-way.

F. Location, names and widths of all existing and proposed roads, alleys, streets, and highways in or adjoining the area being subdivided.

G. Proposed lot lines with approximate dimensions and the square foot area of each lot.

H. Areas dedicated for public use, such as schools, parks, playgrounds, recreational trails, or green space. The City's objective is to develop and

maintain a functioning park and recreational system that is geographically distributed throughout the community and where a minimum citywide ratio of at least two acres of open space per 1,000 residents is maintained.

I. Contour lines shown at intervals of two feet.

J. Building setback lines.

K. Boundaries of the proposed subdivision shall be indicated by a heavy black line.

L. Existing zoning of the proposed subdivision, as well as the existing zoning of the adjoining property or properties.

M. Proposed utility service:

(2) Source of water supply.

(3) Provision for sewage disposal, storm water drainage, and flood control, if applicable.

N. A vicinity sketch at a legible scale showing the relationship of the plat to its general surroundings.

O. Lots shall be numbered in a way that is acceptable to the County Auditor's office.

P. Existing and proposed easements showing widths and purposes of said easements.

Q. If applicable, the regulatory flood elevation data limits of the 100-year floodplain boundaries, original and revised, must be shown.

R. Environmental studies may be required if a proposed subdivision is located in, or near, an environmentally sensitive area.

5. Accompanying Material.

A. The proprietor shall also submit engineering documents regarding installation of the improvements with the preliminary plat.

B. The proprietor's engineer shall also submit preliminary engineering calculations regarding sizing of the proposed improvements with the preliminary plat.

C. The proprietor's engineer shall include a completed subdivider plat checklist as shown in the Appendix to this Code of Ordinances with the preliminary plat.

6. Review by the Planning and Zoning Commission. Upon receipt of the report of the various offices referred to in Section 170.11(3) above, the Commission shall review said plat, consider said reports, negotiate with the proprietor on changes deemed advisable and the kind and extent of improvements to be made, and take action upon the preliminary plat as originally submitted or modified. If a subdivision is not recommended for approval, the Commission shall give written reasons therefor. A preliminary plat may require more than one Commission review.

7. Action by City Council.

A. Whether or not a preliminary plat is recommended for approval by the Commission, the Commission shall refer the preliminary plat to the Council

for action. The Council shall then take action upon the preliminary plat not more than 60 days after the initial receipt of the preliminary plat by the Zoning Administrator. The Council may certify its approval or disapproval of the preliminary plat. If approved, the preliminary plat shall be certified by resolution. If the preliminary plat is disapproved, the Council shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within 20 days, the failure of the Council to issue approval of the preliminary plat as provided in this chapter.

B. The approval of the preliminary plat by the Commission or the Council does not constitute acceptance of the subdivision, but shall authorize the proprietor to proceed with the installation of improvements.

C. The approval of a preliminary plat by the City Council shall be valid for a period of one year from the date of such approval, except upon application for and approval of an extension of such period of validity, by the City Council. After one or more lots have been final platted, the preliminary plat is valid until such time that it is replaced by another preliminary plat.

170.12 FINAL PLAT REQUIREMENTS AND PROCEDURES (MAJOR SUBDIVISIONS). The final plat shall conform substantially to the approved preliminary plat, and if desired by the subdivider, it may only constitute only that portion of the approved preliminary plat that they wish to have reviewed by the City at that time, provided said portion conforms to all of the regulations contained herein.

1. Number of Copies. Within one year of approval of the preliminary plat, or extension thereto the proprietor shall submit 20 copies of the final plat, one of which shall be scalable and the remaining may be reduced in size, for review by the Zoning Administrator. Final plat review shall not begin until, or unless, all copies of the final plat and accompanying material have been submitted to the Zoning Administrator and City Clerk a minimum of 21 days prior to Commission consideration.

2. Referral of Final Plat. The developer shall refer one copy each to the Zoning Administrator, Mayor and City Council, City Clerk, City Engineer, Street Superintendent, Wastewater Superintendent, Building Inspector, and Planning and Zoning Commission. Each of the aforementioned offices shall examine the plat as to its compliance with the laws and regulations of the City and submit their findings to the Zoning Administrator as soon as possible, but within 30 days.

3. Contents of Final Plat. Final plats shall contain, include, or show the following requirements:

A. Name of subdivision and proprietor.

B. Plats shall be drawn on sheets not larger than 24 inches by 36 inches. The scale of the plat, preferably one inch equals 100 feet, shall be clearly stated and graphically illustrated by a bar scale on every plat sheet. Larger subdivisions that require more than one sheet shall show match lines and references.

C. An arrow indicating the northern direction.

D. Curve date including delta angle, length of arc, degree of curve, and length and direction of the chord.

E. Boundary lines of subdivided area with accurate distances, bearings, and boundary angles. The unadjusted error of closure shall not be greater than one in 10,000 for subdivision boundaries and shall not be greater than one in 5,000 for an individual lot. The areas of irregular lots within the plat shall be shown and may be expressed in either acres to the nearest one-hundredth acre, or square feet to the nearest 10 square feet.

F. Exact name, location, width, and designation of all streets within the subdivision. Additionally alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and have the proposed use clearly designated.

G. The purpose of any easement shown on the plat shall be clearly stated and shall be confined to only those easements pertaining to public utilities including gas, power, telephone, water, sewer, and such drainage or access easements as are deemed necessary for the orderly development of the land encompassed within the plat.

H. Building setback lines with dimensions.

I. Legal description of the property being subdivided.

J. Lot numbers.

K. Certificate of Survey.

L. Description and location of all permanent monuments set in the subdivision, including ties to original Government corners.

M. A table that lists coordinate values for all property corners.

N. A stamp or signature block for the Mayor and City Clerk evidencing the City Council's approval of the final plat.

4. Accompanying Material.

A. The documents required by the *Code of Iowa*:

(1) 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.

(2) 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.

(3) 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.

(4) 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*.

(5) A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

B. A copy of any proposed restrictive covenants, which shall be submitted for the purpose of review and recommendation by the City Attorney.

C. Any dedication or easement to the City for any property intended for public use.

D. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be 11 x 17-inch plans drawn to a scale of 40-foot horizontal and 4-foot vertical with west or south at the left.

E. A certificate by the Public Works Director or similar official that all required improvements and installations have been completed satisfactorily.

F. Any other security documents, including performance bond, if required.

G. A maintenance bond, four years on pavement, two years on utilities.

H. The proprietor's engineer shall include a completed Subdivider Plat Checklist as shown in the Appendix to this Code of Ordinances with the final plat.

5. Review by the Planning and Zoning Commission. The Commission shall review the final plat and forward its recommendation to the Council, according to the procedures outlined in Section 170.11(6).

6. Action by the City Council.

A. Upon receipt of the final plat and the required documents from the Commission, the Council will consider the recommendations from the reviewing offices. The Council shall approve or disapprove of the final plat within 60 days of the filing of the application for final approval. If approved, the preliminary plat shall be certified by resolution. If the final plat is not approved, the Council shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal to district court, within 20 days, the failure of the Council to issue approval of the final plat as provided in this chapter.

B. The passage of a resolution by the City Council accepting the plat shall constitute final platting approval for the area shown on the final plat. The proprietor shall cause such plat to be recorded as required by Chapter 354, *Code of Iowa*, before the City shall recognize the plat as being in full force and effect. In addition, eight copies of the approved final plat and adopting resolution as well as one copy of the completed plat proceedings with restrictive covenants shall be submitted to the Zoning Administrator by the proprietor.

7. Improvements.

A. All standards and improvements described in Sections 170.05 through 170.10 shall be installed at the cost of the developer, unless otherwise stated in this chapter, in accordance with the approved plans and specifications before acceptance of the final plat by the Council unless the proprietor and the Council have entered into an agreement pursuant to paragraph C below. All improvements shall be inspected by the proprietor's engineer and may also be inspected by the City Engineer. The proprietor's engineer shall certify to the Council that the improvements were constructed in compliance with these regulations, as well as provide "as-built" drawings thereof. If inspected by the City Engineer, the cost of said inspection shall be borne by the developer. All improvements shall be constructed under the supervision of and to the Council's satisfaction.

B. Subdivisions may be developed in phases, provided the proposed phasing of public improvements is acceptable to the Council and Engineer.

C. The completion requirement may be waived in whole or in part by the Council. Before acceptance of the improvements by the Council or before waiver of the completion requirement, the proprietor may enter into an agreement with the Council to ensure the completion of the improvements within a specified time period. If an agreement is entered into, it shall specify the improvements to be constructed, the schedule for completion of the construction (each phase not to exceed three years) and shall be accompanied with a performance bond, corporate surety bond, cash, letter of credit, or other surety, in an amount equal to 120 percent of the estimated cost of said improvements. Said performance bond, corporate surety, bond, cash, letter of credit or other surety shall be approved by the City Attorney.

D. The proprietor of the land being platted shall be required to provide to the City property maintenance bonds, or other means satisfactory to the City Engineer and City Attorney, so as to insure that for a period of four years from the date of acceptance and completion of any street improvement, two years for utilities, the proprietor shall be responsible for maintaining the improvements in good repair.

170.13 MINOR SUBDIVISION REQUIREMENTS AND PROCEDURES.

1. The proprietor shall prepare the proposed minor subdivision plat and shall submit 12 copies, one of which shall be full-size and the remaining may be reduced in size, to the Zoning Administrator. Said plat shall contain such information as required by this chapter in Sections 170.12(3) and (4), or as may be specified by the Zoning Administrator.

2. If the Zoning Administrator shall determine that the "minor subdivision plat" contains sufficient data and elements to furnish a basis for review, then the Zoning Administrator shall forward copies of the submitted plat to the City Engineer, Building Inspector, and to such other agencies or persons as may be deemed appropriate and necessary.

3. Review by Agencies. Within ten working days following receipt of an application by the Zoning Administrator:

A. The City Engineer shall notify the Zoning Administrator that access onto the City street will or will not be granted and that other improvements do or do not conform to current standards.

B. The City Engineer and/or the Public Works personnel shall notify the Zoning Administrator that the land so proposed to be subdivided will comply with all applicable City, County, and State standards, and that the proposed or existing system of water supply complies with applicable City, County, and State standards.

C. Other agencies or persons shall inform the Zoning Administrator of factors they deem appropriate and necessary.

4. Upon receipt of an application, or such additional period as the proprietor may authorize, the Zoning Administrator may schedule a public hearing on the subdivision request with the Council. The Council shall act upon the minor plat not more than 60 days after the initial receipt by the City Clerk.

5. The Council may approve or disapprove of the subdivision request, or they may refer the request to the Commission for their recommendation prior to considering the minor plat. If approved by the Council, the minor plat shall be certified by resolution. In the event that a minor subdivision plat is not approved, the Council shall state in writing how the proposed plat is objectionable. The applicant has the right to appeal, within 20 days to district court, the failure of the Council to issue final approval of the minor plat as provided in this chapter.

6. The passage of a resolution by the Council accepting the plat shall constitute final approval for the area shown on the minor plat. The proprietor shall cause such plat to be recorded as required by Chapter 354, *Code of Iowa*, before the County shall recognize the plat as being in full force and effect. The proprietor shall record the plat within 60 days after Council approval and shall be responsible for all recording costs. In addition, eight copies of the approved minor plat and adopting resolution as well as one copy of the completed plat proceedings with restrictive covenants shall be submitted to the Zoning Administrator by the proprietor.

7. Limitation. This section shall not be applicable to a parcel of land of any size which has previously had a subdivision severed from it since the effective date of the ordinance codified in this chapter. For definition purposes of this section only, a parcel of land shall mean any sized contiguous piece of property under same ownership as the severed subdivision as shown on the County Auditor's plat books as of the effective date of this chapter.

170.14 PROPERTY LINE ADJUSTMENTS. Following a review of the plat of survey for a property line adjustment, the Zoning Administrator shall refer the plat to the City Engineer and City Attorney and Building Inspector. The Zoning Administrator shall subsequently either approve the plat with or without specified conditions, or disapprove of the

plat. Any conditions specified for plat approval by the Zoning Administrator shall be accepted by the proprietor as a requirement for said approval. The Zoning Administrator shall notify the proprietor of their decision. The following also apply:

1. Approval of the plat shall signify the general acceptability of the proposed property line adjustment with respect to the Zoning Ordinance and this chapter and shall be deemed authorization to proceed with the preparation of necessary instruments for conveyance of one lot or parcel to the owner of an adjoining lot or parcel. A plat of survey shall be prepared for the division. A copy of the plat of survey shall be prepared by a licensed land surveyor and filed with the Zoning Administrator before approval may be given on a plat application. A copy of the Zoning Administrator's decision shall be recorded simultaneously with any and all instruments filed with the County Recorder that transfer ownership of said property being adjusted. Said instruments shall contain a deed restriction directing the County Auditor to combine the portion of land described in the instrument with the adjoining tract or parcel to create a single parcel. A copy of all instruments shall be submitted to the Zoning Administrator for review before being recorded in order to ensure that said deed restriction is included.

2. Disapproval of a plat shall signify the general unacceptability of the proposed property line adjustment with respect to the Zoning Ordinance and/or this chapter. However, the proprietor may appeal the decision of the Zoning Administrator to the Council for final determination.

3. The Zoning Administrator may seek the review and input of the City Engineer and City Attorney prior to ruling on a plat of survey.

170.15 PLACES. Where it is desired to subdivide a parcel of land that, because of its size or location, does not permit a normal lot or street area, there may be established a "place." Such a place may be in the form of a court, non-connecting street or other arrangement, provided, however, that proper access shall be given to all lots from a dedicated place (street or court). If any dead-end place, court or cul-de-sac is more than 250 feet in length, it shall terminate in an open space, preferably circular having a minimum radius of 60 feet. Except in unusual instances, no dead-end street or place shall exceed 500 feet in length. All site improvements for places or planned area developments shall meet City standards for public improvements where possible to assure adequate protection of the public's health, safety, and welfare. To this extent all access drives shall be paved to a minimum outlined in Section 170.07(14) and have geometric layout characteristics to provide for adequate parking areas and access by emergency vehicles. Sanitary sewer mains and manholes shall be provided so that each building is connected by means of an appropriate sized service line to the main that will be dedicated to the City along with appropriate access and maintenance easements. The water supply system shall likewise be constructed to public standards and dedicated to the City with appropriate easements to assure adequate domestic flow and metering as well as fire protection.

170.16 ISSUANCE OF BUILDING PERMITS AND OCCUPANCY PERMITS.

1. No occupancy permit for any building in a subdivision shall be issued prior to the completion of improvements.

2. No building permits shall be issued in the subdivision prior to the completion of improvements.

170.17 FEES. Non-refundable fees pertaining to permits or applications and actions required by this chapter shall be established by City resolution. The proprietor shall be responsible for all fees required by this chapter. Fees shall be submitted to the City with each plat, process, or requested action regulated by this chapter prior to consideration by the City. Said fees shall include, but not be limited to, the following actions.

1. Major subdivision (preliminary and final plat) review and consideration. Preliminary and final plats will have separate fees under this chapter.

2. Minor subdivision review and consideration.

3. Vacation of plats, street, and other public lands. This fee shall not be administered and collected if the dedication or vacation is processed in the form of a plat and either minor or major subdivision fees are paid in lieu thereof.

4. Property line adjustments.

5. Recording fees (paid to the County Recorder), per a schedule on file in the County Recorder's Office.

170.18 WAIVERS AND EXCEPTIONS. Whenever the tract proposed to be subdivided is of such unusual topography, size, or shape, or is surrounded by such development or unique conditions that the strict application of the requirements contained in these regulations would result in hardships or injustices, the Council, upon recommendation of the Commission, may vary or modify such requirements to allow the proprietor to develop in a reasonable manner with due regard for the public health, welfare, and safety so that the interests of the City and surrounding area are protected and the general intent and spirit of this chapter are preserved.

170.19 ENFORCEMENT.

1. After the date of adoption of the ordinance codified in this chapter, no proposed plat or any subdivision in, or within two (2) miles of the corporate limits of the City shall be recorded in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein.

2. No street hereafter created in the incorporated area of the City shall become a part of any street system as defined in the *Code of Iowa*; and no improvements shall be made by the City, nor shall the City incur any expense for maintenance or repair of roads or other facilities on land that had been subdivided after the date of adoption of the ordinance codified herein unless such road or other facility shall have been first approved and accepted by the Council in accordance with the provisions of this chapter and the dedication thereof accepted as a public road or improvement.

3. The City shall not issue building, occupancy, or repair permits for any structure located on a lot in any subdivision developed after the date of adoption of the ordinance codified in this chapter that is located within the City unless the plat of such subdivision has been first approved in accordance with the provisions contained herein.

4. Violations of the provisions of this chapter or failure to comply with any of its requirements shall constitute a municipal infraction, punishable under the provisions of Chapter 3 of this Code of Ordinances. Each day such violation continues shall be considered a separate offense. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

170.20 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council, provided, however, that such changes and amendments shall not become effective until after study and recommendation by the Commission and approval by the Council, in accordance with the regulations and provisions of this Code of Ordinances and the *Code of Iowa*.